

SENATE BILL 460

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CF HB 469

By: ~~Senators Feldman and Klausmeier~~, Klausmeier, and Middleton

Introduced and read first time: February 6, 2015

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2015

CHAPTER _____

1 AN ACT concerning

2 **Public Utilities – Electricity – Construction of Overhead Transmission Lines**

3 FOR the purpose of altering the scope of persons who may apply for a certificate of public
4 convenience and necessity to begin construction of a certain new overhead
5 transmission line for electricity under certain circumstances to include ~~a person~~
6 ~~rather than only an electric company~~; an electric company or a person who is or will
7 be subject to regulation as a public utility by an officer or an agency of the United
8 States; prohibiting the Public Service Commission from issuing a certificate of public
9 convenience and necessity for the construction of a certain overhead transmission
10 line to an applicant other than an electric company under certain circumstances;
11 requiring the Commission to require as an ongoing condition of the certificate of
12 public convenience and necessity that a certain applicant complies with certain
13 agreements related to the ongoing operation and maintenance of the overhead
14 transmission line and all obligations imposed by certain entities related to the
15 ongoing operation and maintenance of the overhead transmission line; prohibiting
16 the Commission from authorizing, and prohibiting a certain person from
17 undertaking, the construction of a certain new overhead transmission line that is
18 within a certain distance of a public airport runway; providing that, as of a certain
19 date and until the Commission adopts certain regulations, certain Commission rules,
20 regulations, and requirements shall apply to certain persons who may apply to
21 obtain a certificate of public convenience and necessity for the construction of an
22 overhead transmission line; and generally relating to the construction of overhead
23 transmission lines.

24 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Public Utilities
2 Section 1–101(a), (h), and (u)
3 Annotated Code of Maryland
4 (2010 Replacement Volume and 2014 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Public Utilities
7 Section 7–207
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2014 Supplement)

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

12 **Article – Public Utilities**

13 1–101.

14 (a) In this division the following words have the meanings indicated.

15 (h) (1) “Electric company” means a person who physically transmits or
16 distributes electricity in the State to a retail electric customer.

17 (2) “Electric company” does not include:

18 (i) the following persons who supply electricity and electricity
19 supply services solely to occupants of a building for use by the occupants:

20 1. an owner/operator who holds ownership in and manages
21 the internal distribution system serving the building; or

22 2. a lessee/operator who holds a leasehold interest in and
23 manages the internal distribution system serving the building;

24 (ii) any person who generates on–site generated electricity; or

25 (iii) a person who transmits or distributes electricity within a site
26 owned by the person or the person’s affiliate that is incidental to a primarily
27 landlord–tenant relationship.

28 (u) “Person” means an individual, receiver, trustee, guardian, personal
29 representative, fiduciary, or representative of any kind and any partnership, firm,
30 association, corporation, or other entity.

31 7–207.

32 (a) (1) (i) In this section and § 7–208 of this subtitle, “construction” means:

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

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

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

11 (2) In this section, “qualified generator lead line” means an overhead
12 transmission line that is designed to carry a voltage in excess of 69,000 volts and would
13 allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of
14 the electric system in Maryland that is owned by an electric company.

15 (b) (1) (i) Unless a certificate of public convenience and necessity for the
16 construction is first obtained from the Commission, a person may not begin construction in
17 the State of:

18 1. a generating station; or

19 2. a qualified generator lead line.

20 (ii) If a person obtains Commission approval for construction under
21 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
22 obtain a certificate of public convenience and necessity under this section.

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

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

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

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

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

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

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

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

16 **(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS**
17 **PARAGRAPH AND SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE**
18 **COMMISSION MAY ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**
19 **FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE ONLY IF THE**
20 **APPLICANT FOR THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY:**

21 **1. IS AN ELECTRIC COMPANY; OR**

22 **2. IS OR, ON THE START OF COMMERCIAL OPERATION OF**
23 **THE OVERHEAD TRANSMISSION LINE, WILL BE SUBJECT TO REGULATION AS A**
24 **PUBLIC UTILITY BY AN OFFICER OR AN AGENCY OF THE UNITED STATES.**

