

STATE OF MARYLAND
OFFICE OF PEOPLE’S COUNSEL

Paula M. Carmody, People’s Counsel

6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
410-767-8150; 800-207-4055
www.opc.state.md.us

BILL NO.: **House Bill 469**
Public Utilities – Electricity – Construction of Overhead Transmission Lines

COMMITTEE: **Economic Matters**

HEARING DATE: **February 19, 2015**

SPONSOR: **Delegate Jameson**

POSITION: **Informational**

House Bill amends Section 7-207(b)(3) of the existing Public Service Commission (PSC or Commission) law regarding construction of high voltage transmission lines by substituting the word “person” for “electric company” as the entity allowed to seek approval to construct a transmission line in Maryland. This word change would allow the Commission to issue a Certificate of Public Convenience and Necessity (CPCN) to an individual or entity other than an incumbent electric company to construct a transmission line.

“Electric company” is defined as “the person who physically transmits or distributes electricity in the State to a retail electric customer”¹ – what is commonly referred to as an electric distribution company. In the past several years, the Commission has addressed at least two instances where an entity other than an electric company sought approval to construct a transmission line.² In those cases, OPC agreed that existing law, by using the term “electric company,” limits the authority of the Commission to issue a CPCN to an individual or entity other than an electric company. This is in contrast to the provisions of the CPCN law that

¹ Section 1-101(h) of the Public Utilities Article.

² PSC Case 9198, Order No. 82892, where Potomac Edison Company “on behalf of” PATH Allegheny Transmission Company, LLC unsuccessfully sought approval for a CPCN, and PSC Case 9222, Order No. 83774, where Big Savage LLC unsuccessfully sought permission to build a transmission line to connect a Pennsylvania wind facility to Maryland’s electricity grid.

pertain to generating facilities. As part of the legislation restructuring Maryland's retail electric industry, Section 7-207(b)(1) and (2) of the Public Utilities Article was amended to use the term "person," not "electric company," in reference to applicants permitted to receive a CPCN, but there was no such change to the provision relating to construction of high voltage transmission lines.

The change in permissible applicants would apply to both intrastate and interstate transmission lines, although the expansion could be of greater practical significance for interstate transmission projects that would cross Maryland state lines. These lines are subject to PJM's regional planning process; once approved, these lines, whether owned by a Maryland electric distribution company or another entity, would be subject to FERC's rules for recovery of costs, which are passed through to retail utility customers. This is in contrast to construction of generating facilities by non-electric companies, which cannot recover construction or other costs from Maryland ratepayers.

There is another distinction in the Commission law between construction of generating facilities and construction of transmission lines. In addition to consideration of other factors, PUA Section 7-207(f) states that the Commission can grant a CPCN for a high voltage transmission line "only after due consideration of the *need to meet existing and future demand for electric service*" (emphasis added). There is no such need requirement for generating facilities.

The ability of competitive transmission developers to seek CPCN approval may provide benefits to Maryland's electric customers in terms of efficiencies and lower cost alternatives to meet documented transmission needs. If entities other than electric companies are allowed to construct these lines to achieve these benefits, it also will be important to ensure in addition to cost efficiencies that appropriate oversight over the safety, reliability and operation of the transmission line is maintained for the benefit of Maryland and its customers. Since these entities are not electric companies, and therefore not "public service companies" subject to regulation by the Commission, appropriate and enforceable safeguards will need to be included in conditions for approval of the CPCNs.