AN ACT relating to merchant electric generating facilities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.212 is amended to read as follows:

(1) No utility shall begin the construction or installation of any property, equipment, or facility to establish an electrical interconnection with a merchant electric generating facility that either operates at an aggregate capacity in excess of ten megawatts (10MW) or occupies in aggregate ten (10) acres or more of land until the plans and specifications for the electrical interconnection have been filed with the commission.

(2) Notwithstanding any other provision of law, any costs or expenses associated with upgrading the existing electricity transmission grid, as a result of the additional load caused by a merchant electric generating facility, shall be borne solely by the person constructing the merchant electric generating facility and shall in no way be borne by the retail electric customers of the Commonwealth.

Section 2. KRS 278.216 is amended to read as follows:

(1) Except for a utility as defined under KRS 278.010(9) that has been granted a certificate of public convenience and necessity prior to April 15, 2002, no utility shall begin the construction of a facility for the generation of electricity that either is capable of generating in aggregate more than ten megawatts (10MW) or occupies in aggregate ten (10) acres or more of land without having first obtained a site compatibility certificate from the commission.

(2) An application for a site compatibility certificate shall include the submission of a site assessment report as prescribed in KRS 278.708(3) and (4), except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to KRS
A utility may submit and the commission may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.

The commission may deny an application filed pursuant to, and in compliance with, this section. The commission may require reasonable mitigation of impacts disclosed in the site assessment report including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust, but the commission shall, in no event, order relocation of the facility.

The commission may also grant a deviation from any applicable setback requirements on a finding that the proposed facility is designed and located to meet the goals of this section and KRS 224.10-280, 278.010, 278.212, 278.214, 278.218, and 278.700 to 278.716 at a distance closer than those provided by the applicable setback requirements.

Nothing contained in this section shall be construed to limit a utility's exemption provided under KRS 100.324.

Unless specifically stated otherwise, for the purposes of this section, "utility" has the same meaning as in KRS 278.010(3)(a) or (9).

Section 3. KRS 278.700 is amended to read as follows:

As used in KRS 278.700 to 278.716, unless the context requires otherwise:

(1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting created in KRS 278.702;

(2) "Merchant electric generating facility" means, except for a qualifying facility as defined in subsection (7) of this section, an electricity generating facility or facilities that, together with all associated structures and facilities:

(a) **Either occupy in aggregate ten (10) acres or more of land or** are capable of operating at an aggregate capacity of ten megawatts (10MW) or more; and

(b) Sell the electricity they produce in the wholesale market, at rates and charges
not regulated by the Public Service Commission;

(3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity, and no portion of KRS 224.10-280, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 shall apply to a utility owned by a municipality unless the utility is a merchant plant as defined in this section;

(4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;

(5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts;

(6) "Residential neighborhood" means a populated area of five (5) or more acres containing at least one (1) residential structure per acre;

(7) "Qualifying facility" means a cogeneration facility as defined in 16 U.S.C. sec. 796(18)(b) which does not exceed a capacity of one hundred fifty megawatts (150MW) that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process, or an industrial energy facility as defined in KRS 224.1-010 that does not generate more than one hundred fifty megawatts (150MW) for sale and has received all local planning and zoning approvals; and

(8) "Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,
including appurtenant facilities, property rights, and easements, that is used
exclusively for the purpose of transporting carbon dioxide to a point of sale, storage,
or other carbon management applications.

Section 4. KRS 278.704 is amended to read as follows:

(1) No person shall commence to construct a merchant electric generating facility until
that person has applied for and obtained a construction certificate for the facility
from the board. The construction certificate shall be valid for a period of two (2)
years after the issuance date of the last permit required to be obtained from the
Energy and Environment Cabinet after which the certificate shall be void. The
certificate shall be conditioned upon the applicant obtaining necessary air, water,
and waste permits. If an applicant has not obtained all necessary permits and has not
commenced to construct prior to the expiration date of the certificate, the applicant
shall be required to obtain a new valid certificate from the board.

