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HOUSE BILL 1406

5lr2265

By: **Delegates Behler, Fennell, Foley, and Turner**

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Certificate of Public Convenience and Necessity - Environmental Impact**
3 **Analysis and Existing Burden Report**

4 FOR the purpose of requiring a person applying for a certificate of public convenience and
5 necessity for certain generating stations to include with the application a certain environmental
6 impact analysis
7 and, ~~if applicable~~, a certain existing burden report; altering certain notice
8 requirements; prohibiting the Public Service Commission from approving an
9 application for a certificate of public convenience and necessity for certain generating stations
10 unless the application
11 includes a final environmental impact assessment and, ~~if applicable~~, a final existing
12 burden report; requiring the Commission to determine whether a final
13 environmental impact analysis and ~~any applicable~~ final existing burden report
14 indicate certain impacts; authorizing the Commission to grant , under certain circumstances, a
15 ~~certain conditional~~
16 certificate of public convenience and necessity ~~under certain circumstances~~ for a certain
17 generating station that the Commission determines would cause or contribute to certain impacts;
18 requiring a person granted a ~~conditional~~ certificate of public convenience and
19 necessity under certain circumstances to enter into a certain cumulative impacts mitigation fund
20 agreement with
21 certain persons; and generally relating to certificates of public convenience and
22 necessity.

23 BY repealing and reenacting, with amendments,
24 Article - Public Utilities
25 Section 7-207
26 Annotated Code of Maryland
(2020 Replacement Volume and 2024 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That the Laws of Maryland read as follows:

29 **Article - Public Utilities**

30 7-207.

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(a) (1) In this section the following words have the meanings indicated.

(2) "AT-RISK CENSUS TRACT" MEANS A CENSUS TRACT FOR WHICH THE FINAL EJ SCORE AS DETERMINED BY THE MARYLAND EJ TOOL IS AT OR ABOVE THE 75TH PERCENTILE.

[(2)] (3) "Brownfields site" means:

(i) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the Environment; or

(iii) mined land.

[(3)] (4) (i) "Construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

2. the entry into a binding agreement or contractual obligation to purchase equipment exclusively for use in construction in the State or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station.

(ii) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(5) "EJ SCORE" HAS THE MEANING STATED IN § 1-101 OF THE ENVIRONMENT ARTICLE.

[(4)] (6) "Generating station" does not include:

(i) a generating unit or facility that:

1. is used for the production of electricity;

2. has the capacity to produce not more than 2 megawatts of alternating current; and

3. is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service;

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(ii) a combination of two or more generating units or facilities that:

1. are used for the production of electricity from a solar photovoltaic system or an eligible customer-generator that is subject to the provisions of § 7-306 of this title;

2. are located on the same property or adjacent properties;

3. have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

4. for each individual generating unit or facility:

A. has the capacity to produce not more than 2 megawatts of alternating current;

B. is separately metered by the electric company; and

C. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(iii) a generating unit or facility that:

1. is used for the production of electricity for the purpose of:

A. onsite emergency backup at a facility when service from the electric company is interrupted due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located; and

B. test and maintenance operations necessary to ensure functionality of the generating unit or facility in the event of a service interruption from the electric company due to electric distribution or transmission system failure or when there is equipment failure at a site where critical infrastructure is located;

2. is installed with equipment that prevents the flow of electricity to the electric grid;

3. is subject to a permit to construct issued by the Department of the Environment; and

4. is installed at a facility that is part of critical infrastructure if the facility complies with all applicable regulations regarding noise level and testing hours; or

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(iv) a combination of two or more generating units or facilities that satisfy item (iii) of this paragraph.

(7) "MARYLAND EJ TOOL" HAS THE MEANING STATED IN § 1-101 OF THE ENVIRONMENT ARTICLE.

[(5)] (8) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

[(6)] (9) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; or

2. a qualified generator lead line.

(ii) If a person obtains Commission approval for construction under § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

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2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

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1 (v) 1. This subparagraph applies to the construction of an
 2 overhead transmission line for which a certificate of public convenience and necessity is
 3 required under this section.

