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Bill No.: _____
Requested: _____
Committee: _____

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Stored - 02/05/24
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By: **Senator Brooks**

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Distributed Generation Certificate of Public Convenience and**
3 **Necessity**

4 FOR the purpose of establishing a distributed generation certificate of public convenience
5 and necessity to authorize the construction and operation of a certain distributed
6 solar energy generating system; requiring the Power Plant Research Program to
7 develop and submit to the Public Service Commission proposed siting and design
8 requirements and licensing conditions; prohibiting a person from being required to
9 obtain a distributed generation certificate of public convenience and necessity until
10 certain regulations have been adopted; prohibiting a person from beginning
11 construction of a distributed solar energy generating system unless a distributed
12 generation certificate of public convenience and necessity is first obtained from the
13 Commission; requiring the Program to make a certain determination regarding a
14 proposed distributed solar energy generating system within a certain period of time;
15 establishing a process by which the Commission may grant a distributed generation
16 certificate of public convenience and necessity; providing the applications of certain
17 provisions; and generally relating to a distributed generation certificate of public
18 convenience and necessity.

19 BY repealing and reenacting, with amendments,
20 Article – Natural Resources
21 Section 3-306(a)(1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[brackets] indicate matter deleted from existing law.

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1 Annotated Code of Maryland
2 (2023 Replacement Volume and 2023 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Public Utilities
5 Section 7-207(b)(1)(i) and (ii) and 7-207.1(c)(1)
6 Annotated Code of Maryland
7 (2020 Replacement Volume and 2023 Supplement)

8 BY adding to
9 Article – Public Utilities
10 Section 7-207.3
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2023 Supplement)

13 Preamble

14 WHEREAS, The State has set aggressive minimum renewable energy requirements,
15 recognizing that a shift towards sustainable energy sources is crucial for the health of our
16 planet and the well-being of future generations; and

17 WHEREAS, The State has committed to reducing greenhouse gas emissions by 60%
18 from 2006 levels, reflecting a proactive stance in the global effort to combat climate change;
19 and

20 WHEREAS, Distributed solar generation is an essential component of meeting these
21 aggressive policies, offering both economic opportunities and environmental benefits; and

22 WHEREAS, The General Assembly finds that an efficient permitting process for
23 distributed solar energy generating stations with consistency across jurisdictions is
24 necessary to meet the State’s renewable energy and greenhouse gas reduction
25 commitments and can be structured to preserve farmland and forests; now, therefore,

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 That the Laws of Maryland read as follows:

28 **Article – Natural Resources**

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1 3-306.

2 (a) (1) Notwithstanding anything to the contrary in this article or the Public
3 Utilities Article, on application to the Public Service Commission for a certificate of public
4 convenience and necessity associated with power plant construction **IN ACCORDANCE**
5 **WITH § 7-207 OF THE PUBLIC UTILITIES ARTICLE**, the Commission shall notify
6 immediately the Department [of Natural Resources] and the Department of the
7 Environment of the application.

8 **Article – Public Utilities**

9 7-207.

10 (b) (1) (i) [Unless] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**
11 **THIS PARAGRAPH, UNLESS** a certificate of public convenience and necessity for the
12 construction is first obtained from the Commission, a person may not begin construction in
13 the State of:

- 14 1. a generating station; or
15 2. a qualified generator lead line.

16 (ii) [If a person obtains Commission approval for construction under
17 § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to
18 obtain a certificate of public convenience and necessity under this section.] **A PERSON IS**
19 **NOT REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND**
20 **NECESSITY UNDER THIS SECTION IF THE PERSON OBTAINS:**

21 **1. COMMISSION APPROVAL FOR CONSTRUCTION UNDER**
22 **§ 7-207.1 OF THIS SUBTITLE; OR**

23 **2. A DISTRIBUTED GENERATION CERTIFICATE OF**
24 **PUBLIC CONVENIENCE AND NECESSITY UNDER § 7-207.3 OF THIS SUBTITLE.**

25 7-207.1.

