

DRAFT

BY: The Administration

A BILL ENTITLED

AN ACT concerning

Maryland Offshore Wind Energy Act

FOR the purpose of requiring the Public Service Commission to order certain electric companies to enter into certain long-term power purchasing agreements with certain qualifying offshore wind generators under certain circumstances; requiring the Commission to approve certain contracts under certain circumstances; authorizing the Commission to utilize certain consultants and experts; requiring the Commission establish a process to issue a certain request for proposal and receive responses by certain dates; requiring the Commission to evaluate, select and approve certain proposals using certain criteria by a certain date; prohibiting the Commission from approving certain proposals under certain circumstances; requiring the Commission to order certain electric companies to file certain contracts for the Commission's approval based on certain requirements by a certain date; requiring certain electric companies to sell certain energy-related products into certain markets; requiring that certain renewable energy credits or environmental attributes from a certain contract shall be first offered to certain electricity suppliers or electric companies for certain purposes; authorizing the Commission to designate a certain contract administrator for certain purposes; requiring the Commission to establish a certain non-bypassable charge or other mechanism to ensure that certain costs or savings related to the purchase of certain energy and products is shared among electric customers and distribution territories in a certain manner; requiring a certain charge or mechanism to allow for the recovery of certain costs of certain electric companies from certain obligations; limiting the application of a certain charge or mechanism under certain circumstances; exempting certain energy lines from a certain prohibition on construction or installation in a beach erosion control district under certain circumstances; clarifying that a certain certificate of public convenience is not required for the construction of a qualified offshore wind generator except for certain purposes; requiring a certificate of public convenience for certain energy lines before an electric company or a person may begin constructing, installing, or exercising a right of condemnation; requiring the Public Service Commission to conduct certain proceedings and consider certain factors in deciding on a certificate for certain energy lines; requiring the Commission to provide certain notice to the Maryland Energy Administration for certain purposes; authorizing the Commission to implement a special assessment not to exceed a certain amount in certain fiscal years for certain purposes; defining certain terms; making certain clarifying changes; making the provisions of this Act severable; and generally relating to the development, procurement and transmission of offshore wind energy.

BY adding to

Article – Public Utilities
Section 7-801 through 7-803 to be under the new subtitle, “Subtitle 8. Offshore
Wind Generation”
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 8–1102
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities
Section 7–207 and 7–208
Annotated Code of Maryland
(2010 Replacement Volume)

Preamble

WHEREAS, The benefits of electricity generated from clean and renewable energy sources accrue to the public at large, including long-term energy price stability, decreased greenhouse gas emissions, a healthier environment, improved public health, increased energy security, and decreased reliance on and vulnerability from imported energy sources; and

WHEREAS, The Maryland Energy Administration has determined that offshore wind power is the most effective clean energy technology that can provide the quantities of renewable energy needed to meet the State’s renewable energy portfolio standard; and

WHEREAS, Governor Martin O’Malley has requested that the federal government join Maryland in the development of over one gigawatt (GW) of offshore wind energy in the mid-Atlantic region, creating the economies of scale to significantly reduce the cost of offshore wind energy and enhancing our energy security and fuel diversity; and

WHEREAS, Academic studies have shown that federal waters adjacent to the waters of the states bordering the Atlantic Ocean and within the PJM Interconnection LLC control area have wind currents strong enough to generate more than enough energy to meet the State’s renewable energy portfolio standard; and

WHEREAS, The Public Service Commission is actively analyzing the need for new generation resources in the State because of potential electric reliability shortfalls; and

WHEREAS, Offshore wind power can provide a more proximate source of electricity generation and reduce the State's reliance on imported energy; now, therefore

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

Article – Public Utilities

SUBTITLE 8. OFFSHORE WIND GENERATION

7-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "INDUSTRIAL PROCESS LOAD" HAS THE MEANING STATED IN § 7-701 OF THIS TITLE.

(C) "PJM REGION" HAS THE MEANING STATED IN § 7-701 OF THIS TITLE.

