SB1025_CPSR_FAV_EEE_7March2024.pdf
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Position: FAV

Committee: **Education, Energy, and the Environment**
Testimony on: **SB1025 "Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity"**
Position: **Support**
Hearing Date: **March 7, 2024**

The Chesapeake Chapter of Physicians for Social Responsibility (CPSR) submits this testimony in support of SB1025, which will establish a standardized approach to Public Service Commission (PSC) review of Community Solar projects of size greater than 2 megawatts and not larger than 5 megawatts and allow the PSC to issue a "Distributed Generation Certificate of Public Convenience and Necessity" (DG-CPCN) based on that review.

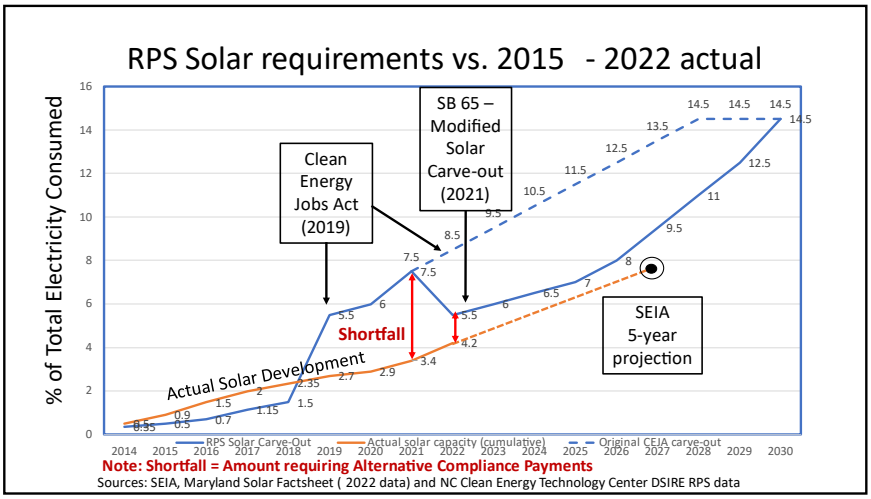
CPSR has been an active stakeholder in the development of the state's Community Solar program. From passage of the 2015 legislation establishing Community Solar as a pilot program until the establishment of Community Solar as a permanent program in 2023, CPSR was an active member of the PSC's "Net Metering Working Group," which developed the regulations governing the program and was responsible for overseeing its implementation. During that time, we also participated in two legislative consultations on solar development in Maryland, as well as in development of the recent "Solar Deep Dive" submitted to Climate Commission to provide in-depth technical analyses of the barriers to solar development in the state and potential actions to address those barriers. We have also participated in solar development policy deliberations in six counties. We are presently active participants in the PSCs Distribution System Planning Work Group, which is charged with developing the basis for planning processes that will achieve the state's greenhouse gas reduction goals and the requirements for grid modernization legislatively established in the Climate Solutions Now Act – including the incorporation of increasing amounts of distributed energy generation, especially photovoltaic (PV) solar.

From this experience, we offer the following findings as the basis for consideration of the actions proposed in SB1025:

- **The expansion of solar – and especially Community Solar - is key to the state's achievement of its greenhouse gas reduction and clean renewable energy goals** – Besides its importance as a new industry that creates largely in-state jobs, for the foreseeable future PV solar will be our state's main mechanism to increase clean renewable energy. While offshore wind (OSW)will ultimately be our greatest source of clean renewable energy, its economic, political, logistic, transmission, and manufacturing dimensions mean that it will be several years before it can begin providing electricity to Marylanders. Our PJM multi-state grid's backlog of large wind, transmission, and utility scale solar projects will itself add to the delay in those projects coming online. At the same time, electricity demand will increase with increased electrification, including electric vehicles and heat pumps. PV solar in all forms – rooftop, commercial, community, and utility - is the only clean energy technology that is essentially "out-of-the-box" ready to deploy to meet this increasing demand (and utility scale projects greater than 10 MW will be stuck in the PJM queue).

- **Maryland is not on track to meet its established trajectory for solar development** –
  As the graph below shows, we are substantially behind the solar trajectory established in the 2019 Clean Energy Jobs Act, and continue to fall below the substantially reduced trajectory established by SB 65 in 2021. The endpoint of both legislated trajectories (with the end date legislatively adjusted to 2031) is that solar needs to reach 14.5 percent of total electricity consumed in the state. The PSC has estimated that this will require 6,200 megawatts of solar by 2031 (conservatively assuming relatively flat levels of electricity consumption); as of the end of 2022, the Solar Energy Industries Association (SEIA) has documented 1,865 megawatts of solar installed (all categories, including residential, commercial, community, and utility scale). This will require an additional 4,335 megawatts of solar to be developed by 2031, or an average of 482 megawatts a year – far more than we have ever built.