26 (c) (1) The Commission shall require a person that is exempted from the
27 requirement to obtain a certificate of public convenience and necessity **UNDER §**

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1 **7-207(B)(1)(ii)1 OF THIS SUBTITLE** to obtain approval from the Commission under this
2 section before the person may construct a generating station described in subsection (b) of
3 this section.

4 **7-207.3.**

5 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(2) “DISTRIBUTED GENERATION CERTIFICATE OF PUBLIC**
8 **CONVENIENCE AND NECESSITY” OR “DGPCN” MEANS A CERTIFICATE ISSUED BY**
9 **THE COMMISSION UNDER THIS SECTION THAT AUTHORIZES THE CONSTRUCTION**
10 **AND OPERATION OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM.**

11 **(3) “DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM” MEANS A**
12 **COMMUNITY SOLAR ENERGY GENERATING SYSTEM, AS DEFINED IN § 7-306.2 OF**
13 **THIS TITLE, THAT:**

14 **(i) IS A GENERATING STATION AS DEFINED IN § 7-207 OF**
THIS SUBTITLE;

1415 **(ii) HAS A CAPACITY TO PRODUCE MORE THAN 2 MEGAWATTS**
1516 **BUT NOT MORE THAN 5 MEGAWATTS OF ALTERNATING CURRENT; AND**

1617 **(iii) IS NOT LOCATED WITHIN A MUNICIPAL CORPORATION.**

1718 **(4) “POWER PLANT RESEARCH PROGRAM” MEANS THE PROGRAM**
1819 **WITHIN THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 3, SUBTITLE 3**
20 **OF THE NATURAL RESOURCES ARTICLE.**

21 **(5) “STANDARD SITING AND DESIGN REQUIREMENTS” MEANS PREDETERMINED OBJECTIVE**
REQUIREMENTS FOR SITING AND DESIGN FOR A DISTRIBUTED SOLAR GENERATING SYSTEM
ADOPTED BY THE COMMISSION UNDER THIS SECTION THAT A DISTRIBUTED SOLAR GENERATING
STATION MUST SATISFY TO RECEIVE A DGPCN.

22 **(6) “STANDARD LICENSING CONDITIONS” MEAN THE PREDETERMINED LICENSING CONDITIONS**
ADOPTED BY THE COMMISSION UNDER THIS SECTION FOR THE CONSTRUCTION AND OPERATION OF
EACH DISTRIBUTED SOLAR GENERATING SYSTEM GRANTED A DGPCN UNDER THIS SECTION.

19

2023 **(B) (1) ON OR BEFORE ~~JANUARY-JULY 1, 2025~~, THE POWER PLANT**
RESEARCH
2124 **PROGRAM, AFTER GIVING NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT,**

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~~22~~25 SHALL DEVELOP AND SUBMIT TO THE COMMISSION PROPOSED STANDARD SITING
~~23~~26 AND DESIGN REQUIREMENTS AND PROPOSED STANDARD LICENSING CONDITIONS
~~24~~27 FOR THE ISSUANCE OF A DGPCN.

~~25~~28 _____ (2) IN DEVELOPING THE PROPOSED STANDARD SITING AND DESIGN
~~26~~29 REQUIREMENTS AND THE PROPOSED STANDARD LICENSING CONDITIONS, THE
~~27~~30 POWER PLANT RESEARCH PROGRAM SHALL CONSIDER:

~~28~~31 _____ (1) ACHIEVEMENT OF THE STATE'S CLIMATE AND RENEWABLE

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1 ENERGY COMMITMENTS;

2 (II) REASONABLE SETBACKS AND LANDSCAPE SCREENING
3 REQUIREMENTS;

4 (III) ENVIRONMENTAL PRESERVATION, INCLUDING FOREST
5 CONSERVATION EXCEPT WHERE NECESSARY TO:

6 1. REDUCE SOLAR PANEL SHADING;