(D) "QUALIFYING OFFSHORE WIND GENERATOR" MEANS A WIND ENERGY GENERATION FACILITY THAT IS LOCATED:

(1) IN THE ATLANTIC OCEAN; AND

(2) AT LEAST 10 NAUTICAL MILES FROM THE MARYLAND SHORELINE;

OR

(3) WITHIN THE FEDERAL WATERS ADJOINING ANOTHER STATE WITHIN THE PJM REGION.

(E) "RENEWABLE ENERGY CREDIT" HAS THE MEANING STATED IN § 7-701 OF THIS TITLE.

7-802.

THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A SMALL RURAL ELECTRIC COOPERATIVE.

7-803.

(A) (1) THE COMMISSION, BY REGULATION OR, NOTWITHSTANDING THE PROVISIONS OF TITLE 10 OF THE STATE GOVERNMENT ARTICLE, BY ORDER, SHALL ORDER THE STATE'S FOUR INVESTOR-OWNED ELECTRIC COMPANIES TO ENTER INTO A LONG-TERM POWER PURCHASE AGREEMENT WITH ONE OR MORE QUALIFYING OFFSHORE WIND GENERATORS.

(2) THE COMMISSION SHALL BE RESPONSIBLE FOR APPROVING CONTRACT AWARDS UNDER THIS SECTION.

(3) IN CARRYING OUT THIS SECTION, THE COMMISSION MAY UTILIZE CONSULTANTS AND EXPERTS TO ASSIST THE COMMISSION.

(B) (1) IN CARRYING OUT THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL, BY REGULATION OR, NOTWITHSTANDING THE PROVISIONS OF TITLE 10 OF THE STATE GOVERNMENT ARTICLE, BY ORDER, DEVELOP A PROCESS FOR DRAFTING AND ISSUING A REQUEST FOR PROPOSALS (RFP).

(2) A SINGLE RFP SHALL BE ISSUED TO QUALIFYING OFFSHORE WIND GENERATORS ON BEHALF OF THE FOUR INVESTOR-OWNED ELECTRIC COMPANIES.

(3) QUALIFYING PROPOSALS SHALL BE FOR CONTRACTS TO SELL:

(I) ENERGY AND ASSOCIATED CAPACITY RESULTING FROM A TOTAL NAMEPLATE CAPACITY OF BETWEEN 400 AND 600 MEGAWATTS FOR A TERM OF NOT LESS THAN 20 YEARS;

(II) ANCILLARY SERVICES, IF APPLICABLE;

(III) ASSOCIATED RENEWABLE ENERGY CREDITS; AND

(IV) ALL ASSOCIATED ENVIRONMENTAL ATTRIBUTES, IF APPLICABLE.

(4) (I) THE COMMISSION SHALL ISSUE THE RFP ON OR BEFORE JANUARY 31, 2012.

(II) RESPONSES TO THE RFP SHALL BE DUE ON OR BEFORE MARCH 31, 2012.

(C) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON OR BEFORE DECEMBER 31, 2012, THE COMMISSION SHALL EVALUATE, SELECT, AND APPROVE A PROPOSAL OR PROPOSALS BASED ON THE CRITERIA LISTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO EVALUATE PROPOSALS:

(I) LOWEST COST IMPACT OVER THE TERM OF THE POWER PURCHASE AGREEMENT ON RATEPAYERS;

(II) PRICE STABILITY OVER THE TERM OF THE POWER PURCHASE AGREEMENT;

(III) LONG-TERM RELIABILITY OF MARYLAND'S ELECTRIC SUPPLY;

(IV) POTENTIAL REDUCTIONS IN TRANSMISSION CONGESTION WITHIN MARYLAND;

(V) POTENTIAL REDUCTIONS IN CAPACITY PRICES WITHIN MARYLAND;

(VI) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL PRICES WITHIN MARYLAND;

(VII) ENVIRONMENTAL, CLIMATE AND HEALTH BENEFITS TO THE CITIZENS OF THIS STATE;

(VIII) ESTIMATED ABILITY TO ASSIST IN MEETING THE STATE'S RENEWABLE ENERGY PORTFOLIO STANDARD GOALS;

(IX) SITING AND PROJECT FEASIBILITY; AND

(X) ANY OTHER CRITERIA THAT ARE CONSISTENT WITH THE INTENT OF THIS STATUTE THAT THE COMMISSION DEEMS APPROPRIATE.

