

# **Title 20 PUBLIC SERVICE COMMISSION**

## **Subtitle 79 APPLICATIONS CONCERNING THE CONSTRUCTION OR MODIFICATION OF GENERATING STATIONS AND OVERHEAD TRANSMISSION LINES**

### **Chapter 03 Details of Filing Requirements — Generating Stations**

Authority: Public Utilities Article, §§2-121 and 7-205—7-208, Annotated Code of Maryland

#### **.01 Description of Generating Station.**

The description of the generating station, including linear facilities, or the generating station modification shall include:

- A. Location;
- B. Design features;
- C. Operational features, including the expected capacity factor;
- D. The schedule for engineering, construction, and operation;
- E. A statement of the reasons for the selection of the design and the site of the generating station, including linear facilities, or generating station modification;
- F. A description of the impact of the project on the economics of the State;
- G. A description of the impact of the project on the stability and reliability of the electric system, or, if the impact is not known at the time of application, an explanation of the steps undertaken by the applicant to determine the impact, including the expected date for submission of the impact description; and
- H. To the extent feasible, the location and major design features of any required major electric system upgrade, including any associated transmission line, as a result of the project.

#### **.02 Environmental Information.**

A. The purpose of this regulation is to require the applicant to demonstrate that the application complies with applicable environmental restrictions.

B. The environmental information shall include:

(1) The following general information:

(a) A general description of the physical, biological, aesthetic, and cultural features, and conditions of the site and adjacent areas;

(10) The Federal Energy Regulatory Commission (one copy);

(11) The Federal Aviation Administration (one copy);

(12) The Maryland Energy Administration (one copy);

(13) The Office of People's Counsel (one copy);

(14) The U.S. Fish and Wildlife Service (one copy); and

(15) The local electric company (one copy).

C. The applicant shall also mail a copy of the application to any other State or local agency which may be affected.

### **.03 Proceedings on the Application.**

A. The Commission may hold hearings with any other state or local agency having jurisdiction to issue any permit, authority, or certificate that is required before construction or operation of a project can begin.

B. In order to ensure timely completion of the proceedings, the Commission may impose a schedule of procedural dates which is subject to change only for good cause shown.

C. Phased Proceeding Requests.

(1) The applicant may request that the construction of a generating station be reviewed by the Commission in phases.

(2) If a phased proceeding is requested and the request is granted by the Commission:

(a) An applicant may file a partial application; and

(b) The Commission may render separate findings of fact on any phase or issue within a phase.

(3) Findings of fact rendered by the Commission under this section are not subject to further litigation unless warranted by new substantive issues or changed circumstances.

### ***Administrative History***

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# **Title 20 PUBLIC SERVICE COMMISSION**

## **Subtitle 79 APPLICATIONS CONCERNING THE CONSTRUCTION OR MODIFICATION OF GENERATING STATIONS AND OVERHEAD TRANSMISSION LINES**

### **Chapter 02 Administrative Provisions**

Authority: Public Utilities Article, §§2-121 and 7-205—7-208, Annotated Code of Maryland

#### **.01 Form of Application.**

A. The original application shall be:

- (1) Signed by an individual having authority with respect to the application and having knowledge of the application; and
- (2) Verified under oath.

B. In its discretion, the Commission may prescribe the form of the application.

#### **.02 Distribution of Application.**

A. The applicant shall submit to the Commission an original, 14 copies, and one electronic copy of the application.

B. In addition to filing the application with the Commission, the applicant shall simultaneously mail additional copies, and, if requested, provide an electronic copy to the following agencies:

- (1) The governing body and the planning and zoning commission of each county and municipality in which the project will be located (one copy);
- (2) The Department of the Environment (four copies);
- (3) The Office of Planning (one copy);
- (4) The Department of Natural Resources (six copies);
- (5) The Department of Business and Economic Development (one copy);
- (6) The Department of Transportation (one copy);
- (7) The State Aviation Administration (one copy);
- (8) The State Highway Administration (one copy);
- (9) The U.S. Department of Interior (one copy);

(5) Use of an alternative fuel or raw material by a stationary source which:

(a) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR §52.21, or under regulations approved under 40 CFR Part 51, Subpart I or §51.166; or

(b) The source is approved to use under a Certificate of Public Convenience and Necessity issued under Public Utility Companies Article, §§7-207 and 7-208, Annotated Code of Maryland, and any other required approvals, including permits issued under COMAR 26.11.02 or 26.11.03; or

(6) Any change in ownership.

D. An increase in air emissions is calculated in accordance with COMAR 26.11.17 or 26.11.06.14, as applicable.

~~.07 Waivers and Modifications.~~

~~The Commission may, in its discretion, waive or modify any provision of this subtitle and may also impose additional requirements as circumstances warrant.~~

(18) "Project" means a proposed generating station, including linear facilities, generating station modification, transmission line, or modification to an existing transmission line.