7 2. FACILITATE INTERCONNECTION INFRASTRUCTURE;

8 AND

9 3. ENSURE ADEQUATE SITE ACCESS;

10 (IV) STORMWATER MANAGEMENT, EROSION AND SEDIMENT
11 CONTROL, AND SITE STABILIZATION;

12 (V) MINIMIZATION AND MITIGATION OF EFFECTS ON HISTORIC
13 SITES;

14 (VI) PUBLIC SAFETY;

15 (VII) INDUSTRY BEST PRACTICES; AND

16 (VIII) LICENSING CONDITIONS PREVIOUSLY ADOPTED BY THE
17 COMMISSION FOR SOLAR ENERGY GENERATING SYSTEMS.

18 (c) (1) ON OR BEFORE JULY 1, 202~~6~~5, THE COMMISSION SHALL ADOPT
19 REGULATIONS TO:

20 (I) IMPLEMENT STANDARD SITING AND DESIGN
21 REQUIREMENTS AND STANDARD LICENSING CONDITIONS FOR A DGPCN;

22 (II) SPECIFY THE FORM OF THE APPLICATION FOR A
23 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM TO RECEIVE A DGPCN; AND

24 (III) SPECIFY THE COMMISSION'S PROCEDURE FOR PROCESSING

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1 AN APPLICATION FOR A DGPCPN, WHICH MAY INCLUDE AN EXPEDITED HEARING
2 BEFORE A PUBLIC UTILITY LAW JUDGE.

3 (2) THE COMMISSION SHALL CONSIDER THE PROPOSED STANDARD
4 SITING AND DESIGN REQUIREMENTS AND THE PROPOSED STANDARD LICENSING
5 CONDITIONS DEVELOPED BY THE POWER PLANT RESEARCH PROGRAM IN
6 ADOPTING THE REGULATIONS UNDER THIS SUBSECTION.

7 (D) ~~NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION,~~ A PERSON MAY
8 ~~NOT NOT BE REQUIRED TO OBTAIN A APPLY FOR A~~ DGPCPN ~~FOR~~
~~AUTHORIZATION TO CONSTRUCT AND OPERATE ONE OR MORE~~
~~DISTRIBUTED SOLAR ENERGY GENERATING~~
~~SYSTEMS UNDER THIS SECTION UNTIL AFTER THE~~
9 COMMISSION ADOPTS THE REGULATIONS REQUIRED UNDER SUBSECTION (C) OF
10 THIS SECTION.

11 ~~(E) (1) UNLESS A DGPCPN IS FIRST OBTAINED FROM THE COMMISSION~~
12 ~~IN ACCORDANCE WITH THIS SECTION,~~ A PERSON MAY NOT BEGIN
13 CONSTRUCTION IN
14 THE STATE OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM ~~UNLESS THE~~
~~COMMISSION ISSUES:~~
15 ~~(I) A DGPCPN IN ACCORDANCE WITH THIS SECTION; OR~~
16 ~~(II) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7-207~~
17 ~~OF THIS SUBTITLE.~~

18

19 (2) WHEN A PERSON SUBMITS AN APPLICATION FOR A DGPCPN TO
20 THE COMMISSION, THE PERSON SHALL SUBMIT A COPY OF THE APPLICATION TO:

21 (I) THE POWER PLANT RESEARCH PROGRAM; AND

22 (II) THE GOVERNING BODY OF THE COUNTY WHERE THE
23 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM IS PROPOSED TO BE LOCATED.

24 (F) (1) THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC
25 COMMENT AND HOLD A PUBLIC HEARING ON AN APPLICATION FOR A DGPCPN IN
26 EACH COUNTY IN WHICH ANY PORTION OF THE CONSTRUCTION OF THE
27 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM IS PROPOSED TO BE LOCATED.

28 (2) THE COMMISSION MAY HOLD THE PUBLIC HEARING VIRTUALLY
29 RATHER THAN IN PERSON IF THE COMMISSION PROVIDES A COMPARABLE
30 OPPORTUNITY FOR PUBLIC COMMENT AND PARTICIPATION IN THE HEARING.