4 2. On issuance of a certificate of public convenience and
 5 necessity for the construction of an overhead transmission line, a person may acquire by
 6 condemnation, in accordance with Title 12 of the Real Property Article, any property or
 7 right necessary for the construction or maintenance of the transmission line.

8 (4) (i) Except as provided in subparagraph (ii) of this paragraph, for
 9 construction related to an existing overhead transmission line designed to carry a voltage
 10 in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate
 11 of public convenience and necessity if the Commission finds that the construction does not:

12 1. require the person to obtain new real property or
 13 additional rights-of-way through eminent domain; or

14 2. require larger or higher structures to accommodate:

15 A. increased voltage; or

16 B. larger conductors.

17 (ii) 1. For construction related to an existing overhead
 18 transmission line, including repairs, that is necessary to avoid an imminent safety hazard
 19 or reliability risk, a person may undertake the necessary construction.

20 2. Within 30 days after construction is completed under
 21 subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission
 22 describing the work that was completed.

23 (C) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON APPLYING FOR A CERTIFICATE OF PUBLIC
 CONVENIENCE AND NECESSITY FOR A SOLAR ENERGY, WIND ENERGY, OR GEOTHERMAL ENERGY GENERATING
 STATION.

24 (2) A PERSON APPLYING FOR A CERTIFICATE OF PUBLIC
 CONVENIENCE AND NECESSITY FOR A GENERATING STATION PROPOSED TO BE CONSTRUCTED WITHIN A 1.5-MILE
 RADIUS OF AN AT-RISK CENSUS TRACT SHALL INCLUDE WITH THE APPLICATION:

25 (I) AN INITIAL ENVIRONMENTAL IMPACT ANALYSIS THAT
 26 MEETS THE REQUIREMENTS OF PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION; AND

27 (II) ~~IF APPLICABLE,~~ AN INITIAL EXISTING BURDEN REPORT
 28 THAT MEETS THE REQUIREMENTS OF PARAGRAPH ~~(2)~~ (4) OF THIS SUBSECTION.

29 ~~(2)~~ (3) AN INITIAL ENVIRONMENTAL IMPACT ANALYSIS SHALL INCLUDE:

30 (I) A DESCRIPTION OF THE PROPOSED PROJECT AND THE
 31 ENVIRONMENTAL CONDITIONS OF THE PROPOSED PROJECT SITE;

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(II) THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS, INCLUDING BOTH SHORT- AND LONG-TERM EFFECTS, OF THE PROPOSED GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE;~~

(III) ANY IRREVERSIBLE OR IRRETRIEVABLE COMMITMENT OF RESOURCES INVOLVED IN THE CONSTRUCTION; ~~AND~~

(IV) MITIGATION MEASURES PROPOSED TO MINIMIZE IDENTIFIED ENVIRONMENTAL IMPACTS ; AND

(V) ANY ALTERNATIVES TO THE PROPOSED GENERATING STATION.

~~(3) (4) (I) A PERSON SHALL INCLUDE WITH AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AN AN INITIAL EXISTING BURDEN REPORT SHALL BE COMPLETED FOR EACH AT-RISK CENSUS TRACT AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF AN ANY AT-RISK CENSUS TRACT THAT MAY BE IMPACTED BY THE PROPOSED GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE.~~

(II) AN INITIAL EXISTING BURDEN REPORT SHALL INCLUDE:

1. THE EJ SCORE, CALCULATED BY THE MARYLAND EJ TOOL, FOR THE CENSUS TRACT WHERE THE APPLICANT IS SEEKING TO CONSTRUCT THE GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE;~~

2. A COMPREHENSIVE LIST OF EACH EXISTING POLLUTION SOURCE OR CATEGORY OF SOURCES THAT ARE IMPACTING THE COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE,~~ INCLUDING A DESCRIPTION OF POTENTIAL ROUTES OF HUMAN EXPOSURE TO POLLUTION FROM EACH SOURCE OR CATEGORY IDENTIFIED;