(2) (a) Except as provided in subsections (3), (4), and (5) of this section, no
construction certificate shall be issued to construct a merchant electric
generating facility unless:

1. The exhaust stack of the proposed facility and any wind turbine is at
least one thousand (1,000) feet from the property boundary of any
adjoining property owner;

2. The nearest manufactured component of a proposed ground-mounted
solar facility is at least fifty (50) feet from the property boundary of
any nonparticipating adjoining property that is in any nonindustrial
use and at least one hundred (100) feet from a residence located on a
property other than the one on which the facility is proposed to be
installed, unless waived in writing by the owner of that residence. The
setback requirements of this subparagraph shall not apply to ground-
mounted solar facilities that are proposed to be located on brownfield


sites as defined in KRS 65.680, state or federal Superfund sites under
42 U.S.C. secs. 9601 et seq., secondary sites as designated by the
Cabinet for Economic Development, or reclaimed coal mine sites; and

3. All proposed structures or facilities used for generation of electricity are
two thousand (2,000) feet from any residential neighborhood, school,
hospital, or nursing home facility.

(b) For purposes of applications for site compatibility certificates pursuant to
KRS 278.216, only the exhaust stack of the proposed facility to be actually
used for coal or gas-fired generation or, beginning with applications for site
compatibility certificates filed on or after January 1, 2015, the proposed
structure or facility to be actually used for solar or wind generation shall be
required to be at least one thousand (1,000) feet from the property boundary of
any adjoining property owner and two thousand (2,000) feet from any
residential neighborhood, school, hospital, or nursing home facility.

(3) If the merchant electric generating facility is proposed to be located in a county or a
municipality with planning and zoning, then setback requirements from a property
boundary, residential neighborhood, school, hospital, or nursing home facility may
be established by the planning and zoning commission. Any setback established by
a planning and zoning commission for a facility in an area over which it has
jurisdiction shall:

(a) Have primacy over the setback requirement in subsections (2) and (5) of this
section; and

(b) Not be subject to modification or waiver by the board through a request for
deviation by the applicant, as provided in subsection (4) of this section.

(4) The board may grant a deviation from the requirements of subsection (2) of this
section on a finding that the proposed facility is designed to and, as located, would
meet the goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.216, 278.218,
and 278.700 to 278.716 at a distance closer than those provided in subsection (2) of this section.

(5) If the merchant electric generating facility is proposed to be located on a site of a former coal processing plant in the Commonwealth where the electric generating facility will utilize on-site waste coal as a fuel source, then the one thousand (1,000) foot property boundary requirement in subsection (2) of this section shall not be applicable; however, the applicant shall be required to meet any other setback requirements contained in subsection (2) of this section.

(6) **Before exercising an option to acquire any interest in real estate in the county** [if requested], a merchant electric generating entity considering construction of a facility for the generation of electricity or a person acting on behalf of such an entity shall **notify the county/judge executive or mayor of all governmental entities of jurisdiction where the interest is being acquired by mail or electronic mail. After the notice has been received, the county/judge executive, the mayor, the commission, or any city or county governmental entity may request that the merchant electric generating entity** hold a public meeting in any county where the option to acquire [acquisition of] real estate or any interest in real estate is being exercised [considered] for the facility. [A request for such a meeting may be made by the commission, or by any city or county governmental entity, including a board of commissioners, planning and zoning, fiscal court, mayor, or county judge/executive.] The meeting shall be held not more than thirty (30) days from the date of the request.

(7) The purpose of the meeting under subsection (6) of this section is to fully inform landowners and other interested parties of the **proposed nature and scope** [full extent] of the project being considered, including the project time line. One (1) or more representatives of the entity with full knowledge of all aspects of the project shall be present and shall answer questions from the public. **After the meeting**
under subsection (6) has been held, the merchant electric generating entity shall post any material changes to the plans for the project, including but not limited to changes to the properties involved or the project timeline, on its Web site and shall inform the county judge/executive or mayor of all governmental entities of jurisdiction where the project is planned of the changes by mail or electronic mail no later than the time at which the information is posted on its Web site.

(8) Notice of the time, subject, and location of the meeting under subsection (6) of this section shall be posted in both a local newspaper, if any, and a newspaper of general circulation in the county. Notice shall also be placed on the Web sites of the unregulated entity, and any local governmental unit. Owners of real estate known to be included in the project and any person whose property adjoins at any point any property to be included in the project shall be notified personally by mail. All notices must be mailed or posted at least two (2) weeks prior to the meeting.

