



March 7, 2024

Senator Brian Feldman, Chair
Maryland Senate Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

American Clean Power & MAREC Action: SB1082/HB1328, FAVORABLE with amendments

Dear Chairman Feldman and members of the Senate Education, Energy, and the Environment Committee,

The American Clean Power Association (ACP) is the leading voice of today's multi-tech clean energy industry, representing over 800 energy storage, wind, utility-scale solar, clean hydrogen and transmission companies. ACP is committed to meeting America's national security, economic and climate goals with fast-growing, low-cost, and reliable domestic power.

MAREC Action is a Maryland-based coalition of utility-scale solar, wind, and battery storage developers, wind turbine and solar panel manufacturers, and public interest organizations dedicated to promoting the growth and development of renewable energy in Maryland and across the PJM grid.

On behalf of both our organizations, thank you for the opportunity to provide testimony on SB1082/HB1328, which seeks to balance tensions between solar development and land conservation interests. Unfortunately, as introduced, the legislation gets that balance wrong and would throw solar siting into a period of significant uncertainty while implementation of the new law is ironed out and could result in unintentional new barriers to solar development. We believe that some elements of this legislation would be beneficial to the broader solar industry and would support a slimmed down version of the legislation. If those amendments are not possible, we recommend tabling the bill and taking the issue back up in 2025 to allow for additional consideration and stakeholder conversations.

Conservation and restoration fund (section 12-905)

The concept of a conservation and restoration fund for agricultural or silvicultural land is a reasonable idea but misguided when applied only to solar development. We recognize and respect Maryland's priorities include both land conservation AND renewable energy development. However, it is fundamentally discriminatory to target land conservation compensation at the solar industry and no other industry. Solar has smaller environmental impacts than other permanent forms of development and costs uniquely imposed on the solar industry make us less competitive with other energy sources—ultimately hurting Maryland ratepayers.

Solar projects can be returned to crop production after the life of a project. Furthermore, solar projects have significant benefits to soil health during operation. A study of 30 Midwest solar facilities conducted by researchers from Argonne National Lab, University of Minnesota, and NREL, found that solar panels built over turfgrass or native grassland outperformed row crop agriculture in four areas of study—with solar resulting in reduced sediment export and increased pollinator supply, carbon storage, and water retention compared with agriculture.¹ Solar projects, with a typical land lease arrangement of more than 25 years, can actually protect large portions of rural landscape from being fragmented into small parcels that are not conducive to farming.

We would support this section only if it applied to all conversions of land from agricultural/silvicultural use to another form of land use—or if this fee was paired with a significantly streamlined permitting process for all segments of the solar industry.

Utility-scale siting and design advisory commission (section 3-306.2)

Solar projects above 2 MW require a Certificate of Public Convenience and Necessity (CPCN) to be built, with the final authority to approve or deny a CPCN resting with the Maryland Public Service Commission (PSC). The current set of CPCN conditions are comprehensive, and the PSC's approach has been well honed over years of experience and dozens of CPCNs for solar projects across the state. The CPCN process could be improved in various ways, but it fundamentally provides a factual and fair venue for siting determinations of large solar projects.

With that background in mind, we believe this legislation's proposed utility-scale solar design and siting advisory commission would, at best, create a period of uncertainty for solar projects poised to apply for permits and duplicate many of the functions currently handled by the PSC (in coordination with Maryland Department of Natural Resources). At worst, the proposed commission could undermine the functioning CPCN process or create unrealistic precedent for CPCN decisions, impeding Maryland solar development.

We believe the proposed goals of the legislation's utility-scale solar design and siting advisory commission are largely accomplished through the existing CPCN approval process for solar projects. The Maryland Power Plant Research Program (PPRP) coordinates the testimony and positions of seven state agencies (Agriculture, Commerce, Energy, Environment, Natural Resources, Planning and Transportation) and is considered an expert witness for environmental and socioeconomic analyses. PPRP completes a coordinated review of each utility-scale energy generation project (and transmission lines greater than 69kV) for the PSC.

The list of solar project factors already evaluated by PPRP includes the following issues that we see as duplicative with the legislation's proposed siting and design advisory commission.

