

HOUSE BILL 1367

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By: **Delegate Valderrama**

Introduced and read first time: February 9, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Certificates of Public Convenience and Necessity – Energy**
3 **Storage Devices**

4 FOR the purpose of requiring a person to obtain a certificate of public convenience and
5 necessity from the Public Service Commission before beginning construction of a
6 certain energy storage device; and generally relating to certificates of public
7 convenience and necessity.

8 BY repealing and reenacting, with amendments,

9 Article – Public Utilities

10 Section 7–207(a), (b)(1), (c)(1), (d)(1)(i), (2), and (3)(ii), (e), and (h)(3)

11 Annotated Code of Maryland

12 (2020 Replacement Volume and 2023 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

14 That the Laws of Maryland read as follows:

15 **Article – Public Utilities**

16 7–207.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) “Brownfields site” means:

19 (i) a former industrial or commercial site identified by federal or
20 State laws or regulation as contaminated or polluted;

21 (ii) a closed landfill regulated by the Department of the
22 Environment; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) mined land.

2 (3) (i) “Construction” means:

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

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

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

13 (4) **“ENERGY STORAGE DEVICE” MEANS A RESOURCE THAT:**

14 **(I) IS CAPABLE OF ABSORBING ELECTRICAL ENERGY, STORING**
15 **IT FOR A PERIOD OF TIME, AND DELIVERING THE ENERGY FOR USE AT A LATER TIME**
16 **AS NEEDED, REGARDLESS OF WHERE THE RESOURCE IS LOCATED ON THE ELECTRIC**
17 **DISTRIBUTION SYSTEM;**

18 **(II) HAS A MINIMUM ENERGY STORAGE CAPACITY OF 1**
19 **MEGAWATT; AND**

20 **(III) IS INSTALLED BEHIND OR IN FRONT OF THE METER.**

21 (5) “Generating station” does not include:

22 (i) a generating unit or facility that:

23 1. is used for the production of electricity;

24 2. has the capacity to produce not more than 2 megawatts of
25 alternating current; and

26 3. is installed with equipment that prevents the flow of
27 electricity to the electric grid during time periods when the electric grid is out of service; or

28 (ii) a combination of two or more generating units or facilities that:

29 1. are used for the production of electricity from a solar
30 photovoltaic system or an eligible customer–generator that is subject to the provisions of §
31 7–306 of this title;

1 (ii) If a person obtains Commission approval for construction under
2 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
3 obtain a certificate of public convenience and necessity under this section.

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

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

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

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

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

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

22 (i) the Department of Planning;

23 (ii) the governing body, and if applicable the executive, of each
24 county or municipal corporation in which any portion of the generating station, overhead
25 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** is
26 proposed to be constructed;

27 (iii) the governing body, and if applicable the executive, of each
28 county or municipal corporation within 1 mile of the proposed location of the generating
29 station, overhead transmission line, [or] qualified generator lead line, **OR ENERGY**
30 **STORAGE DEVICE**;

31 (iv) each member of the General Assembly representing any part of
32 a county in which any portion of the generating station, overhead transmission line, [or]
33 qualified generator lead line, **OR ENERGY STORAGE DEVICE** is proposed to be constructed;

1 (v) each member of the General Assembly representing any part of
2 each county within 1 mile of the proposed location of the generating station, overhead
3 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE**;

4 (vi) for a proposed overhead transmission line, each owner of land
5 and each owner of adjacent land; and

6 (vii) all other interested persons.

7 (d) (1) (i) The Commission shall provide an opportunity for public
8 comment and hold a public hearing on the application for a certificate of public convenience
9 and necessity in each county and municipal corporation in which any portion of the
10 construction of a generating station, an overhead transmission line designed to carry a
11 voltage in excess of 69,000 volts, [or] a qualified generator lead line, **OR AN ENERGY**
12 **STORAGE DEVICE** is proposed to be located.

13 (2) The Commission shall hold the public hearing jointly with the
14 governing body of the county or municipal corporation in which any portion of the
15 construction of the generating station, overhead transmission line, [or] qualified generator
16 lead line, **OR ENERGY STORAGE DEVICE** is proposed to be located, unless the governing
17 body declines to participate in the hearing.

18 (3) (ii) Before a public hearing, the Commission shall coordinate with
19 the governing body of the county or municipal corporation in which any portion of the
20 construction of the generating station, overhead transmission line, [or] qualified generator
21 lead line, **OR ENERGY STORAGE DEVICE** is proposed to be located to identify additional
22 options for providing, in an efficient and cost-effective manner, notice of the public hearing
23 through other types of media that are familiar to the residents of the county or municipal
24 corporation.

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

27 (1) the recommendation of the governing body of each county or municipal
28 corporation in which any portion of the construction of the generating station, overhead
29 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** is
30 proposed to be located;

31 (2) the effect of the generating station, overhead transmission line, [or]
32 qualified generator lead line, **OR ENERGY STORAGE DEVICE** on:

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

34 (ii) economics;

35 (iii) esthetics;

1 (iv) historic sites;

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

4 (vi) when applicable, air quality and water pollution; and

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

7 (3) the effect of climate change on the generating station, overhead
8 transmission line, [or] qualified generator lead line, **OR ENERGY STORAGE DEVICE** based
9 on the best available scientific information recognized by the Intergovernmental Panel on
10 Climate Change; and

11 (4) for a generating station:

12 (i) the consistency of the application with the comprehensive plan
13 and zoning of each county or municipal corporation where any portion of the generating
14 station is proposed to be located;

15 (ii) the efforts to resolve any issues presented by a county or
16 municipal corporation where any portion of the generating station is proposed to be located;

17 (iii) the impact of the generating station on the quantity of annual
18 and long-term statewide greenhouse gas emissions, measured in the manner specified in §
19 2-1202 of the Environment Article and based on the best available scientific information
20 recognized by the Intergovernmental Panel on Climate Change; and

21 (iv) the consistency of the application with the State's climate
22 commitments for reducing statewide greenhouse gas emissions, including those specified
23 in Title 2, Subtitle 12 of the Environment Article.

24 (h) (3) A county or municipal corporation may not condition the approval of a
25 local permit required under a certificate of public convenience and necessity issued under
26 this section on receipt of any of the following approvals for any aspect of a generating
27 station, an overhead transmission line, [or] a qualified lead line, **OR AN ENERGY STORAGE**
28 **DEVICE** proposed to be constructed under the certificate:

29 (i) a conditional use approval;

30 (ii) a special exception approval; or

31 (iii) a floating zone approval.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to the construction of any energy storage device before the effective date of this
4 Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2024.