(9) The merchant electric generating entity or a person acting on behalf of a merchant electric generating entity shall, on or before the date of the public meeting held under subsection (6) of this section, provide notice of all research, testing, or any other activities being planned or considered to:

(a) The Energy and Environment Cabinet;
(b) The Public Service Commission;
(c) The Transportation Cabinet;
(d) The Attorney General; and
(e) The Office of the Governor.

(10) A person that, on or before April 10, 2014, has started acquiring interests in real estate for a project as described in subsection (6) of this section shall hold a meeting that complies with this section within thirty (30) days of April 10, 2014.

(11) Subsections (6) to (10) of this section shall not apply to any facility or project that has already received a certificate of construction from the board.
Section 5. KRS 278.706 is amended to read as follows:

(1) Any person seeking to obtain a construction certificate from the board to construct a merchant electric generating facility shall file an application at the office of the Public Service Commission.

(2) A completed application shall include the following:

(a) The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;

(b) A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility;

(c) Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to:

1. Landowners whose property borders the proposed site; and

2. The general public in a newspaper of general circulation in the county or municipality in which the facility is proposed to be located;

(d) A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any local planning and zoning ordinances. The statement shall also disclose setback requirements established by the planning and zoning commission as provided under KRS 278.704(3);

(e) If the facility is not proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source or in an area where a planning and zoning commission has established a setback
requirement pursuant to KRS 278.704(3), a statement that the exhaust stack of
the proposed facility and any wind turbine is at least one thousand (1,000) feet
from the property boundary of any adjoining property owner, *any proposed
ground-mounted solar facility complies with the setback requirements of
subsection (2)(a)2. of Section 4 of this Act unless exempted or waived*, and
all proposed structures or facilities used for generation of electricity are two
thousand (2,000) feet from any residential neighborhood, school, hospital, or
nursing home facility, unless facilities capable of generating ten megawatts
(10MW) or more currently exist on the site. If the facility is proposed to be
located on a site of a former coal processing plant and the facility will use on-
site waste coal as a fuel source, a statement that the proposed site is
compatible with the setback requirements provided under KRS 278.704(5). If
the facility is proposed to be located in a jurisdiction that has established
setback requirements pursuant to KRS 278.704(3), a statement that the
proposed site is in compliance with those established setback requirements;
(f) A complete report of the applicant's public involvement program activities
undertaken prior to the filing of the application, including:
1. The scheduling and conducting of a public meeting in the county or
counties in which the proposed facility will be constructed at least ninety
(90) days prior to the filing of an application, for the purpose of
informing the public of the project being considered and receiving
comment on it;
2. Evidence that notice of the time, subject, and location of the meeting
was published in the newspaper of general circulation in the county, and
that individual notice was mailed to all owners of property adjoining the
proposed project at least two (2) weeks prior to the meeting; and
3. Any use of media coverage, direct mailing, fliers, newsletters, additional
public meetings, establishment of a community advisory group, and any
other efforts to obtain local involvement in the siting process;

(g) A summary of the efforts made by the applicant to locate the proposed facility
on a site where existing electric generating facilities are located;

(h) Proof of service of a copy of the application upon the chief executive officer
of each county and municipal corporation in which the proposed facility is to
be located, and upon the chief officer of each public agency charged with the
duty of planning land use in the jurisdiction in which the facility is proposed
to be located;

(i) An analysis of the proposed facility's projected effect on the electricity
transmission system in Kentucky;

(j) An analysis of the proposed facility's economic impact on the affected region
and the state;

(k) A detailed listing of all violations by it, or any person with an ownership
interest, of federal or state environmental laws, rules, or administrative
regulations, whether judicial or administrative, where violations have resulted
in criminal convictions or civil or administrative fines exceeding five
thousand dollars ($5,000). The status of any pending action, whether judicial
or administrative, shall also be submitted; and

(l) A site assessment report as specified in KRS 278.708. The applicant may
submit and the board may accept documentation of compliance with the
National Environmental Policy Act (NEPA) rather than a site assessment
report.

(3) Application fees for a construction certificate shall be set by the board and
deposited into a trust and agency account to the credit of the commission.

(4) Replacement of a merchant electric generating facility with a like facility, or the
repair, modification, retrofitting, enhancement, or reconfiguration of a merchant
electric generating facility shall not, for the purposes of this section and KRS 224.10-280, 278.704, 278.708, 278.710, and 278.712, constitute construction of a merchant electric generating facility.

