

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 869
Economic Matters

(Delegate Szeliga, *et al.*)

Finance

Construction of Transmission Lines – Landowners – Notification

This bill establishes additional notification requirements under the certificate of public convenience and necessity (CPCN) application process for the construction of transmission lines. The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any CPCN application filed before the bill's October 1, 2018 effective date.

Fiscal Summary

State Effect: The Public Service Commission (PSC) can handle the bill's requirements with existing budgeted resources. State finances and operations are not otherwise materially affected.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: At least 30 days before a hearing, a public service company must provide written notice, by certified mail, to each owner of land adjacent to the site of a proposed line or similar transmission device. Under current law, the notice is required only for owners of the land over, on, or under where the transmission line is intended to be placed.

Generally, upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must notify each landowner and adjacent landowner of the proposed overhead transmission line. In limited circumstances, in conformance with the existing notification

process, PSC must notify the landowners and adjacent landowners of the initial CPCN application and updated information.

Current Law: Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line (project) unless a CPCN is first obtained from PSC. The application process involves notifying specified stakeholders, public hearings, and the consideration of recommendations by State and local government entities and the project's effect on various aspects of the State infrastructure, economy, and environment. There are conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement.

Similar, but separate, requirements apply to a person (1) constructing, or exercising the right of condemnation in connection with the construction of, a generating station and its associated overhead transmission lines or (2) constructing a qualified submerged renewable energy line.

Notification Process

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly that requests a copy.

Overhead Transmission Lines

Generally, unless a CPCN for the construction is first obtained from PSC, 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. Such a CPCN may only be issued to an electric company or a person that will be subject to regulation as a public utility by an officer or an agency of the United States at the start of commercial operation.

A person that has received a CPCN from PSC for the construction of an overhead transmission line may acquire any property or right necessary for the construction or maintenance of the transmission line, in accordance with eminent domain provisions in the Real Property Article.

As noted above, the CPCN application process involves public hearings. At least 30 days before a hearing, a public service company must provide written notice to each owner of land, by certified mail, of intent to run a line or similar transmission device over, on, or

under the land. The public service company must determine the property owners from current tax assessment records. Unless willful or deliberate, the failure of a public service company to provide notice does not invalidate a public hearing or require that another hearing take place.

Eminent Domain – Generally

The power to take, or condemn, private property for public use is one of the inherent powers of state government. Courts have long held that this power, known as “eminent domain,” is derived from the sovereignty of the state. Both the federal and State constitutions limit the condemnation authority and establish two requirements for taking property through the power of eminent domain. First, the property taken must be for a “public use.” Second, the party whose property is being taken must receive “just compensation.” In either event, the party whose property is being taken is generally entitled to a judicial proceeding prior to the taking of the property. However, the Maryland Constitution does authorize “quick-take” condemnations in limited circumstances prior to a court proceeding.

Additional Information

Prior Introductions: None.

Cross File: SB 696 (Senator Jennings, *et al.*) - Finance.

Information Source(s): Public Service Commission; Department of Legislative Services

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