3. AMBIENT CONCENTRATIONS OF REGULATED AIR POLLUTANTS AND REGULATED OR UNREGULATED HAZARDOUS AIR POLLUTANTS;

4. TRAFFIC VOLUME;

5. GENERAL NOISE AND ODOR LEVELS;

6. EXPOSURE OR POTENTIAL EXPOSURE TO LEAD, INCLUDING LEAD-BASED PAINT;

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7. EXPOSURE OR POTENTIAL EXPOSURE TO
CONTAMINATED DRINKING WATER SUPPLIES;

8. PROXIMITY OF THE PROPOSED GENERATING
STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE~~
TO EXISTING SOURCES OF POLLUTION, INCLUDING:

A. SOLID OR HAZARDOUS WASTE SITES;

B. INCINERATORS;

C. RECYCLING FACILITIES;

D. SOLID OR HAZARDOUS WASTE MANAGEMENT
FACILITIES;

E. WASTEWATER TREATMENT PLANTS;

~~D. F.~~ WASTE TRANSFER FACILITIES; AND

~~E. G.~~ PETROLEUM OR CHEMICAL MANUFACTURING,
STORAGE, TREATMENT, OR DISPOSAL FACILITIES;

9. THE POTENTIAL OR PROJECTED CONTRIBUTION OF
THE PROPOSED GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR~~
~~QUALIFIED GENERATOR LEAD LINE~~ TO EXISTING POLLUTION BURDENS IN THE
COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE STATION ~~OR~~
~~LINE~~ AND, ACCOUNTING FOR THE EXISTING BURDEN, THE POTENTIAL HEALTH
EFFECTS OF THE CONTRIBUTION;

10. AN EVALUATION OF EXISTING ENVIRONMENTAL AND
PUBLIC HEALTH STRESSORS ~~IN~~ BORNE BY THE COMMUNITY IN WHICH THE APPLICANT IS
SEEKING TO CONSTRUCT THE GENERATING STATION, ~~OVERHEAD TRANSMISSION~~
~~LINE, OR QUALIFIED GENERATOR LEAD LINE~~; AND

11. AN EVALUATION OF ANY POTENTIAL UNAVOIDABLE
ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS POSED BY THE PROPOSED
GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED~~
~~GENERATOR LEAD LINE~~.

~~(4)~~ (5) AFTER THE PUBLIC HEARING AND COMMENT PERIOD REQUIRED
UNDER SUBSECTION (E) OF THIS SECTION, ~~AN APPLICANT~~ THE COMMISSION SHALL:

(I) REVISE THE INITIAL ANALYSIS AND REPORT SUBMITTED
WITH AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, TAKING INTO
ACCOUNT:

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1. ANY FEEDBACK RECEIVED FROM PERSONS LISTED IN
SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND

2. ANY PUBLIC COMMENTS RECEIVED DURING THE
COMMENT PERIOD; ~~AND~~

~~(H) SUBMIT TO THE COMMISSION A FINALIZED
ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, A FINALIZED EXISTING
BURDEN REPORT.~~

~~(5) THE COMMISSION SHALL:~~

~~(H) (II) SUBMIT THE FINALIZED ANALYSES AND REPORTS
SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION TO THE PERSONS LISTED
IN SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND~~

~~(H) (III) ATTACH TO THE FINALIZED ANALYSES AND REPORTS A
RECORD OF ALL PUBLIC COMMENTS RECEIVED REGARDING THE INITIAL
ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, AN INITIAL EXISTING
BURDEN REPORT.~~

[(c)] (D) (1) On receipt of an application for a certificate of public convenience
and necessity under this section, the Commission shall provide notice immediately or
require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each
county or municipal corporation in which any portion of the generating station, overhead
transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each
county or municipal corporation within 1 mile of the proposed location of the generating
station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of
a county in which any portion of the generating station, overhead transmission line, or
qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of
each county within 1 mile of the proposed location of the generating station, overhead
transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land
and each owner of adjacent land; and

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1 (vii) all other interested persons.

2 (2) The Commission, when sending the notice required under paragraph
3 (1) of this subsection, shall forward a copy of the application to:

4 (i) each appropriate State unit and unit of local government for
5 review, evaluation, and comment regarding the significance of the proposal to State,
6 area-wide, and local plans or programs; and

7 (ii) each member of the General Assembly included under paragraph
8 (1)(iv) and (v) of this subsection who requests a copy of the application.