(19) "Public airport" includes a privately owned airport as defined in Public Utility Companies Article, §7-207, Annotated Code of Maryland.

(20) "Regulated pollutant" means:

(a) Any pollutant for which a federal or the State ambient air quality standard has been promulgated, and any identified constituent or precursor pollutants regulated under an ambient air quality standard;

(b) Any pollutant that is subject to any standard promulgated under 42 U.S.C. §7411;

(c) Any Class I or Class II substance that is subject to a standard promulgated under Title VI of the Clean Air Act, 42 U.S.C. §7671 et seq.; or

(d) Any other pollutant that is otherwise subject to regulation under the Clean Air Act, 42 U.S.C. §7401 et seq. or Environment Article, Title 2, Annotated Code of Maryland, except that any or all hazardous air pollutants either listed in 42 U.S.C. §7412 or added to the list under 42 U.S.C. §7412(b) are not regulated pollutants unless the listed hazardous air pollutant is also regulated as a constituent precursor of a general pollutant listed under 42 U.S.C. §7408.

~~(21) "Transmission line" means property or facilities constructed in Maryland as an overhead transmission line designed to carry a voltage in excess of 69,000 volts.~~

## **.06 Modifications to the Facilities at a Power Plant.**

A. Except as provided in §C of this regulation, a person may not commence a modification to the facilities at a power plant without receiving prior approval from the Commission.

B. A physical alteration, replacement, change in the method of operation, or any other change to an electric generating unit or other facilities at a power plant that will result in an increase in air emissions is subject to the requirement to obtain approval from the Commission under Public Utility Companies Article, §7-205(b), Annotated Code of Maryland, if the change will result in an increase of 1 ton or more per year in emissions of a regulated pollutant.

C. The following changes do not require prior approval of the Commission:

(1) Routine maintenance and repair, including routine replacement;

(2) An increase in the hours of operation or in the production rate, unless the change is prohibited under any enforceable condition established after January 6, 1975, under regulations approved under the Clean Air Act, 42 U.S.C. §7401 et seq.;

(3) Use of an alternative fuel or raw material by reason of an order under §§2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. §791 et seq., or any superseding legislation, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. §791 et seq.;

(4) Use of an alternative fuel by reason of an order or rule under §125 of the Clean Air Act, 42 U.S.C. §7425;

(a) "Generating station" means property or facilities located in Maryland constituting an integral plant or unit for the production of electric energy, including any new production unit that would be added to an existing production plant.

(b) "Generating station" does not include an integral plant or unit less than 373 kilowatts if it is installed with equipment that prevents the flow of electricity to the electric system during time periods when the electric system is out of service.

(12) "Historic site" means a site registered by the:

(a) Maryland Historical Trust;

(b) National Register of Historic Places;

(c) National Register of Natural Landmarks;

(d) Register of National Historic Landmarks; or

(e) National Trust for Historic Preservation.

(13) "Linear facilities" means ancillary components of a generating station that may have environmental or land use impacts in Maryland, including:

(a) A pipeline for the delivery of fuel or cooling water; and

(b) An associated transmission line.

(14) Modification.

(a) "Modification" to an electric generating station has the meaning stated in Public Utility Companies Article, §7-205, Annotated Code of Maryland.

~~(b) "Modification" to an existing overhead transmission line means:~~

~~(i) Obtaining new real property or additional rights of way through eminent domain; or~~

~~(ii) Construction requiring larger or higher structures to accommodate increased voltage or larger conductors.~~

~~(c) "Modification" includes any clean air modification under Public Utility Companies Article, §7-206, Annotated Code of Maryland.~~

(15) "On-site generated electricity" has the meaning stated in Public Utility Companies Article, §1-101, Annotated Code of Maryland.

(16) "Person" has the meaning stated in Public Utility Companies Article, §1-101, Annotated Code of Maryland.

~~(17) "Plan" means a comprehensive and interrelated set of actions for meeting forecasted electric demand for the 10-year period from the date of the application.~~

(b) "Applicant" also means an electric company applying for a Certificate of Public Convenience and Necessity to construct or modify an overhead transmission line.

(3) "Application" means a request for:

(a) A Certificate of Public Convenience and Necessity for the construction of an electric generating station including its associated transmission line, if applicable, or overhead transmission line under Public Utility Companies Article, §§7-207 and 7-208, Annotated Code of Maryland;

(b) A Certificate of Public Convenience and Necessity and any other approvals necessary to begin a modification to an electric generating station or an existing overhead transmission line under Public Utility Companies Article, §7-205, 7-206, 7-207, or 7-208, Annotated Code of Maryland; or

(c) An exemption from the requirement to obtain a Certificate of Public Convenience and Necessity for the construction of a generating station under Public Utility Companies Article, §7-207.1, Annotated Code of Maryland.

(4) "Approval" as used in Public Utility Companies Article, §7-205, Annotated Code of Maryland, means a Certificate of Public Convenience and Necessity issued under Public Utility Companies Article, §§7-207 and 7-208, Annotated Code of Maryland.

