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PUBLIC SERVICE COMMISSION

March 5, 2024

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

RE: S.B. 1025 – Information - Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity

Dear Chair Feldman and Committee Members:

The Public Service Commission (PSC) provides these informational comments on the following provisions of Senate Bill (SB) 1025 for your consideration.

The PSC presently regulates certificates of public convenience and necessity (CPCNs) for generating systems greater than two megawatts. SB 1025 would amend § 7-207 of the Public Utilities Article to establish a new type of expedited “distributed generation” CPCN (DG-CPCN) for the construction and operation of community solar energy generating systems (CSEGS) with capacities between two and five megawatts (MW). The bill would require the Department of Natural Resources (DNR) Power Plant Research Program (PPRP) to develop and propose for submission to the PSC, standard siting and design requirements and standard licensing conditions for DG-CPCN projects, subject to public comments, within six months of the bill’s effective date. The PSC would subsequently be required to adopt standard siting, design, and licensing requirements within six months of PPRP’s submission to the PSC.

First, the regulations required under SB 1025 would be highly technical and complex in nature and would likely necessitate extensive public comments and hearings that may not be feasible to complete within the six-month windows proposed.

Second, with the passage of SB 1025, the PSC anticipates that there could be a substantial increase in the number of CSEGS CPCN applications which may exceed the PSC’s current review capacity. The PSC anticipates that three additional full-time employees would be needed to address the increased demands on the PSC.

The proposed legislation does not make clear whether projects that meet the 2-5 MW range, but are co-located with other projects, would require a standard CPCN or would qualify for a DG-CPCN. Under current law, certain solar photovoltaic (PV) systems that are co-located with other

solar PV systems up to a cumulative maximum of 14 MW, are exempted from the definition of generating systems and thus excluded from existing CPCN requirements. Requiring co-located systems in the 2-5 MW range to obtain a DG-CPCN would extend PSC jurisdiction to co-located solar PV systems which were otherwise previously only under the jurisdiction of local government. As noted above, additional review on this topic by the PSC has the potential to be highly resource-intensive relative to the PSC's current capacity.

Third, the bill proposes placing DG-CPCN review under either an expedited hearing before a public utility law judge or an administrative hearing before the commission. The PSC is unable to specify what an expedited hearing may entail, as SB 1025 does not elaborate on the contents of such a proceeding. The PSC presently conducts administrative meetings but generally reserves such meetings for review of compliance filings or less formal matters that do not require formal rules of evidence. The expedited and summary nature of the DG-CPCN proceedings provided for by SB 1025 also strips down one of the PSC's principal oversight authorities—impact on reliability and stability of the electric system—as it removes the discretion of the PSC to address potentially unique issues associated with a specific project, in favor of a potentially narrow conformity review.

Given that the existing CPCN process was created to certify the construction of large central stations, fossil fueled generation stations which are not in the State's energy portfolio for the foreseeable future perhaps a review of the current CPCN process and requirements is appropriate. This could be a topic for the Committee's review during the interim. The PSC would be available to assist the Committee. The Committee may wish to solicit the opinion of PPRP as well.

The Public Service Commission asks that you consider these comments when reviewing the language proposed in SB 1025. We will continue to engage in dialogue with stakeholders on bill language. Please direct any questions you may have to Christina Ochoa, Director of Legislative Affairs, at christina.ochoa1@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Frederick H. Hoover". The signature is written in a cursive style with a large, prominent initial "F".

Frederick H. Hoover, Chair
Maryland Public Service Commission