9 (3) On receipt of an application for a certificate of public convenience and
10 necessity under this section, the Commission shall provide notice of the application on the
11 Commission's social media platforms and website.

12 **(4) THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION SHALL INCLUDE:**

14 **(I) THE FINAL EJ SCORE FOR EACH AT-RISK CENSUS TRACT**
15 **AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF AN AT-RISK**
16 **CENSUS TRACT WHERE THE PROPOSED GENERATING STATION, ~~OVERHEAD~~**
17 **~~TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE~~ WILL BE LOCATED,**
18 **INCLUDING A DESCRIPTION OF THE INDICATORS CONTRIBUTING TO THE SCORE;**
19 **AND**

20 **(II) A LINK TO THE COMMISSION'S WEBSITE WHERE THE**
21 **ASSOCIATED INITIAL ENVIRONMENTAL IMPACT ANALYSIS AND INITIAL EXISTING**
22 **BURDEN REPORT MAY BE ACCESSED.**

23 **[(d)] (E)** (1) (i) The Commission shall provide an opportunity for public
24 comment and hold a public hearing on the application for a certificate of public convenience
25 and necessity in each county and municipal corporation in which any portion of the
26 construction of a generating station, an overhead transmission line designed to carry a
27 voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be located.

28 (ii) The Commission may hold the public hearing virtually rather
29 than in person if the Commission provides a comparable opportunity for public comment
30 and participation in the hearing.

31 (2) The Commission shall hold the public hearing jointly with the
32 governing body of the county or municipal corporation in which any portion of the
33 construction of the generating station, overhead transmission line, or qualified generator
34 lead line is proposed to be located, unless the governing body declines to participate in the
35 hearing.

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1 (3) (i) Once in each of the 4 successive weeks immediately before the
 2 hearing date, the Commission shall provide weekly notice of the public hearing and an
 3 opportunity for public comment:

4 1. by advertisement in a newspaper of general circulation in
 5 the county or municipal corporation affected by the application;

6 2. on two types of social media; and

7 3. on the Commission's website.

8 (ii) Before a public hearing, the Commission shall coordinate with
 9 the governing body of the county or municipal corporation in which any portion of the
 10 construction of the generating station, overhead transmission line, or qualified generator
 11 lead line is proposed to be located to identify additional options for providing, in an efficient
 12 and cost-effective manner, notice of the public hearing through other types of media that
 13 are familiar to the residents of the county or municipal corporation.

14 (4) (i) On the day of a public hearing, an informational sign shall be
 15 posted prominently at or near each public entrance of the building in which the public
 16 hearing will be held.

17 (ii) The informational sign required under subparagraph (i) of this
 18 paragraph shall:

19 1. state the time, room number, and subject of the public
 20 hearing; and

21 2. be at least 17 by 22 inches in size.

22 (iii) If the public hearing is conducted virtually rather than in person,
 23 the Commission shall provide information on the hearing prominently on the Commission's
 24 website.

25 (5) (i) The Commission shall ensure presentation and
 26 recommendations from each interested State unit, and shall allow representatives of each
 27 State unit to sit during hearing of all parties.

28 (ii) The Commission shall allow each State unit 15 days after the
 29 conclusion of the hearing to modify the State unit's initial recommendations.

30 **(F) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON APPLYING FOR A CERTIFICATE OF PUBLIC**
CONVENIENCE AND NECESSITY FOR A SOLAR ENERGY, WIND ENERGY, OR GEOTHERMAL ENERGY GENERATING
STATION.

31 **(2) THE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A**
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A GENERATING STATION PROPOSED TO BE CONSTRUCTED
WITHIN A 1.5-MILE RADIUS OF AN AT-RISK CENSUS TRACT UNLESS THE APPLICATION
 32 **INCLUDES:**

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~~(H)~~ THE FINAL ENVIRONMENTAL IMPACT ANALYSIS ~~REQUIRED~~
~~UNDER SUBSECTION (C)(4) OF THIS SECTION, AND~~

~~(H)~~ ~~IF APPLICABLE, THE~~ AND FINAL EXISTING BURDEN REPORT
~~REQUIRED SUBMITTED~~ UNDER SUBSECTION ~~(C)(4)~~ (C)(5) OF THIS SECTION.