(5) The board shall promulgate administrative regulations prescribing fees to pay expenses associated with its review of applications filed with it pursuant to KRS 278.700 to 278.716. All application fees collected by the board shall be deposited in a trust and agency account to the credit of the Public Service Commission. If a majority of the members of the board find that an applicant's initial fees are insufficient to pay the board's expenses associated with the application, including the board's expenses associated with legal review thereof, the board shall assess a supplemental application fee to cover the additional expenses. An applicant's failure to pay a fee assessed pursuant to this subsection shall be grounds for denial of the application.

Section 6. KRS 278.708 is amended to read as follows:

(1) Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board as required under KRS 278.706(2)(l).

(2) A site assessment report shall be prepared by the applicant or its designee.

(3) A completed site assessment report shall include:

(a) A description of the proposed facility that shall include a proposed site development plan that describes:

1. Surrounding land uses for residential, commercial, agricultural, and recreational purposes;

2. The legal boundaries of the proposed site;

3. Proposed access control to the site;

4. The location of facility buildings, transmission lines, and other structures;

5. Location and use of access ways, internal roads, and railways;
6. Existing or proposed utilities to service the facility;
7. Compliance with applicable setback requirements as provided under KRS 278.704(2), (3), (4), or (5); and
8. Evaluation of the noise levels expected to be produced by the facility;

(b) An evaluation of the compatibility of the facility with scenic surroundings;

(c) The potential changes in property values and land use resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility;

(d) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; \[and\]

(e) The impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility;

\[and\]

(f) A decommissioning plan specifically formulated for the proposed facility based on the proposed site development plan. The decommissioning plan shall explain in detail how the applicant proposes to effectuate the removal of all above-ground and underground facility components, excluding interconnection facilities that will remain in use, immediately following the end of the useful life of the facilities. All decommissioning plans shall be reviewed by the board and updated as directed by the board, or at least once every five (5) years. A decommissioning plan for a proposed solar merchant electric generating facility shall at a minimum provide for the following:

1. The removal of underground components and the foundations for any above-ground components to a depth of at least three (3) feet below the surface grade of the land in or on which the component was installed:
2. A right of entry document signed by the landowner granting the county government in the county where the proposed facility is to be located, or its designee, the right to access the property in order to complete the decommissioning if the owner of the facility fails to begin or complete the decommissioning in the timeframes required under subsection (4) of Section 7 of this Act; and

3. If requested by the landowner:

   a. The filling of any holes or cavities created by the removal of a component or its foundation with soil of the same or similar type as the predominant soil found on the property;

   b. The removal of any roads made on the property by the applicant;

   c. The removal of all rocks over twelve (12) inches in diameter excavated during the decommissioning process;

   d. The returning of the property to a substantially similar state as it was prior to the commencement of construction; and

   e. The revegetation and restoring of the property to its original condition or condition compatible with the zoning of the parcel.

(4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant to minimize or avoid adverse effects identified in the site assessment report.

(5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.

(6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to
obtain a construction certificate, the board may require the implementation of any
mitigation measures that the board deems appropriate.

Section 7. KRS 278.710 is amended to read as follows:

(1) Within one hundred twenty (120) days of receipt of an administratively complete
application, or within one hundred eighty (180) days of receipt of an
administratively complete application if a hearing is requested, the board shall, by
majority vote, grant or deny a construction certificate, either in whole or in part,
based upon the following criteria:

(a) Impact of the facility on scenic surroundings, property values, the pattern and
type of development of adjacent property, and surrounding roads;
(b) Anticipated noise levels expected as a result of construction and operation of
the proposed facility;
(c) The economic impact of the facility upon the affected region and the state;
(d) Whether the facility is proposed for a site upon which existing generating
facilities, capable of generating ten megawatts (10MW) or more of electricity,
are currently located;
(e) Whether the proposed facility has provided documentation of compliance
with all local planning and zoning requirements that existed on the
date the application was filed, including any applicable zoning or
conditional use permit requirement. If the board finds that the proposed
facility has not documented compliance with all local planning and zoning
requirements that existed on the date the application was filed, it shall deny
the construction certificate until compliance can be documented;
(f) Whether the additional load imposed upon the electricity transmission system
by use of the merchant electric generating facility will adversely affect the
reliability of service for retail customers of electric utilities regulated by the
Public Service Commission;
(g) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in KRS 278.704(3) and except for a facility proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, whether the exhaust stack of the proposed merchant electric generating facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless a different setback has been requested and approved under KRS 278.704(4). If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5);

(h) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility;

(i) Whether the applicant has a good environmental compliance history; and

(j) Whether the proposed decommissioning plan is in the public interest. The board may require a proposed decommissioning plan to be amended to ensure that it is in the public interest.