- Biological impacts on water quality, wetlands, forests, wildlife and aquatic resources;
- Economic and fiscal impacts, including job creation and protecting prime farmland;
- Transportation impacts during construction;
- After construction, impacts (such as glare) to passing cars and planes;
- Visual impacts to neighboring properties;
- Impacts to cultural, historical, and archaeological sites;
- Water and sewer utility impacts;
- Fire safety considerations;

¹ <https://www.sciencedirect.com/science/article/pii/S2212041620301698>

- Electromagnetic fields, and;
- Decommissioning.

Furthermore, local government and public input is a major part of the existing CPCN criteria, wherein the PSC is required to give due consideration to the recommendation of a local governing body, the consistency of a project with the local government's comprehensive plan and zoning, and efforts of the project developer to resolve issues presented by local government.

It is important to remember that every solar project requires the consent of the landowner choosing to lease their land for solar development (very few utility-scale solar projects purchase land outright and solar developers cannot employ eminent domain). The CPCN ensures that landowners seeking to exercise their property rights are not unduly denied. USA Today recently reported that, across America, local bans, moratoriums and construction impediments are blocking wind and solar energy with increasing levels of red tape. In addition to outright bans on new wind and solar, many places have significant impediments that prevent construction, including zoning restrictions and land-use rules.²

We are concerned that a commission as proposed in this legislation would provide a venue for unrealistic, though seemingly reasonable, "best-practices" to become expected as a requirement for all solar projects going forward. The conservation and restoration fund proposed in the first section of this legislation provides an illustrative example. Protecting agricultural land is a reasonable and worthy goal, however expecting the solar industry to pay a fee not applied to other industries puts solar at a competitive disadvantage in a marketplace full of other energy sources. We believe the PSC's current CPCN process provides the most appropriate venue to determine what best practices can be reasonably applied to solar projects, weighed against Maryland's energy needs and climate change targets.

For these reasons, we recommend striking the utility-scale solar design and siting advisory commission concept from the legislation.

Cover crop and vegetation management plan (section 7-215.1)

Utility-scale solar projects typically incorporate a perennial groundcover to maintain soil stability and other ecological benefits for the life of a project. We are not opposed to this provision if amended to provide clarity around the definition of a "cover crop". We would be supportive if the requirement aligns with readily available and economical seed mixes. Requiring something akin to "agrivoltaics"—harvesting some kind of marketable crop from a solar site—would create numerous challenges if applied to all solar projects. The economics of agrivoltaics do not always pencil out and in some cases a landowner may not wish to engage in active farming of their property.

Energy storage devices (section 7-216.2)

We support the concept of state-wide energy storage fire suppression standards and safety requirements, but we encourage the legislature to ensure that this section of the bill aligns with the PSC's ongoing energy storage working group and other bills introduced this session.

² <https://www.usatoday.com/story/graphics/2024/02/04/us-renewable-energy-grid-maps-graphics/72042529007/>

State purchase of solar energy & analysis of suitable state lands for solar development (4-325 & 9-2016)

Although the procurement outlined in this section will likely be targeted at smaller scale solar energy systems—given that new transmission connected projects will be in the PJM queue for several years and likely constraints on state lands making large-scale development difficult—we think the concept of developing state lands as a solar resource is worth pursuing. We suggest that rather than running a state procurement through DGS, the State of Maryland could offer below market leasing rates to solar developers on state lands. This would have the benefit of incentivizing solar deployment through more affordable land-leases while still raising revenue for the state. Overall, we support these sections of the bill as a helpful step forward for our colleagues in the smaller-scale segments of the solar industry.

Closing thoughts

We commend the sponsors of SB1082/HB1328 for engaging on the challenging issue of solar siting reform. We believe there is a productive conversation to be had over the interim to streamline the CPCN process, however SB1082/HB1328 as currently drafted would introduce significant uncertainty into the solar energy market. **On behalf of our members, the American Clean Power Association and MAREC Action request that sections 12-905, 3-306.2, 7-215.1, and 7-216.2 be amended out of the legislation. We support sections 4-325 & 9-2016 with amendments outlined above.**

Thank you for your consideration,

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