HOUSE BILL 1406

C5, M3 5lr2265

By: Delegates Behler, Fennell, Foley, and Turner

Introduced and read first time: February 7, 2025

Assigned to: Economic Matters

A BILL ENTITLED

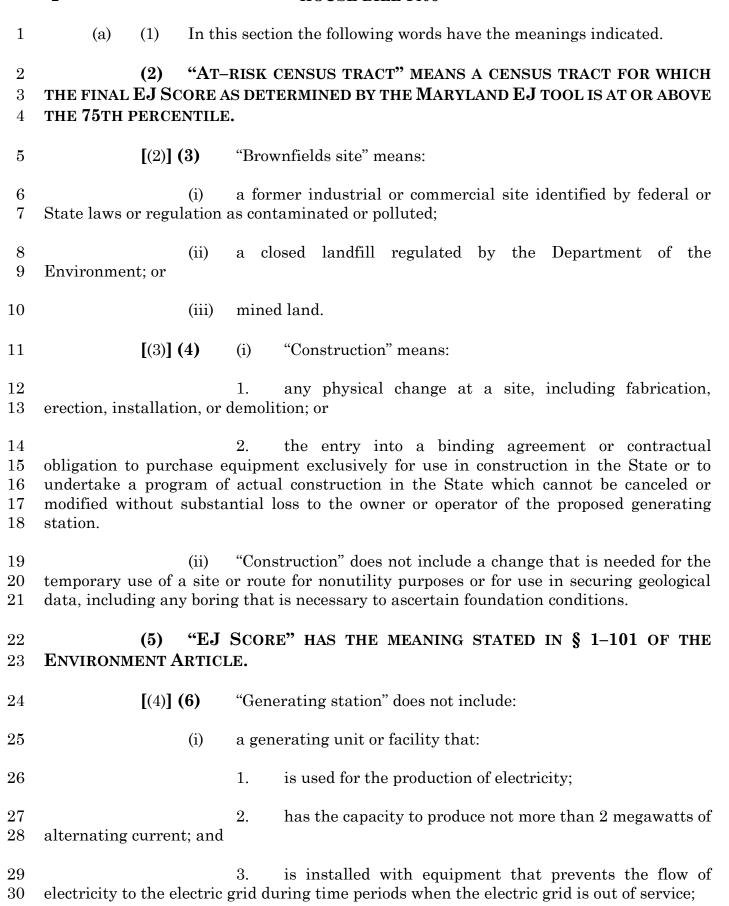
4	A 7 T		•
1	AN	ACT	concerning

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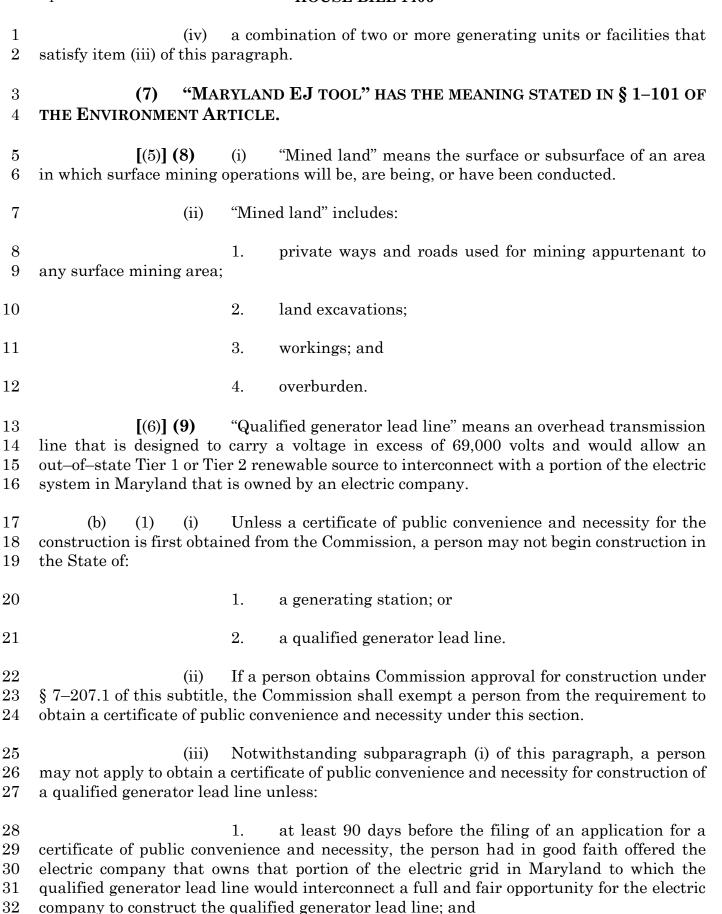
Certificate of Public Convenience and Necessity – Environmental Impact Analysis and Existing Burden Report