~~(2)~~ (3) THE COMMISSION SHALL DETERMINE WHETHER A FINAL
 ENVIRONMENTAL IMPACT ANALYSIS AND ~~ANY APPLICABLE~~ FINAL EXISTING BURDEN
 REPORT INDICATE THAT A PROPOSED GENERATING STATION, ~~OVERHEAD~~
~~TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE~~ MAY, DIRECTLY OR
 INDIRECTLY, CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE
 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT
 AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE
 AT-RISK CENSUS TRACT.

~~(3)~~ (4) SUBJECT TO PARAGRAPH ~~(4)~~ (5) OF THIS SUBSECTION, IF
 THE
 COMMISSION DETERMINES THAT A PROPOSED GENERATING STATION, ~~OVERHEAD~~
~~TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE~~ WOULD CAUSE OR
 CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE ENVIRONMENTAL AND
 PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT OR AREA LOCATED
 WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE AT-RISK CENSUS TRACT,
 THE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A CERTIFICATE OF
 PUBLIC CONVENIENCE AND NECESSITY.

~~(4)~~ (5) THE COMMISSION MAY GRANT A ~~CONDITIONAL~~ CERTIFICATE OF
 PUBLIC CONVENIENCE AND NECESSITY FOR A PROPOSED GENERATING STATION,
~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE~~ THAT THE
 COMMISSION, UNDER PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION, DETERMINES WOULD
 CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE
 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS IF THE APPLICANT CAN ESTABLISH
 THAT:

(I) THE GENERATING STATION, ~~OVERHEAD TRANSMISSION~~
~~LINE, OR QUALIFIED GENERATOR LEAD LINE~~ WOULD SERVE AN ESSENTIAL
 ENVIRONMENTAL, HEALTH, OR SAFETY NEED OF THE COMMUNITY WHERE THE
 STATION OR LINE WILL BE LOCATED; AND

(II) THERE IS NO REASONABLE ALTERNATIVE TO
 CONSTRUCTION OF THE GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR~~
~~QUALIFIED GENERATOR LEAD LINE.~~

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~~(5)~~ (6) IF THE COMMISSION GRANTS A ~~CONDITIONAL~~ CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ACCORDANCE WITH PARAGRAPH ~~(4)~~ (5) OF THIS SUBSECTION, THE COMMISSION SHALL:

(I) IMPOSE ADDITIONAL ~~PERMIT~~ CONDITIONS TO PROTECT PUBLIC HEALTH; AND

(II) REQUIRE THE APPLICANT TO ENTER INTO A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT IN ACCORDANCE WITH PARAGRAPH ~~(6)~~ (7) OF THIS SUBSECTION.

~~(6)~~ (7) (I) AN APPLICANT WHO HAS BEEN GRANTED A ~~CONDITIONAL~~ CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL ENTER INTO A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT WITH A COMMUNITY-BASED ORGANIZATION OR COLLECTION OF COMMUNITY-BASED ORGANIZATIONS REPRESENTING THE COMMUNITY OR COMMUNITIES AFFECTED BY THE PROPOSED GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE.~~

(II) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT SHALL ESTABLISH ONGOING MONETARY PAYMENTS THAT ARE:

1. AGREED ON BY THE COMMUNITY-BASED ORGANIZATION AND THE APPLICANT; AND

2. DEPOSITED INTO A PROJECT-SPECIFIC CUMULATIVE IMPACTS MITIGATION FUND FOR THE LIFE OF THE PROJECT.

(III) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT:

1. SHALL BE ENFORCEABLE IN A STATE COURT AND INCLUDE LANGUAGE IN THE AGREEMENT THAT THE AGREEMENT IS ENFORCEABLE IN A STATE COURT;

2. SHALL BENEFIT ALL RESIDENTS WHO LIVE WITHIN THE AT-RISK CENSUS TRACT AFFECTED BY THE PROPOSED GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE;~~ AND