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~~2628~~ 2729 (G) (1) WITHIN 90 DAYS AFTER THE DATE AN APPLICATION FOR A
~~2830~~ DGPCN IS FILED WITH THE COMMISSION, THE POWER PLANT RESEARCH
PROGRAM SHALL:

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1 (I) DETERMINE WHETHER THE DISTRIBUTED SOLAR ENERGY
2 GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN
3 REQUIREMENTS AND STANDARD LICENSING CONDITIONS FOR THE DGPCPN; AND

4 (II) NOTIFY THE COMMISSION IN WRITING AS TO THE
5 DETERMINATION MADE UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING HOW AN
6 APPLICATION THAT IS DETERMINED NOT TO SATISFY THE STANDARD SITING AND
7 DESIGN REQUIREMENTS AND STANDARD LICENSING CONDITIONS CAN CURE THE
8 DEFICIENCY.

9 (2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION, THE POWER PLANT RESEARCH PROGRAM SHALL CONSIDER PUBLIC
11 COMMENTS RECEIVED BY THE COMMISSION.

12 (H) (1) WITHIN 4560 DAYS AFTER THE POWER
13 PROGRAM MAKES ITS DETERMINATION UNDER SUBSECTION (G)(1) OF THIS
14 SECTION, THE COMMISSION SHALL SCHEDULE AN ADMINISTRATIVE MEETING OR AN
15 EXPEDITED HEARING BEFORE A PUBLIC UTILITY LAW JUDGE TO CONSIDER THE
16 APPLICATION FOR A DGPCPN.

17 (2) AT THE ADMINISTRATIVE MEETING OR EXPEDITED HEARING
18 UNDER PARAGRAPH (1) OF THIS SUBSECTION:

19 (i) THE COMMISSION OR PUBLIC UTILITY LAW JUDGE
20 SHALL DETERMINE WHETHER THE PROPOSED DISTRIBUTED SOLAR
21 ENERGY GENERATING SYSTEM SATISFIES THE STANDARD
22 SITING AND DESIGN
23 REQUIREMENTS; AND

24 (II) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE
25 DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM
26 SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS, THE COMMISSION
27 SHALL MAY GRANT A DGPCPN TO THE APPLICANT TO CONSTRUCT THE
28 PROPOSED
29 DISTRIBUTED SOLAR GENERATING STATION SUBJECT TO THE STANDARD LICENSING
30 CONDITIONS;

~~31 (H) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE
32 DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM~~

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~~29 DOES NOT SATISFY THE STANDARD SITING AND DESIGN REQUIREMENTS, THE~~
~~30 COMMISSION SHALL GIVE THE APPLICANT A WRITTEN EXPLANATION OF WHY THE~~
~~31 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM DOES NOT SATISFY THE~~

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~~1 STANDARD SITING AND DESIGN REQUIREMENTS AND HOW THE APPLICANT CAN
CURE THE DEFICIENCY.~~

~~(I) (1) A DGPCPN ISSUED BY THE COMMISSION UNDER THIS SECTION HAS THE SAME
FORCE AND EFFECT AS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED UNDER § 7-207
OF THIS SUBTITLE.~~

~~(2) A DGPCPN ISSUED BY THE COMMISSION UNDER THIS SECTION IS SUBJECT TO § 7-
207(H) OF THIS SUBTITLE.~~

2

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be applied
42 or interpreted to have any effect on or application to the construction or modification of any
53 solar energy generating system for which a certificate of public convenience and necessity
64 or other required approval was obtained before the effective date of the regulations adopted
75 by the Public Service Commission under § 7-207.3(c) of the Public Utilities Article, as
86 enacted by Section 1 of this Act.

97 SECTION 3. AND BE IT FURTHER ENACTED, That, this Act shall take effect July
10 1, 2024.

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