

Chapter 84

(House Bill 590)

AN ACT concerning

Public Service Commission – Certificate of Public Convenience and Necessity – Renewable Source Generator Lead Line

FOR the purpose of requiring a person to obtain a certificate of public convenience and necessity prior to beginning construction in the State of a qualified generator lead line; prohibiting a person from applying for a certificate of public convenience and necessity for the construction of a qualified generator lead line under certain circumstances; requiring the Public Service Commission to provide an opportunity for public comment and hold a certain public hearing on a certain application; requiring the Commission to take a final action on a certain application only under certain circumstances; defining a certain term; making this Act an emergency measure; and generally relating to a certificate of public convenience and necessity for a renewable source generator lead line.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–207(a), (b), (d), and (e)
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Public Utilities

7–207.

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

[(i)] **1.** any physical change at a site, including fabrication, erection, installation, or demolition; or

[(ii)] **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.

[(2)] (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.

(2) IN THIS SECTION, “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) (1) (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

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) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company 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.

(d) (1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, [or of] an overhead transmission line designed to carry a voltage in excess of 69,000 volts, **OR A QUALIFIED GENERATOR LEAD LINE** is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located, unless the governing body declines to participate in the hearing.

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

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

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

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located; and

(2) the effect of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** on:

- (i) the stability and reliability of the electric system;
- (ii) economics;
- (iii) esthetics;
- (iv) historic sites;
- (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
- (vi) when applicable, air and water pollution; and
- (vii) the availability of means for the required timely disposal of wastes produced by any generating station.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 12, 2011.