(2) Construction certificate approval under this section shall be subject to the ongoing compliance of the certificate holder, and any of its successors in interest, with the mitigation measures and any other conditions, including maintaining the bond or other similar security required under subsection (4) of this section.
imposed by the board as a condition of construction certificate approval. The board may seek any available legal remedy in Franklin Circuit Court against a construction certificate holder or any of its successors in interest under this section for violation of a condition of the certificate's approval.

(3) When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice, shall comply fully with KRS 224.10-280, 278.212, 278.216, and 278.700 to 278.716.

(4)(3) (a) The board shall require a person that has received a construction certificate for a merchant electric generating facility, before commencing to construct the facility, to furnish a bond or other similar security to assure the decommissioning of the facility at the end of its useful life. The amount of the bond or other similar security shall be set by the board and shall be at least equal to the estimated cost of fully completing the decommissioning plan approved by the board, less the salvage value for the decommissioned facilities and components. In proposing the amount of the bond, the holder of the construction certificate shall provide evidence of the decommissioning costs and the salvage value as determined by an independent, third-party person with experience and expertise in decommissioning the type of electric generating facility to be constructed.

The bond amount shall be reviewed by the permanent board members periodically, and at least once every five (5) years, and shall be adjusted by the permanent board members to match any significant change to the estimated cost of effectuating the decommissioning plan or to the salvage value of the facility or its components.
(b) If the facility for which a bond or similar security has been furnished under this subsection is located on leased property, the bond or similar security shall name the landowner or landowners where the bonded facility is located as the primary beneficiaries of the bond and the governing bodies of the cities or counties where the facility is located as secondary beneficiaries.

If the facility for which a bond or similar security is furnished under this subsection is located on property owned by the party responsible for completing the decommissioning plan, the bond or similar security shall name the governing bodies of the cities or counties where the facility is located as the primary beneficiaries. Neither a city, a county, nor the board shall be financially or legally responsible for the decommissioning of any merchant electric generating facility.

(c) The bond or similar security required under this subsection shall be forfeited if the person responsible for completing the decommissioning plan approved by the board either fails to begin work on the plan within twelve (12) months of the date that the facility ceases to produce electricity for sale, or fails to complete the plan within eighteen (18) months of the date that the facility ceases to produce electricity for sale.

(d) Any funds from a bond or similar security required under this subsection that is forfeited for failure to begin or complete a decommissioning plan in a timely manner shall only be used to complete the decommissioning of facilities on the property or properties for which the bond or similar security was posted.

(5) (a) A person that has received a construction certificate for a merchant electric generating facility, whether before or after the effective date of this Act, shall not transfer rights and obligations under the certificate, and no transfer of control of the person shall be effective with respect to the facility.
unless the person has first applied for and received a board determination that:

1. The acquirer or transferee has a good environmental compliance history; and

2. The acquirer or transferee has the financial, technical, and managerial capacity to, and has agreed to assume responsibility to, meet the obligations imposed by the terms of the construction certificate. Approval or has the ability to contract to meet these obligations.

(b) Any acquisition of control of a merchant electric generating facility without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the person having received and holding a construction certificate from the board. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the board in writing, verified by oath or affirmation, and be in a form and contain the information as the board requires. The permanent members of the board shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, is for a proper purpose, and is consistent with the public interest. The permanent members of the board may make investigations and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection.
in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The permanent board members shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within ninety (90) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

(c) Notice of an application made under paragraph (a) or (b) of this subsection shall be made by the applicant to the county/judge executives and mayors of all governmental entities of jurisdiction where the facility is located.

Section 8. The requirements of this Act shall apply to all new and current applicants for construction certificates under Section 4 of this Act that have not received application approval prior to the effective date of this Act.

Section 9. Whereas it is critical to update and provide clarity on the siting process for the wave of merchant electric generation facilities wishing to locate in the Commonwealth, which could result in thousands of acres of land being converted to energy production, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.