3. MAY NOT RESTRICT THE RIGHT OF RESIDENTS OR ORGANIZATIONS TO EXPRESS CONCERNS ABOUT OR OBJECTIONS TO THE PROPOSED GENERATING STATION, ~~OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE.~~

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1 **[(e)] (G)** The Commission shall take final action on an application for a
2 certificate of public convenience and necessity only after due consideration of:

3 (1) the recommendation of the governing body of each county or municipal
4 corporation in which any portion of the construction of the generating station, overhead
5 transmission line, or qualified generator lead line is proposed to be located;

6 (2) the effect of the generating station, overhead transmission line, or
7 qualified generator lead line on:

8 (i) the stability and reliability of the electric system;

9 (ii) economics;

10 (iii) esthetics;

11 (iv) historic sites;

12 (v) aviation safety as determined by the Maryland Aviation
13 Administration and the administrator of the Federal Aviation Administration;

14 (vi) when applicable, air quality and water pollution; and

15 (vii) the availability of means for the required timely disposal of
16 wastes produced by any generating station;

17 (3) the effect of climate change on the generating station, overhead
18 transmission line, or qualified generator lead line based on the best available scientific
19 information recognized by the Intergovernmental Panel on Climate Change; and

20 (4) for a generating station:

21 (i) the consistency of the application with the comprehensive plan
22 and zoning of each county or municipal corporation where any portion of the generating
23 station is proposed to be located;

24 (ii) the efforts to resolve any issues presented by a county or
25 municipal corporation where any portion of the generating station is proposed to be located;

26 (iii) the impact of the generating station on the quantity of annual
27 and long-term statewide greenhouse gas emissions, measured in the manner specified in §
28 2-1202 of the Environment Article and based on the best available scientific information
29 recognized by the Intergovernmental Panel on Climate Change; and

30 (iv) the consistency of the application with the State's climate
31 commitments for reducing statewide greenhouse gas emissions, including those specified
32 in Title 2, Subtitle 12 of the Environment Article.

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1 **[(f)] (H)** For the construction of an overhead transmission line, in addition to the
2 considerations listed in subsection **[(e)] (G)** of this section, the Commission shall:

3 (1) take final action on an application for a certificate of public convenience
4 and necessity only after due consideration of:

5 (i) the need to meet existing and future demand for electric service;
6 and

7 (ii) for construction related to a new overhead transmission line, the
8 alternative routes that the applicant considered, including the estimated capital and
9 operating costs of each alternative route and a statement of the reason why the alternative
10 route was rejected;

11 (2) require as an ongoing condition of the certificate of public convenience
12 and necessity that an applicant comply with:

13 (i) all relevant agreements with PJM Interconnection, L.L.C., or its
14 successors, related to the ongoing operation and maintenance of the overhead transmission
15 line; and

16 (ii) all obligations imposed by the North America Electric Reliability
17 Council and the Federal Energy Regulatory Commission related to the ongoing operation
18 and maintenance of the overhead transmission line; and

19 (3) require the applicant to identify whether the overhead transmission
20 line is proposed to be constructed on:

21 (i) an existing brownfields site;

22 (ii) property that is subject to an existing easement; or

23 (iii) a site where a tower structure or components of a tower structure
24 used to support an overhead transmission line exist.

25 **[(g)] (I)** (1) The Commission may not authorize, and a person may not
26 undertake, the construction of an overhead transmission line that is aligned with and
27 within 1 mile of either end of a public airport runway, unless:

28 (i) the Federal Aviation Administration determines that the
29 construction of an overhead transmission line will not constitute a hazard to air navigation;
30 and

31 (ii) the Maryland Aviation Administration concurs in that
32 determination.

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(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal Aviation Administration for at least 2 years as being open to the public without restriction.

[(h)] (j) (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section.

(2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section:

(i) within a reasonable time; and

(ii) to the extent local laws are not preempted by State law, in accordance with local laws.

(3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:

(i) a conditional use approval;

(ii) a special exception approval; or

(iii) a floating zone approval.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2025.