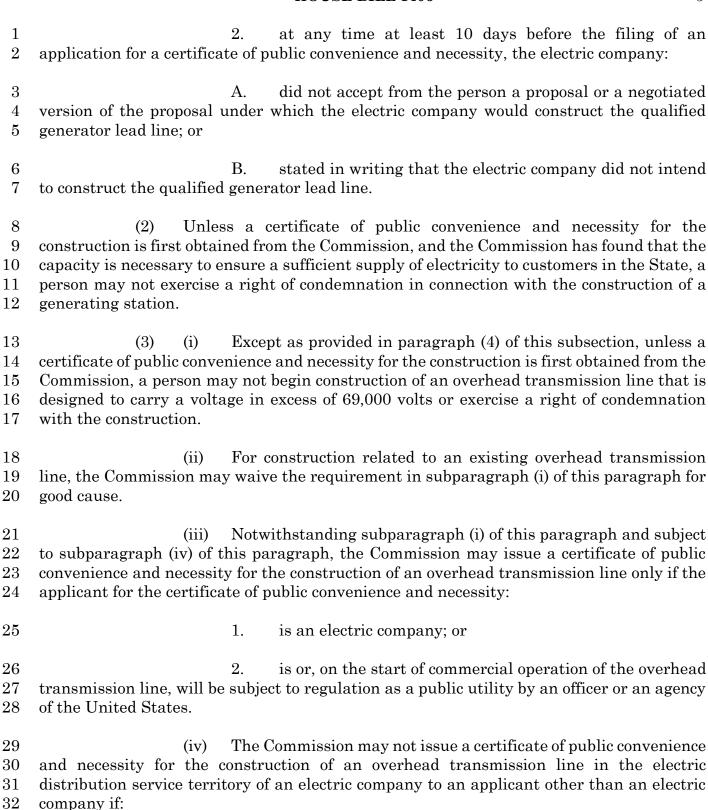
4 FOR the purpose of requiring a person applying for a certificate of public convenience and 5 necessity to include with the application a certain environmental impact analysis 6 and, if applicable, a certain existing burden report; altering certain notice 7 requirements; prohibiting the Public Service Commission from approving an 8 application for a certificate of public convenience and necessity unless the application 9 includes a final environmental impact assessment and, if applicable, a final existing burden report; requiring the Commission to determine whether a final 10 11 environmental impact analysis and any applicable final existing burden report 12 indicate certain impacts; authorizing the Commission to grant a certain conditional 13 certificate of public convenience and necessity under certain circumstances; 14 requiring a person granted a conditional certificate of public convenience and 15 necessity to enter into a certain cumulative impacts mitigation fund agreement with 16 certain persons; and generally relating to certificates of public convenience and 17 necessity.

- 18 BY repealing and reenacting, with amendments,
- 19 Article Public Utilities
- 20 Section 7–207
- 21 Annotated Code of Maryland
- 22 (2020 Replacement Volume and 2024 Supplement)
- 23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 24 That the Laws of Maryland read as follows:
- 25 Article Public Utilities
- 26 7–207.