(3) NOTWITHSTANDING SUBSECTION (A)(1) OF THIS SECTION, IF, AFTER REVIEWING THE PROPOSALS RECEIVED UNDER THE RFP, THE COMMISSION DETERMINES THAT THE PROPOSALS ARE NOT COMPARABLE TO OTHER OFFSHORE WIND PROJECTS, THE COMMISSION MAY NOT APPROVE A PROPOSAL.

(D) (1) EXCEPT AS PROVIDED UNDER SUBSECTION (C)(3) OF THIS SECTION, THE COMMISSION SHALL ORDER THE INVESTOR OWNED ELECTRIC COMPANIES IN THE STATE TO EACH FILE WITH THE COMMISSION A SUBSTANTIALLY SIMILAR PROPOSED CONTRACT WITH THE SELECTED AWARDEE OR AWARDEES OF THE RFP FOR THE COMMISSION'S APPROVAL, WITH THE ONLY VARIABLE BEING THE AMOUNT OF OUTPUT EACH COMPANY IS OBLIGATED TO PURCHASE.

(2) EACH INVESTOR OWNED ELECTRIC COMPANY'S SHARE OF THE OUTPUT FROM THE PROPOSED CONTRACT SHALL BE ESTABLISHED AT THE TIME OF THE SIGNING OF THE CONTRACT AND WILL BE PROPORTIONAL TO ITS AVERAGE MEGAWATT HOUR LOAD FOR THE PRECEDING YEAR DIVIDED BY THE AVERAGE MEGAWATT HOUR LOAD FOR THE PRECEDING YEAR OF ALL OF THE INVESTOR OWNED ELECTRIC COMPANIES IN THE STATE.

(3) THE INVESTOR OWNED ELECTRIC COMPANIES SHALL FILE THE CONTRACTS REQUIRED PURSUANT TO PARAGRAPH (1) OF THIS SUBSECTION BY MARCH 31, 2013.

(4) CONTRACTS REQUIRED PURSUANT TO THIS SUBSECTION (D)(1) SHALL INCORPORATE THE TERMS AND CONDITIONS APPROVED BY THE COMMISSION.

(E) SUBJECT TO SUBSECTIONS (F) AND (G) OF THIS SECTION, AS DIRECTED BY THE COMMISSION, THE INVESTOR OWNED ELECTRIC COMPANIES THAT ENTER INTO A CONTRACT UNDER SUBSECTION (D) OF THIS SECTION SHALL SELL INTO THE AVAILABLE MARKETS THE FOLLOWING PRODUCTS PURCHASED UNDER THE CONTRACT:

- (1) ENERGY AND ASSOCIATED CAPACITY;**
- (2) ANCILLARY SERVICES, IF APPLICABLE;**
- (3) ASSOCIATED RENEWABLE ENERGY CREDITS; AND**
- (4) ALL ASSOCIATED ENVIRONMENTAL ATTRIBUTES.**

(F) THE RENEWABLE ENERGY CREDITS OR ENVIRONMENTAL ATTRIBUTES FROM THE CONTRACT MUST FIRST BE OFFERED TO AN ELECTRICITY SUPPLIER OR ELECTRIC COMPANY THAT SHALL APPLY THEM TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703 OF THIS TITLE.

