



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 13, 2020

The Honorable Dereck E. Davis
Chair, Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

Re: House Bill 0109- Public Service Commission - Certificate of Public Convenience and Necessity - Rapid Health Impact Assessment and Final Action

Dear Chair Davis and Members of the Committee:

The Maryland Department of the Environment (the Department) has reviewed House Bill 0109 - Public Service Commission - Certificate of Public Convenience and Necessity - Rapid Health Impact Assessment and Final Action. The Department would like to provide information and express a few concerns that should be addressed in the current bill.

In addition to the requirement to conduct a rapid health impact assessment (HIA), which does not affect the Department, HB 109 requires a project's HIA to be considered and changes the extent to which the PSC examines the impact a proposed project has on air and water quality. The proposed legislation broadens the current requirement for the PSC to consider the effect of the project on air quality and water pollution from "when applicable," which currently has been interpreted as applying only to applications for electric generating units, to the need to assess air and water quality for any project that falls within three specific project categories. It further broadens the review requirement to consider air and water quality impacts on the surrounding areas for those listed project types.

The fact that the bill does not define the size of a project's "surrounding areas" is problematic, as that information is needed to determine the extent of an area to be assessed. From an air quality perspective, the current review methodology during a CPCN application review process focuses on determining a project's effect on ambient air quality. In this regard, as long as the review determines that a project would not cause a violation of a national ambient air quality standard, the project is not considered injurious to public health. Under HB 109 it appears a more localized air quality assessment is contemplated, and it is not entirely clear what that expectation is and whether that expectation contemplates cumulative impacts being considered. Other than conducting local air quality monitoring, which is expensive and time intensive, the Department is not aware of any means to estimate local air quality impacts. The same concerns would apply in considering water quality impacts. If more information was provided on what is expected from the requirement to consider impacts to surrounding areas, a more specific assessment of the bill's impact could be made.

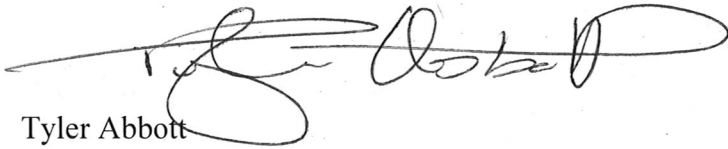
Chairman Davis

Page 2

Additionally, there is a lack of clarity on the timing elements of the HIA. Under the definition of Rapid HIA, it says that the HIA should be completed in 30 days, but then the bill allows 45 days for the HIA to be submitted after the CPCN application has been submitted to the PSC. It is therefore unclear as to when the PSC and the Department should deem the entire CPCN application to be complete. This is important because when the application is "complete" is a statutory requirement for many federal laws. Additionally, the bill does not note any consequences for not completing the application within 45 days. Therefore, it is unclear what steps the PSC would have to take if the application is not completed within that timeframe.

Thank you for your consideration. We will continue to monitor House Bill 0109 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a large, stylized flourish extending from the end of the signature.

Tyler Abbott

cc: George "Tad" Aburn, Director, Air and Radiation Administration