1	(ii)	a com	abination of two or more generating units or facilities that:
2 3 4	photovoltaic system or ar 7–306 of this title;	1. n eligib	are used for the production of electricity from a solar ple customer—generator that is subject to the provisions of §
5		2.	are located on the same property or adjacent properties;
6 7 8	į	_	have the capacity to produce, when calculated units or facilities on the property or adjacent property, more than 14 megawatts of alternating current; and
9		4.	for each individual generating unit or facility:
10 11	alternating current;	A.	has the capacity to produce not more than 2 megawatts of
12		В.	is separately metered by the electric company; and
13 14	under an agreement with	C. n PJM	does not export electricity for sale on the wholesale market Interconnection, LLC;
15	(iii)	a gen	erating unit or facility that:
16		1.	is used for the production of electricity for the purpose of:
17 18 19 20			onsite emergency backup at a facility when service from upted due to electric distribution or transmission system eent failure at a site where critical infrastructure is located;
21 22 23 24	the electric company due	e to ele	test and maintenance operations necessary to ensure unit or facility in the event of a service interruption from ectric distribution or transmission system failure or when site where critical infrastructure is located;
25 26	electricity to the electric	2. grid;	is installed with equipment that prevents the flow of
27 28	Department of the Envir	3. onmen	is subject to a permit to construct issued by the at; and
29 30 31	infrastructure if the facil and testing hours; or	4. lity cor	is installed at a facility that is part of critical mplies with all applicable regulations regarding noise level





33 1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

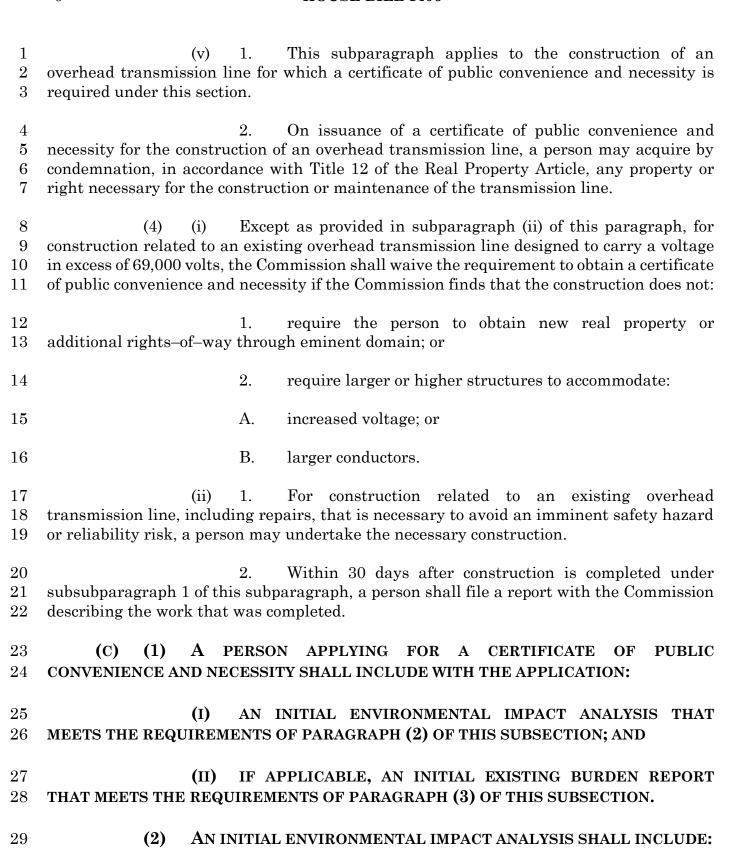
2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

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(I)

ENVIRONMENTAL CONDITIONS OF THE PROPOSED PROJECT SITE;