(G) THE COMMISSION MAY DESIGNATE A CONTRACT ADMINISTRATOR FOR THE PURPOSE OF ADMINISTERING:

- (1) CONTRACTS UNDER SUBSECTION (D) OF THIS SECTION; OR**
- (2) SALES OF PRODUCTS UNDER SUBSECTION (E) OF THIS SECTION.**

(H) (1) EXCEPT AS PROVIDED UNDER SUBSECTION (C)(3) OF THIS SECTION AND § 7-802 OF THIS SUBTITLE AND SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE COMMISSION SHALL ESTABLISH A NON-BYPASSABLE CHARGE OR OTHER MECHANISM TO ENSURE THAT ANY COSTS OR SAVINGS ASSOCIATED WITH THE OBLIGATION TO PURCHASE ENERGY AND OTHER PRODUCTS FROM A QUALIFYING OFFSHORE WIND GENERATOR AND TO SELL THE PRODUCTS IS SHARED EQUITABLY AMONG ALL CUSTOMERS AND ACROSS ALL DISTRIBUTION TERRITORIES.

(2) THE NON-BYPASSABLE CHARGE OR OTHER MECHANISM DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL ALLOW FOR THE FULL AND TIMELY RECOVERY OF ALL OF THE INVESTOR OWNED ELECTRIC COMPANY'S COSTS ARISING FROM ITS OBLIGATIONS PURSUANT TO THIS SECTION, INCLUDING ANY COSTS, AS APPROVED BY THE COMMISSION, DIRECTLY INCURRED BY THE ELECTRIC COMPANY.

(3) A NON-BYPASSABLE CHARGE OR OTHER MECHANISM UNDER THIS SUBSECTION MAY NOT APPLY TO ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY

SUPPLIER IN EXCESS OF 75,000,000 KILOWATT-HOURS OF INDUSTRIAL PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR.

Article – Natural Resources

8-1102.

(a) (1) [FOR] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, the purposes of maintaining the Atlantic Coast beaches of the State and the Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance of the beaches, Beach Erosion Control District, and dunal system, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited.

(2) This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control; beach erosion and sediment control; maintenance projects designed to benefit the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to an additional 40 feet to the east between South Second Street and the south side of Worcester Street and from the south side of Somerset Street to the southerly terminus of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east 16 between the south side of Worcester Street and the south side of Somerset Street to include associated appurtenances and construction of one restroom facility in an easterly direction between South Second Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the purpose of public health, safety, and welfare; and a planned public utility pipeline carrying treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition to the approvals required by all other applicable federal and local laws and regulations, it is approved by the Board of Public Works as essential to the public health, safety, and welfare of the citizens of Worcester County, after having received the permission of the Secretaries of the Environment and Natural Resources, and the Director of Planning, including a guarantee that in any contract under this provision a person will not make any significant permanent environmental disruption to the area, and the construction area for the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a single 100 foot wide area perpendicular eastward from the west crest of the natural dune line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and Natural Resources and the Director of Planning find that there is no economically and environmentally feasible alternative, and that there is insufficient capacity at the existing Ocean City wastewater treatment facility and discharge pipe.

(3) (1) THIS PROHIBITION DOES NOT APPLY TO THE CONSTRUCTION AND INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC UTILITIES ARTICLE, IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS DETERMINED BY THE DEPARTMENT.

(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC UTILITIES ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT AS PROVIDED IN § 3-306 OF THIS ARTICLE.

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Director of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

Article – Public Utilities

7-207.

(a) (1) In this section and § 7-208 of this subtitle[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) [“construction”] **“CONSTRUCTION”** means:

(i) any physical change at a site, including fabrication, erection, installation, or demolition; or

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

[~~(2)~~] **(III)** “Construction” does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(3) “QUALIFIED GENERATOR LEAD LINE” MEANS AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS AND WOULD ALLOW AN OUT-OF-STATE TIER I OR TIER II RENEWABLE SOURCE TO INTERCONNECT IN MARYLAND TO THE ELECTRIC SYSTEM.

(4) “QUALIFYING OFFSHORE WIND GENERATOR” HAS THE MEANING STATE IN § 7-801 OF THIS ARTICLE.

