

# SENATE BILL 460

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By: **Senators Feldman and Klausmeier**

Introduced and read first time: February 6, 2015

Assigned to: Finance

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## A BILL ENTITLED

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; prohibiting the Public Service Commission  
7 from authorizing, and prohibiting a certain person from undertaking, the  
8 construction of a certain new overhead transmission line that is within a certain  
9 distance of a public airport runway; and generally relating to the construction of  
10 overhead transmission lines.

11 BY repealing and reenacting, without amendments,  
12 Article – Public Utilities  
13 Section 1–101(a), (h), and (u)  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2014 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Public Utilities  
18 Section 7–207  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2014 Supplement)

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

23 **Article – Public Utilities**

24 1–101.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

10 (ii) any person who generates on-site generated electricity; or

11 (iii) a person who transmits or distributes electricity within a site  
12 owned by the person or the person’s affiliate that is incidental to a primarily  
13 landlord-tenant relationship.

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

17 7-207.

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

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

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

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

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

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

4 1. a generating station; or

5 2. a qualified generator lead line.

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

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

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

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

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

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

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

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

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

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

5                   1.    require the electric company to obtain new real property  
6 or additional rights-of-way through eminent domain; or

7                   2.    require larger or higher structures to accommodate:

8                   A.   increased voltage; or

9                   B.   larger conductors.

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

13                   2.    Within 30 days after construction is completed under  
14 subsubparagraph 1 of this subparagraph, an electric company shall file a report with the  
15 Commission describing the work that was completed.

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

19                   (i)   the Department of Planning;

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

23                   (iii) the governing body of each county or municipal corporation  
24 within 1 mile of the proposed location of the generating station, overhead transmission line,  
25 or qualified generator lead line;

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

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

32                   (vi)  all other interested persons.

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 take final action  
8 on an application for a certificate of public convenience and necessity only after due  
9 consideration of the need to meet existing and future demand for electric service.

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

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

16 (ii) the Maryland Aviation Administration concurs in that  
17 determination.

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2015.