A DESCRIPTION OF THE PROPOSED PROJECT AND THE

- 1 (II) THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS,
- 2 INCLUDING BOTH SHORT- AND LONG-TERM EFFECTS, OF THE PROPOSED
- 3 GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
- 4 GENERATOR LEAD LINE;
- 5 (III) ANY IRREVERSIBLE OR IRRETRIEVABLE COMMITMENT OF
- 6 RESOURCES INVOLVED IN THE CONSTRUCTION; AND
- 7 (IV) MITIGATION MEASURES PROPOSED TO MINIMIZE
- 8 IDENTIFIED ENVIRONMENTAL IMPACTS.
- 9 (3) (I) A PERSON SHALL INCLUDE WITH AN APPLICATION FOR A
- 10 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AN INITIAL EXISTING
- 11 BURDEN REPORT FOR EACH AT-RISK CENSUS TRACT AND AREA LOCATED WITHIN A
- 12 1.5-MILE RADIUS OF THE BOUNDARIES OF AN AT-RISK CENSUS TRACT THAT MAY BE
- 13 IMPACTED BY THE PROPOSED GENERATING STATION, OVERHEAD TRANSMISSION
- 14 LINE, OR QUALIFIED GENERATOR LEAD LINE.
- 15 (II) AN INITIAL EXISTING BURDEN REPORT SHALL INCLUDE:
- 1. THE EJ SCORE, CALCULATED BY THE MARYLAND EJ
- 17 TOOL, FOR THE CENSUS TRACT WHERE THE APPLICANT IS SEEKING TO CONSTRUCT
- 18 THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
- 19 GENERATOR LEAD LINE;
- 20 2. A COMPREHENSIVE LIST OF EACH EXISTING
- 21 POLLUTION SOURCE OR CATEGORY OF SOURCES THAT ARE IMPACTING THE
- 22 COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE
- 23 GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
- 24 GENERATOR LEAD LINE, INCLUDING A DESCRIPTION OF POTENTIAL ROUTES OF
- 25 HUMAN EXPOSURE TO POLLUTION FROM EACH SOURCE OR CATEGORY IDENTIFIED;
- 3. AMBIENT CONCENTRATIONS OF REGULATED AIR
- 27 POLLUTANTS AND REGULATED OR UNREGULATED HAZARDOUS AIR POLLUTANTS;
- 28 4. TRAFFIC VOLUME;
- 5. GENERAL NOISE AND ODOR LEVELS;
- 6. EXPOSURE OR POTENTIAL EXPOSURE TO LEAD,
- 31 INCLUDING LEAD-BASED PAINT;

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1	7. EXPOSURE OR POTENTIAL EXPOSURE TO
2	CONTAMINATED DRINKING WATER SUPPLIES;
3	8. PROXIMITY OF THE PROPOSED GENERATING
4	STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE
5	TO EXISTING SOURCES OF POLLUTION, INCLUDING:
6	A. SOLID OR HAZARDOUS WASTE SITES;
7	B. INCINERATORS;
8	C. RECYCLING FACILITIES;
9	D. WASTE TRANSFER FACILITIES; AND
0	E. PETROLEUM OR CHEMICAL MANUFACTURING.
L0 L1	E. PETROLEUM OR CHEMICAL MANUFACTURING, STORAGE, TREATMENT, OR DISPOSAL FACILITIES;
_	
2	9. THE POTENTIAL OR PROJECTED CONTRIBUTION OF
.3	THE PROPOSED GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE TO EXISTING POLLUTION BURDENS IN THE
5	COMMUNITY IN WHICH THE APPLICANT IS SEEKING TO CONSTRUCT THE STATION OR
6	LINE AND, ACCOUNTING FOR THE EXISTING BURDEN, THE POTENTIAL HEALTH
7	EFFECTS OF THE CONTRIBUTION;
.8	10. AN EVALUATION OF EXISTING ENVIRONMENTAL AND
9	PUBLIC HEALTH STRESSORS IN THE COMMUNITY IN WHICH THE APPLICANT IS
20	SEEKING TO CONSTRUCT THE GENERATING STATION, OVERHEAD TRANSMISSION
21	<i>,</i>
22	11. AN EVALUATION OF ANY UNAVOIDABLE
23	ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS POSED BY THE PROPOSED
24	GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
25	GENERATOR LEAD LINE.
26	(4) AFTER THE PUBLIC HEARING AND COMMENT PERIOD REQUIRED
	UNDER SUBSECTION (E) OF THIS SECTION, AN APPLICANT SHALL:

28 **(**I**)** REVISE THE INITIAL ANALYSIS AND REPORT SUBMITTED

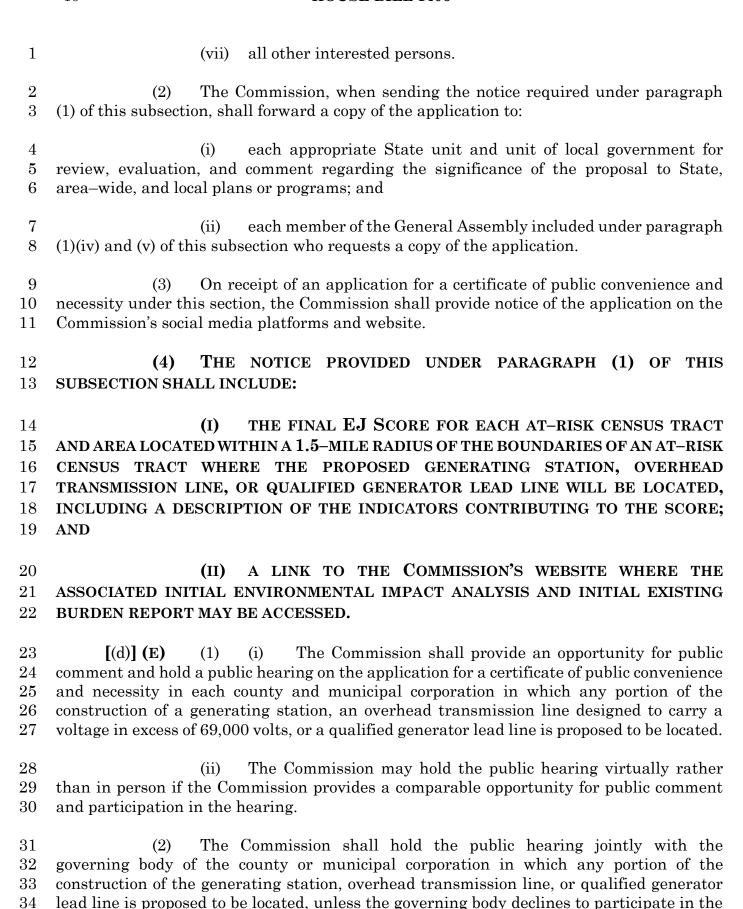
WITH AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, TAKING INTO 29 30 **ACCOUNT:**

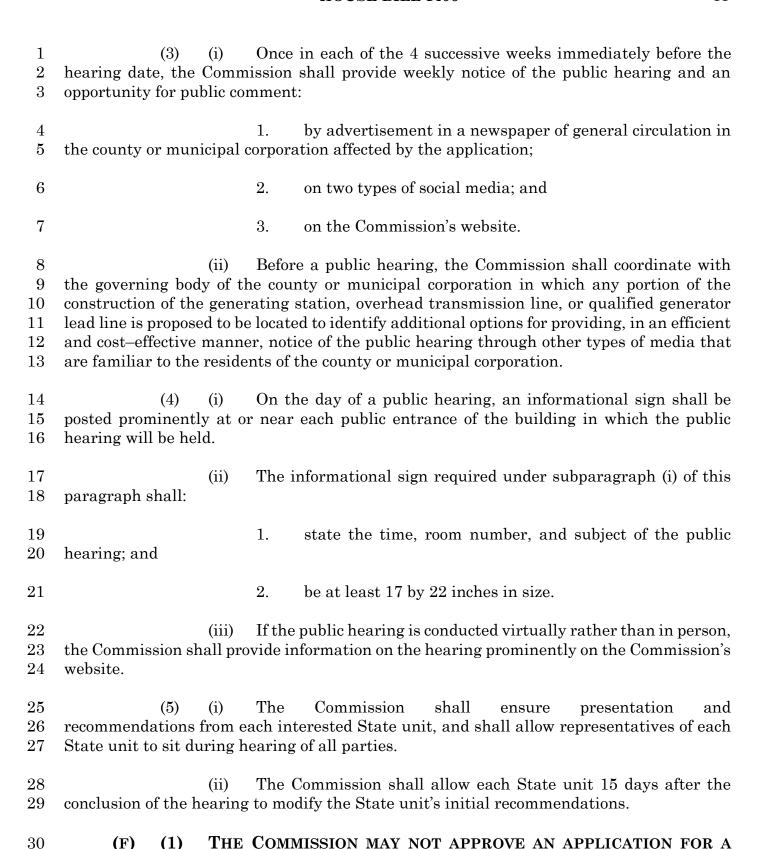
1	1. ANY FEEDBACK RECEIVED FROM PERSONS LISTED IN
2	SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND
3	2. ANY PUBLIC COMMENTS RECEIVED DURING THE
4	COMMENT PERIOD; AND
5	(II) SUBMIT TO THE COMMISSION A FINALIZED
6	ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, A FINALIZED EXISTING
7	BURDEN REPORT.
8	(5) THE COMMISSION SHALL:
9	(I) SUBMIT THE FINALIZED ANALYSES AND REPORTS
0	SUBMITTED UNDER PARAGRAPH (4) OF THIS SUBSECTION TO THE PERSONS LISTED
1	IN SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION; AND
2	(II) ATTACH TO THE FINALIZED ANALYSES AND REPORTS A
13	RECORD OF ALL PUBLIC COMMENTS RECEIVED REGARDING THE INITIAL
4	ENVIRONMENTAL IMPACT ANALYSIS AND, IF APPLICABLE, AN INITIAL EXISTING
15	BURDEN REPORT.
6	[(c)] (D) (1) On receipt of an application for a certificate of public convenience
17	and necessity under this section, the Commission shall provide notice immediately or
18	require the applicant to provide notice immediately of the application to:
9	(i) the Department of Planning;
20	(ii) the governing body, and if applicable the executive, of each
21	county or municipal corporation in which any portion of the generating station, overhead
22	transmission line, or qualified generator lead line is proposed to be constructed;
23	(iii) the governing body, and if applicable the executive, of each
24	county or municipal corporation within 1 mile of the proposed location of the generating
25	station, overhead transmission line, 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;