(5) “QUALIFIED SUBMERGED RENEWABLE ENERGY LINE” MEANS A LINE:

(I) CARRYING ELECTRICITY AND CONNECTING A QUALIFYING OFFSHORE WIND GENERATOR TO THE TRANSMISSION SYSTEM; AND

(II) IN WHICH THE PORTIONS OF THE LINE CROSSING ANY SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL DISTRICT ARE BURIED OR SUBMERGED.

(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of a generating station **OR QUALIFIED GENERATOR LEAD LINE.**

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

(III) NO CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY SHALL BE REQUIRED FOR CONSTRUCTION OF A QUALIFIED OFFSHORE WIND GENERATOR EXCEPT AS NECESSARY TO CONSTRUCT A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of [a] **AN ON-SHORE** generating station.

(3) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company **OR 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.

(4) UNLESS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS FIRST OBTAINED FROM THE COMMISSION, AN ELECTRIC COMPANY OR A PERSON INTENDING TO TRANSMIT ENERGY FROM A QUALIFIED OFFSHORE WIND GENERATOR MAY NOT BEGIN CONSTRUCTION OR INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE OR EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice to the Department of Planning and to all other interested persons.

(2) The Department of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

(d) (1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station [or of], an overhead transmission line designed to carry a voltage in

excess of 69,000 volts, **A QUALIFIED GENERATOR LEAD LINE, OR A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station [or], overhead transmission line, **QUALIFIED GENERATOR LEAD LINE, OR QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the four successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station [or], overhead transmission line, **QUALIFIED GENERATOR LEAD LINE, OR QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** is proposed to be located; and

(2) the effect of the generating station [or], overhead transmission line, **QUALIFIED GENERATOR LEAD LINE, OR QUALIFIED SUBMERGED RENEWABLE ENERGY LINE** on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

(v) **WHERE APPLICABLE**, aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;

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

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

(f) For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of the need to meet existing and future demand for electric service.

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

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

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

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

7-208.

(a) This section applies to any person:

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

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

(3) **CONSTRUCTING A QUALIFIED GENERATOR LEAD LINE; OR**

(4) **CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE.**

(b) (1) To obtain the certificate of public convenience and necessity required under § 7-207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2-year requirement on a showing of good cause.

(c) The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

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

(i) all interested persons;

(ii) the Department of Agriculture;

(iii) the Department of Business and Economic Development;

(iv) the Department of the Environment;

(v) the Department of Natural Resources;

(vi) the Department of Transportation; [and]

(vii) the Department of Planning; AND

(VIII) THE MARYLAND ENERGY ADMINISTRATION.

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

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

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

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

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

(e) Within 90 days after the conclusion of the hearing on an application under this section, the Commission shall:

(1) (i) grant a certificate of public convenience and necessity unconditionally;

(ii) grant the certificate, subject to conditions the Commission determines to be appropriate; or

(iii) deny the certificate; and

(2) notify all interested parties of its decision.

(f) (1) The Commission shall include in each certificate it issues under subsection (e) of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

(g) (1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

(h) The grant of a certificate by the Commission to any person under subsection (e) of this section constitutes:

(1) authority for the person to dredge and construct bulkheads in the waters or private wetlands of the State and to appropriate or use the waters; and

(2) registration and a permit to construct, as required under Title 2, 17 Subtitle 4 of the Environment Article.

SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding any other provision of law, for fiscal years 2011 through 2013 only, the Public Service Commission may implement a special assessment using the assessment process authorized under § 2-110 of the Public Utilities Article in order to employ consultants and experts as necessary

to carry out the provisions of Title 7, Subtitle 8 of the Public Utilities Article as enacted by this Act. The cumulative special assessment may not exceed \$3,000,000, provided that:

(1) the assessment shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2-110 of the Public Utilities Article; and

(2) the limit imposed under § 2-110(c)(12) of the Public Utilities Article does not apply to any assessment made under this section.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provisions of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.