

electric generating plant. The sole power and authority to approve the construction of new electric generating plants is vested in the Public Service Commission. Baltimore Gas and Electric Co. v. Department of Health and Mental Hygiene, 284 Md. 216 (1979). However, the Department may enforce State emission standards and air quality control rules and regulations with respect to power plants.

2-404. PUBLIC SERVICE COMMISSION HEARINGS.

(A) RECOMMENDATION OF SECRETARY.

WHENEVER THE PUBLIC SERVICE COMMISSION NOTIFIES THE SECRETARY ~~OF THE PENDING~~ OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER ARTICLE 78, § 54A OF THE CODE, THE SECRETARY SHALL PREPARE A RECOMMENDATION FOR IN CONNECTION WITH THE PERMIT OR REGISTRATION REQUIRED BY THIS SUBTITLE, THE RECOMMENDATION SHALL BE PRESENTED AT THE HEARING REQUIRED BY THAT SECTION. THE RECOMMENDATION SHALL BE BASED ON THE SAME CONSIDERATIONS AS IF THE APPLICATION WERE FOR A PERMIT UNDER THE RULES AND REGULATIONS ADOPTED UNDER § 2-401 OF THIS SUBTITLE ARTICLE 78, § 54A OF THE CODE.

(B) PUBLIC SERVICE COMMISSION DECISION.

SUBJECT TO JUDICIAL REVIEW AS PROVIDED UNDER ARTICLE 78, §§ 89 THROUGH 98 OF THE CODE, THE DECISION OF THE PUBLIC SERVICE COMMISSION IN CONNECTION WITH A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS BINDING ON THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from the third through fifth sentences of former Article 43, § 706(a).

In subsection (b) of this section, "Article 78, §§ 89 through 98" is substituted for "Article 78, § 91, subsection (a)", for accuracy.

SUBTITLE 5. TEMPORARY FUEL VARIANCES.

2-501. IN GENERAL.

ON A CASE-BY-CASE BASIS, THE DEPARTMENT MAY GRANT A TEMPORARY FUEL VARIANCE TO ANY PERSON WHO IS UNABLE TO OBTAIN THE TYPE OF FUEL REQUIRED TO COMPLY WITH ANY RULE, REGULATION, OR ORDER ADOPTED OR ISSUED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 698A(a).