(5) "Archeological site" means a site yielding artifacts, structural remains, or evidence of occupation or use before the year 1900 as designated by the State Archeologist for the Maryland Geological Survey or by another agency or government unit with responsibility for archeological sites.

(6) "Associated transmission line" means a transmission line that is necessary to transport the electric output of the generating station to the electric system.

(7) Commence.

(a) "Commence" with respect to a modification means, in general, initiation of physical on-site construction activities that are of a permanent nature, including installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(b) "Commence" with respect to a change in the method of operation, means those on-site activities other than preparatory activities that mark the initiation of the change.

(8) Construction.

(a) "Construction" has the meaning stated in Public Utility Companies Article, §7-207, Annotated Code of Maryland.

(b) "Construction" does not mean a change needed for temporary use of a site or route for a nonutility purpose or for use in securing geological data, including borings necessary to ascertain foundation conditions.

(9) "Demand" means the rate of consumption of electricity.

(10) "Electric company" has the meaning stated in Public Utility Companies Article, §1-101, Annotated Code of Maryland.

(11) Generating Station.

## Title 20 PUBLIC SERVICE COMMISSION

### Subtitle 79 APPLICATIONS CONCERNING THE CONSTRUCTION OR MODIFICATION OF GENERATING STATIONS AND OVERHEAD TRANSMISSION LINES

#### Chapter 01 General

Authority: Public Utility Companies Article, §§2-113, 2-121 and 7-205—7-208,  
Annotated Code of Maryland

#### .01 Scope.

The regulations in this subtitle apply to:

A. A person applying for a Certificate of Public Convenience and Necessity for the construction of a generating station or modification to an existing electric generating station;

~~B. An electric company applying for a Certificate of Public Convenience and Necessity for the construction of an overhead transmission line or modification to an existing overhead transmission line;~~

C. A person requesting an exemption from the requirement to obtain a Certificate of Public Convenience and Necessity for the construction of a generating station under Regulation .03 of this chapter; or

D. A person making a modification under Public Utility Companies Article, §7-205, Annotated Code of Maryland.

#### .02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Aesthetic site" means a site whose aesthetic nature is:

(a) Of general public interest; or

(b) Officially recognized by a local, state, or federal agency charged with responsibility to oversee the protection of the environment.

~~(2) Applicant.~~

(a) "Applicant" means a person applying for a Certificate of Public Convenience and Necessity to construct or modify an electric generating station including its associated transmission line, if applicable, or for an exemption from the requirement to obtain a Certificate of Public Convenience and Necessity to construct a generating station.



(b) A summary of the environmental and socioeconomic effects of the construction and operation of the project, including a description of the unavoidable impact and recommended mitigation;

(c) A copy of all studies of the environmental impact of the proposed project prepared by the applicant; and

(d) A statement of the ability to conform to applicable environmental standards;

(2) A description of the effect on air quality, including the:

(a) Ability of the generating station to comply with:

(i) Federal or State ambient air quality standards;

(ii) Federal or State emission standards;

(iii) Federal new source performance standards;

(iv) Federal emission standards for hazardous air pollutants;

(v) Prevention of significant deterioration and new source review provisions; and

(vi) Any requirement to obtain emission offsets, allowances, and reduction credits.

(b) Impact on prevention of significant deterioration areas and existing nonattainment areas; and

(c) Information and forms required by Department of the Environment regulations relating to permits to construct and operating permits under COMAR 26.11;

~~(3) A description of the effect on water quality and appropriation, including:~~

~~(a) An analysis of the availability of surface water and ground water for the proposed generating station;~~

~~(b) The identification of affected streams and aquifers;~~

~~(c) The impact on other water users;~~

~~(d) The mitigation and minimization techniques evaluated; and~~

~~(e) The information and forms required by Department of the Environment regulations relating to water use and appropriation under COMAR 26.17.06.07 and 26.17.07, if applicable;~~

~~(4) A description of the effect on State or private wetlands, including:~~

~~(a) Public health and welfare;~~

~~(b) Marine fisheries;~~

~~(c) Shell fisheries;~~

~~(d) Wildlife;~~

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~~(e) Protection of life and property from flood, hurricane, or other natural disaster;~~

~~(f) The evaluation of mitigation and minimization techniques, including proposals related to replacement lands; and~~

~~(g) The information and forms required by Department of the Environment regulations relating to a license for use of State tidal wetlands or nontidal wetlands under COMAR 26.23 and 26.24; and~~

~~(5) A discussion of the economics and availability of means for the disposal of plant-generated wastes.~~

### **.03 Condemnation.**

~~If the applicant is requesting authority to exercise a right of condemnation in connection with the construction of a generating station, a statement of the reasons the generating capacity is necessary to ensure a sufficient supply of electricity to customers in the State as required under Public Utilities Article, §7-207(b)(2), Annotated Code of Maryland.~~

### ~~*Administrative History*~~

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