

HOUSE BILL 869

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8lr1716
CF SB 696

By: **Delegates Szeliga, Cassilly, Glass, Lisanti, McComas, McDonough, and Reilly**

Introduced and read first time: February 2, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Construction of Transmission Lines – Landowners – Notification ~~and~~**
3 **~~Compensation~~**

4 FOR the purpose of requiring a public service company or an applicant to provide certain
5 notice to owners of land ~~located within a certain distance of certain proposed and~~
6 ~~each owner of adjacent land over, on, or under which the applicant proposes to~~
7 ~~construct transmission lines under certain circumstances; requiring the Public~~
8 ~~Service Commission to consider, and authorizing the Commission to require, as a~~
9 ~~condition of the issuance of a certificate of public convenience and necessity, the~~
10 ~~applicant to compensate owners of land located within a certain distance of a certain~~
11 ~~proposed transmission line that are directly or indirectly impacted by the~~
12 ~~transmission line; requiring the Commission to provide certain notice to owners of~~
13 ~~land located within a certain distance of certain proposed transmission lines under~~
14 ~~certain circumstances~~ providing for the application of this Act; and generally relating
15 to the construction of transmission lines.

16 BY repealing and reenacting, with amendments,
17 Article – Public Utilities
18 Section 7–204, ~~7–207(b) and (c)~~ 7–207(c), and 7–208(e)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Public Utilities
23 Section 7–207(b) and 7–208(b)

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 Annotated Code of Maryland
2 (2010 Replacement Volume and 2017 Supplement)

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

5 **Article – Public Utilities**

6 7–204.

7 (a) (1) Notwithstanding any other provision of this division, at least 30 days
8 before a hearing, a public service company shall:

9 ~~(H)~~ provide to each owner of land AND EACH OWNER OF ADJACENT
10 LAND, by certified mail, written notice of intent to run a line or similar transmission device
11 over, on, or under the land; ~~AND~~

12 ~~(H) PROVIDE TO EACH OWNER OF LAND LOCATED WHOLLY OR~~
13 ~~PARTLY WITHIN 2,500 FEET OF AN OVERHEAD TRANSMISSION LINE DESIGNED TO~~
14 ~~CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, BY CERTIFIED MAIL, WRITTEN~~
15 ~~NOTICE OF INTENT TO CONSTRUCT A TRANSMISSION LINE OVER OR ON THE LAND.~~

16 (2) The public service company shall determine the property owners from
17 the current tax assessment records of the political subdivision in which the property is
18 located.

19 (b) Unless the failure is willful or deliberate, the failure of a public service
20 company to provide notice does not invalidate a public hearing or require that another
21 hearing take place.

22 7–207.

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

26 1. a generating station; or

27 2. a qualified generator lead line.

28 (ii) If a person obtains Commission approval for construction under
29 § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to
30 obtain a certificate of public convenience and necessity under this section.

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

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

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

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

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

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

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

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

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

33 1. is an electric company; or

34 2. is or, on the start of commercial operation of the overhead
35 transmission line, will be subject to regulation as a public utility by an officer or an agency
36 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.

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

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

~~3. THE COMMISSION SHALL CONSIDER, AND MAY REQUIRE, AS A CONDITION OF THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE APPLICANT TO COMPENSATE OWNERS OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS THAT ARE DIRECTLY OR INDIRECTLY IMPACTED BY THE TRANSMISSION LINE.~~

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

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

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

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

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

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

7 (i) the Department of Planning;

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

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

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

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

20 (vi) **FOR A PROPOSED OVERHEAD TRANSMISSION LINE, EACH**
21 **OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED**
22 **OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF**
23 **69,000 VOLTS AND EACH OWNER OF ADJACENT LAND; AND**

24 (VII) all other interested persons.

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

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

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

32 7-208.

33 (b) This section applies to any person:

1 (1) constructing a generating station and its associated overhead
2 transmission lines designed to carry a voltage in excess of 69,000 volts;

3 (2) exercising the right of condemnation in connection with the
4 construction; or

5 (3) constructing a qualified submerged renewable energy line.

6 (e) (1) On the receipt of an application under this section, together with any
7 additional information requested under subsection (d)(2) of this section, the Commission
8 shall provide notice to:

9 (i) FOR A PROPOSED OVERHEAD TRANSMISSION LINE, EACH
10 OWNER OF LAND LOCATED WHOLLY OR PARTLY WITHIN 2,500 FEET OF A PROPOSED
11 OVERHEAD TRANSMISSION LINE AND EACH OWNER OF ADJACENT LAND;

12 (II) all interested persons;

13 [(ii)] (III) the Department of Agriculture;

14 [(iii)] (IV) the Department of Commerce;

15 [(iv)] (V) the Department of the Environment;

16 [(v)] (VI) the Department of Natural Resources;

17 [(vi)] (VII) the Department of Transportation;

18 [(vii)] (VIII) the Department of Planning; and

19 [(viii)] (IX) the Maryland Energy Administration.

20 (2) On receipt of an application under this section, and whenever
21 additional information is received under subsection (d)(2) of this section, the Commission
22 shall provide notice immediately or require the applicant to provide notice immediately to:

23 (i) the governing body of each county or municipal corporation in
24 which any portion of the generating station or the associated overhead transmission lines
25 is proposed to be constructed;

26 (ii) the governing body of each county or municipal corporation
27 within 1 mile of the proposed location of the generating station or the associated overhead
28 transmission lines;

1 (iii) each member of the General Assembly representing any part of
2 a county in which any portion of the generating station or the associated overhead
3 transmission lines is proposed to be constructed; ~~and~~

4 (iv) each member of the General Assembly representing any part of
5 each county within 1 mile of the proposed location of the generating station or the
6 associated overhead transmission lines; ~~AND~~

7 ~~(v) EACH OWNER OF LAND LOCATED WHOLLY OR PARTLY~~
8 ~~WITHIN 2,500 FEET OF A PROPOSED OVERHEAD TRANSMISSION LINE.~~

9 (3) The Commission shall hold a public hearing on the application as
10 required by § 7-207 of this subtitle after:

11 (i) the receipt of any additional information requested under
12 subsection (d)(2) of this section that the Commission considers necessary; and

13 (ii) any publication of notice the Commission considers to be proper.

14 (4) (i) At the public hearing, the Commission shall ensure presentation
15 of the information and recommendations of the State units specified in paragraph (1) of
16 this subsection and shall allow the official representative of each unit to sit during hearing
17 of all parties.

18 (ii) Based on the evidence relating to the unit's areas of concern, the
19 Commission shall allow each unit 15 days after the conclusion of the hearing to modify or
20 affirm the unit's initial recommendations.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
22 apply only prospectively and may not be applied or interpreted to have any effect on or
23 application to any application for a certificate of public convenience and necessity filed
24 before the effective date of this Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2018.