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RE: SB 1025 – Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity

Favorable

Chair Feldman, Senator Brooks, and members of the Senate Education, Energy, and Environment Committee,

The Coalition for Community Solar Access (CCSA) provides this written testimony regarding Senate Bill (SB) SB 1025. CCSA's position on this legislation is Favorable.

CCSA is a trade association representing more than 120 solar businesses and nonprofit organizations expanding community solar across the country. Our mission is to expand access to solar energy for all individuals with a vision to democratize solar energy by creating a more distributed, customer-centric electric grid through access to community solar.

CCSA has been an active participant in the development and implementation of Maryland's community solar pilot program, and we are grateful to this Committee for supporting the passage of SB 613 (HB 908) in 2023, which made community solar a permanent solution in Maryland. Thanks to the passage of that legislation, community solar is poised to play a critical role in helping the state meet its rapidly climbing clean energy requirements, while also ensuring electricity cost savings reach those that need it most (e.g., the program requires at least 40% of every project's capacity to benefit low-to-moderate income customers).

CCSA is witnessing firsthand through its members the excitement and growth of industry interest for community solar in Maryland due to this Committee advancing a permanent program in 2023. Coupled with an extension of federal incentives enabled through the Inflation Reduction Act in 2022, the time is ripe for utilizing this important solar segment. The challenge now is to address barriers and bottlenecks, of which siting is the greatest. **SB 1025 addresses permitting challenges for projects sized above 2 and up to 5 megawatts.**

Senator Brooks' SB 1025 would:

1) Create a "Distributed Generation Certificate of Public Convenience and Necessity" ("DGCPCN") that can be issued by the Public Service Commission ("Commission") for qualifying community solar projects that are over two megawatts but not greater than five megawatts;
2) Require the Power Plant Research Program ("PPRP") to leverage public comment and develop proposed standard siting and design requirements and standard licensing conditions associated with the issuance of a DGCPCN in consultation with key stakeholders, including counties;
3) Require the Commission to consider the PPRP proposal before implementing the final siting and design requirements and licensing conditions, and for the Commission to specify the application and procedure for processing a DGCPCN; and
4) Require the Commission to provide an opportunity for public comment and to hold a public hearing (in the county where the project is located or virtually) before considering a DGCPCN application in either an administrative meeting or through an expedited hearing before a public utility law judge.

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CCSA appreciates Senator Brooks championing SB 1025 a year after he championed, and this committee supported, SB 613 (the permanent program legislation). SB 1025 is a logical next step to enabling the continued growth and expansion of community solar in Maryland, as envisioned with the passage of SB 613 (HB 908). SB 1025 addresses critical gaps in the CPCN process, while reducing barriers to development, creating efficiencies for state agencies, and driving community solar siting and design that meets state standards.

The current CPCN process is misaligned with community solar project type and volume.
Projects above 2 megawatts fall within the permitting jurisdiction of the state via the Commission's Certificate of Public Convenience and Necessity (CPCN) process, which was originally created through the Power Plant Siting Act of 1971. The CPCN was established as a means for conducting comprehensive reviews of proposed power generating and transmission facilities. It involves a wide range of subjective and open-ended review factors, which necessitate a lengthy evidentiary process before a judge for each CPCN application, potentially exceeding one year per application. If there is a disagreement amongst parties, the case is set for litigation involving testimony, in-person trials, and legal briefs (sometimes exceeding 60 pages), followed by a complex written order from the Commission. The process makes sense for the review and consideration of unique utility-scale generation and infrastructure projects, which can differ substantially in technology and complexity.

In 2022, the community solar project size cap was increased from 2 megawatts to 5 megawatts, which is consistent with most other community solar markets. Community solar projects above 2 megawatts and up to 5 megawatts are required to obtain a CPCN. However, the CPCN process is misaligned with the review needs of most community solar projects which are modest in size and typically similar in design. As a result, the CPCN process creates an outsized burden for community solar developers, as well as for the state agencies involved in the review and approval process. For developers, it represents a significant time and cost investment that may deter development. For agencies, the anticipated uptick in volume of CPCN applications associated with community solar is a daunting administrative challenge that could result in bottlenecks and delays. It's noteworthy that over the past thirteen years, the PPRP and Commission have reviewed 63 solar CPCN applications and approved 49 (some were withdrawn and others still pending). Yet, an internal CCSA polling of its members indicates there are already over 130 projects under development (with sites identified) that would require a CPCN. And this is just one data point roughly a year before the permanent program is even launched.

SB 1025 will right size the permitting process for small solar projects and create administrative efficiencies that can respond to the influx of CPCN applications.
As noted, CCSA members have indicated there are over 130 CPCN eligible community solar projects under development, which is over double the number of solar applications the PPRP has reviewed in the past thirteen years. The current CPCN review process is not equipped to handle this level of volume. It treats each new CPCN application on a case-by-case basis, and because there are no design or siting standards, there can be significant variability from application to application. In addition, there can be extensive back and forth between the project and PPRP when trying to achieve a tailored solution to any issue. Finally, as noted there can be a resource-intensive litigation process.

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SB 1025 would result in a front-loading of work by the PPRP and Commission to establish standard siting and design requirements and licensing conditions, that would in turn reduce the ongoing time and resource needs associated with an increased volume of applications. The standards would reduce project variability and provide the PPRP and Commission with more objective measures for determining whether a community solar project qualifies for a DGCPCN. This will not only make it easier for PPRP to review projects, but also reduce the amount of back and forth that may occur between PPRP and a project.

Further, if the project does qualify for a DGCPCN it will avoid the current litigation process, and instead go directly to the Commission (with public comment) for final approval or denial via an administrative meeting or through an expedited hearing before a public utility law judge. If a proposed project does not meet the DGCPCN requirements it will be defaulted to the standard CPCN review for individual analysis.

SB 1025 will drive solar development toward state-approved siting and design standards.
SB 1025 tasks PPRP to lead the development of standard siting and design requirements and licensing conditions that will be used for determining whether a community solar project is eligible for a DGCPCN. In developing those standards, the PPRP will leverage county input and public comment, and consider a range of factors, from the state's clean energy commitments to reasonable setbacks and landscape screening requirements, to industry best practices. The Commission will then have a year to establish the regulations associated with the DGCPCN.

The standards that result from this robust process will provide a clear signal to the market, and in turn drive the development of projects that meet the DGCPCN requirements. The public comment opportunities in the PPRP and Commission processes ensure there is broad stakeholder buy-in to the resulting standards, and in what is ultimately considered an acceptable community solar project sized between 2-5 megawatts.

CCSA urges a favorable report on SB 1025 to reduce barriers to community solar development, create efficiencies for state agencies, and drive community solar siting and design that meets state standards.

Sincerely,
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