(vi) for a proposed overhead transmission line, each owner of land $33\,$ and each owner of adjacent land; and

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hearing.





CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNLESS THE APPLICATION

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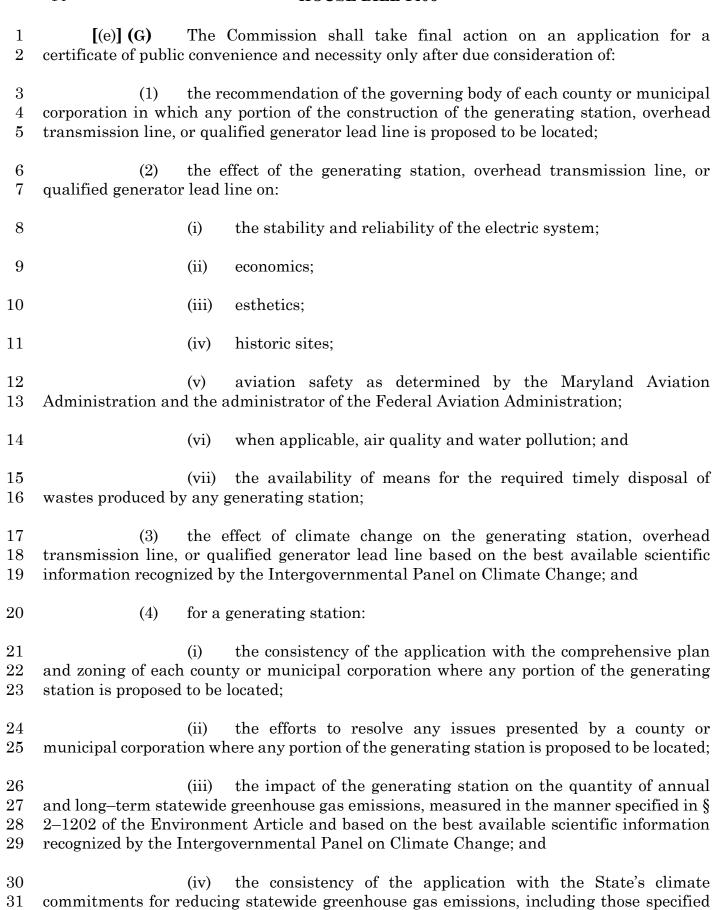
INCLUDES:

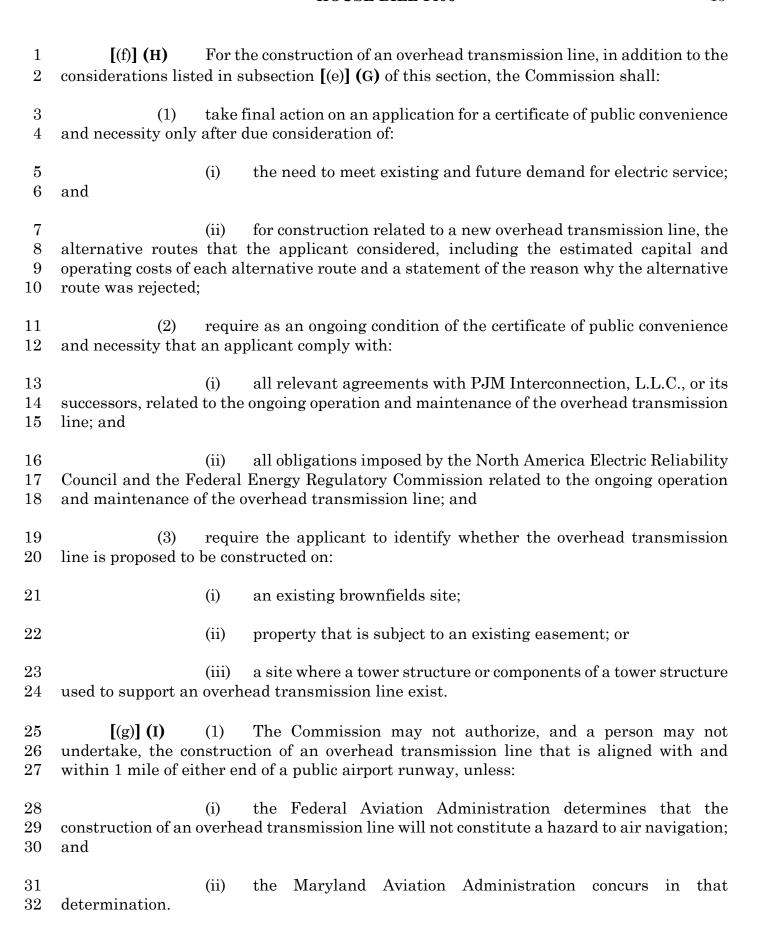
- 1 (I) THE FINAL ENVIRONMENTAL IMPACT ANALYSIS REQUIRED 2 UNDER SUBSECTION (C)(4) OF THIS SECTION; AND
- 3 (II) IF APPLICABLE, THE FINAL EXISTING BURDEN REPORT 4 REQUIRED UNDER SUBSECTION (C)(4) OF THIS SECTION.
- 5 (2) THE COMMISSION SHALL DETERMINE WHETHER A FINAL
- 6 ENVIRONMENTAL IMPACT ANALYSIS AND ANY APPLICABLE FINAL EXISTING BURDEN 7 REPORT INDICATE THAT A PROPOSED GENERATING STATION, OVERHEAD
- 8 TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE MAY, DIRECTLY OR
- 9 INDIRECTLY, CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE
- 10 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT
- 11 AND AREA LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE
- 12 AT-RISK CENSUS TRACT.
- 13 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE
- 14 COMMISSION DETERMINES THAT A PROPOSED GENERATING STATION, OVERHEAD
- 15 TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE WOULD CAUSE OR
- 16 CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE ENVIRONMENTAL AND
- 17 PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT OR AREA LOCATED
- 18 WITHIN A 1.5-MILE RADIUS OF THE BOUNDARIES OF THE AT-RISK CENSUS TRACT,
- 19 THE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A CERTIFICATE OF
- 20 PUBLIC CONVENIENCE AND NECESSITY.
- 21 (4) THE COMMISSION MAY GRANT A CONDITIONAL CERTIFICATE OF
- 22 PUBLIC CONVENIENCE AND NECESSITY FOR A PROPOSED GENERATING STATION,
- 23 OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE THAT THE
- 24 COMMISSION, UNDER PARAGRAPH (2) OF THIS SUBSECTION, DETERMINES WOULD
- 25 CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE
- 26 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS IF THE APPLICANT CAN ESTABLISH
- 27 **THAT:**
- 28 (I) THE GENERATING STATION, OVERHEAD TRANSMISSION
- 29 LINE, OR QUALIFIED GENERATOR LEAD LINE WOULD SERVE AN ESSENTIAL
- 30 ENVIRONMENTAL, HEALTH, OR SAFETY NEED OF THE COMMUNITY WHERE THE
- 31 STATION OR LINE WILL BE LOCATED; AND
- 32 (II) THERE IS NO REASONABLE ALTERNATIVE TO
- 33 CONSTRUCTION OF THE GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR
- 34 QUALIFIED GENERATOR LEAD LINE.