25 **(IV) THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF**
26 **PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF AN OVERHEAD**
27 **TRANSMISSION LINE IN THE ELECTRIC DISTRIBUTION SERVICE TERRITORY OF AN**
28 **ELECTRIC COMPANY TO AN APPLICANT OTHER THAN AN ELECTRIC COMPANY IF:**

29 **1. THE OVERHEAD TRANSMISSION LINE IS TO BE**
30 **LOCATED SOLELY WITHIN THE ELECTRIC DISTRIBUTION SERVICE TERRITORY OF**
31 **THAT ELECTRIC COMPANY; AND**

32 **2. THE COST OF THE OVERHEAD TRANSMISSION LINE IS**
33 **TO BE PAID SOLELY BY THAT ELECTRIC COMPANY AND ITS RATEPAYERS.**

1 (2) The Department of Planning shall forward the application to each
2 appropriate State unit and unit of local government for review, evaluation, and comment
3 regarding the significance of the proposal to State, area-wide, and local plans or programs.

4 (d) (1) The Commission shall provide an opportunity for public comment and
5 hold a public hearing on the application for a certificate of public convenience and necessity
6 in each county and municipal corporation in which any portion of the construction of a
7 generating station, an overhead transmission line designed to carry a voltage in excess of
8 69,000 volts, or a qualified generator lead line is proposed to be located.

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

14 (3) Once in each of the 4 successive weeks immediately before the hearing
15 date, the Commission shall provide weekly notice of the public hearing and an opportunity
16 for public comment by advertisement in a newspaper of general circulation in the county
17 or municipal corporation affected by the application.

18 (4) (i) The Commission shall ensure presentation and
19 recommendations from each interested State unit, and shall allow representatives of each
20 State unit to sit during hearing of all parties.

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

23 (e) The Commission shall take final action on an application for a certificate of
24 public convenience and necessity only after due consideration of:

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

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

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

31 (ii) economics;

32 (iii) esthetics;

33 (iv) historic sites;

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

3 (vi) when applicable, air and water pollution; and

4 (vii) the availability of means for the required timely disposal of
5 wastes produced by any generating station.

6 (f) For the construction of an overhead transmission line, in addition to the
7 considerations listed in subsection (e) of this section, the Commission shall:

8 **(1)** take final action on an application for a certificate of public convenience
9 and necessity only after due consideration of the need to meet existing and future demand
10 for electric service; **AND**

11 **(2) REQUIRE AS AN ONGOING CONDITION OF THE CERTIFICATE OF**
12 **PUBLIC CONVENIENCE AND NECESSITY THAT AN APPLICANT COMPLIES WITH:**

13 **(I) ALL RELEVANT AGREEMENTS WITH PJM**
14 **INTERCONNECTION, L.L.C., OR ITS SUCCESSORS, RELATED TO THE ONGOING**
15 **OPERATION AND MAINTENANCE OF THE OVERHEAD TRANSMISSION LINE; AND**

16 **(II) ALL OBLIGATIONS IMPOSED BY THE NORTH AMERICA**
17 **ELECTRIC RELIABILITY COUNCIL AND THE FEDERAL ENERGY REGULATORY**
18 **COMMISSION RELATED TO THE ONGOING OPERATION AND MAINTENANCE OF THE**
19 **OVERHEAD TRANSMISSION LINE.**

20 (g) (1) The Commission may not authorize, and [an electric company] A
21 PERSON may not undertake, the construction of an overhead transmission line that is
22 aligned with and within 1 mile of either end of a public airport runway, unless:

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

26 (ii) the Maryland Aviation Administration concurs in that
27 determination.

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

31 **SECTION 2. AND BE IT FURTHER ENACTED, That, as of October 1, 2015, and**
32 **until the Public Service Commission adopts regulations to implement this Act, all**
33 **Commission regulations, rules, and requirements that apply to the application of an electric**
34 **company to obtain a certificate of public convenience and necessity for the construction of**

1 an overhead transmission line under § 7-207 of the Public Utilities Article, as enacted by
2 this Act, shall apply to any person who may apply under this Act to obtain a certificate of
3 public convenience and necessity for the construction of an overhead transmission line.

4 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.