- 1 (5) IF THE COMMISSION GRANTS A CONDITIONAL CERTIFICATE OF
- 2 PUBLIC CONVENIENCE AND NECESSITY IN ACCORDANCE WITH PARAGRAPH (4) OF
- 3 THIS SUBSECTION, THE COMMISSION SHALL:
- 4 (I) IMPOSE ADDITIONAL PERMIT CONDITIONS TO PROTECT
- 5 PUBLIC HEALTH; AND
- 6 (II) REQUIRE THE APPLICANT TO ENTER INTO A CUMULATIVE
- 7 IMPACTS MITIGATION FUND AGREEMENT IN ACCORDANCE WITH PARAGRAPH (6) OF
- 8 THIS SUBSECTION.
- 9 (6) (I) AN APPLICANT WHO HAS BEEN GRANTED A CONDITIONAL
- 10 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY SHALL ENTER INTO A
- 11 CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT WITH A COMMUNITY-BASED
- 12 ORGANIZATION OR COLLECTION OF COMMUNITY-BASED ORGANIZATIONS
- 13 REPRESENTING THE COMMUNITY OR COMMUNITIES AFFECTED BY THE PROPOSED
- 14 GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
- 15 GENERATOR LEAD LINE.
- 16 (II) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT
- 17 SHALL ESTABLISH ONGOING MONETARY PAYMENTS THAT ARE:
- 1. AGREED ON BY THE COMMUNITY-BASED
- 19 ORGANIZATION AND THE APPLICANT; AND
- 20 DEPOSITED INTO A PROJECT-SPECIFIC CUMULATIVE
- 21 IMPACTS MITIGATION FUND FOR THE LIFE OF THE PROJECT.
- 22 (III) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT:
- 1. SHALL BE ENFORCEABLE IN A STATE COURT AND
- 24 INCLUDE LANGUAGE IN THE AGREEMENT THAT THE AGREEMENT IS ENFORCEABLE
- 25 IN A STATE COURT;
- 26 SHALL BENEFIT ALL RESIDENTS WHO LIVE WITHIN
- 27 THE AT-RISK CENSUS TRACT AFFECTED BY THE PROPOSED GENERATING STATION,
- 28 OVERHEAD TRANSMISSION LINE, OR QUALIFIED GENERATOR LEAD LINE; AND
- 3. MAY NOT RESTRICT THE RIGHT OF RESIDENTS OR
- 30 ORGANIZATIONS TO EXPRESS CONCERNS ABOUT OR OBJECTIONS TO THE PROPOSED
- 31 GENERATING STATION, OVERHEAD TRANSMISSION LINE, OR QUALIFIED
- 32 GENERATOR LEAD LINE.

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in Title 2, Subtitle 12 of the Environment Article.





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1 (2)A privately owned airport runway shall qualify as a public airport 2 runway under this subsection only if the runway has been on file with the Federal Aviation 3 Administration for at least 2 years as being open to the public without restriction. 4 [(h)] (J) (1) A county or municipal corporation has the authority to approve 5 or deny any local permit required under a certificate of public convenience and necessity issued under this section. 6 7 (2)A county or municipal corporation shall approve or deny any local 8 permits required under a certificate of public convenience and necessity issued under this 9 section: 10 (i) within a reasonable time; and 11 to the extent local laws are not preempted by State law, in (ii) 12 accordance with local laws. 13 (3)A county or municipal corporation may not condition the approval of a 14 local permit required under a certificate of public convenience and necessity issued under 15 this section on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed 16 17 under the certificate: 18 a conditional use approval; (i) 19 (ii) a special exception approval; or 20 (iii) a floating zone approval. 21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 22 1, 2025.