Maryland solar progress



- **The expanded deployment of Community Solar is critical to meet this requirement for increased solar capacity –**
  The development of other forms of solar in Maryland has important limitations. Utility scale solar development is experiencing an undetermined delay caused by the PJM grid's "pause" on approval of new projects. And an estimated 75% of Maryland households can't have rooftop solar. Community Solar can serve them, and importantly - by legislative requirement – can serve the 40% of Marylanders who are low- and moderate-income and who otherwise will be last to get solar. While Community Solar projects come in all sizes up to 5 megawatts, this large segment of homes and businesses that Community Solar can serve means that large projects will especially be needed to meet this need, and also to do it at lowest cost by realizing greater economies of scale.
- **Community Solar projects larger than 2 megawatts are required to go through the existing CPCN process, which was designed for large power generating plants and transmission projects and is complex** –
  The existing CPCN process was designed for large and unique projects such as construction of a large power generating plant or a new component of the transmission system. Because each such project is unique, the requirements for the various aspects of project impact are multiple, open-ended, and variable. Some them are not relevant to solar projects. The associated complexity results in a lengthy process involving both Power Plant Research Program (PPRP) and PSC review,

sometimes with other agency inputs required. Overall, the content, length, and cost of the existing CPCN process are disproportionate to the size and relative simplicity of Community Solar.

- **Although most parameters are common across Community Solar projects, the state has not so far established any common reference standards to support local jurisdictions or the CPCN process.**
  While most characteristics of solar projects are fairly uniform, the case-by-case variability of the CPCN process makes it hard for solar project developers to know if their design will be approved or require expensive re-design. At the same time, local jurisdictions have also had to operate without any uniform standards appropriate to evaluate Community Solar projects – the result has been the existence of 24 different sets of project approval and permitting requirements. Besides requiring individualized CPCN review and approval for every Community Solar project, this inconsistency of requirements across local jurisdictions has discouraged some solar developers from working in Maryland.
- **Without simplification of the CPCN process for solar, the substantial increase in Community Solar development needed to help meet Maryland's goals will present an increasing burden on the agencies involved in CPCN review, including PPRP and the PSC itself –**
  Although the legislation increasing Community Solar project size was passed less than two years ago, there are already several Community Solar projects larger than 2 megawatts being developed under the still limited capacity of the Pilot Program. Others of that size have already entered the waiting list for approval, pending the removal of program capacity limits when the permanent program regulations are established. Given the critical role of Community Solar in meeting the state's need for accelerated solar development and the unmet demand for Community Solar among residents, the number of such larger projects will rapidly increase. While the annual volume of traditional large generation plant and transmission projects has been small, this rapidly increasing number of Community Solar projects requiring CPCN review will be a major increase in load on that process – potentially leading to the type of overload and "pause" that has arrested progress at the PJM level.

With these findings in mind, we support a favorable report on HB1046 for the following reasons:

- **It will provide a standardized solar-appropriate basis for PSC evaluation of Community Solar projects large enough to require a CPCN.**
  SB1025 proposes consultative development by the PPRP of standard design requirements and licensing conditions, based on industry and local best practices and public input. This approach will take into consideration the many requirements of solar development that can be standardized – such as setbacks, landscape visual screening, environmental protection, stormwater management, and public safety.

  Using this set of standardized requirements will streamline the PSC's review process, allowing the approval of a solar-specific "Distributed Generation Certificate of Public Convenience and Necessity" (DG-CPCN).

- **By doing so, it will facilitate project design and streamline the process and burden of CPCN review for those projects and the reviewing agencies.**
  Having the requirements defined through this standardized process and the potential approval of a DG-CPCN will give solar project developers clarity on key aspects of project design. This in turn will increase the probability of a successful application, reduce the possibility of prolonged and costly litigation of a failed application, and also reduce the need for costly delay and redesign of a project. This standardization and the associated predictability of requirements will result in more

projects being adequately designed, leading to more rapid review using the standardized requirements as yardstick, and resulting in more projects moving forward in a timely manner while reducing the extra load on the PPRP and PSC.

We therefore urge the Committee to issue a favorable report on SB1025.

Respectfully,

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DG CPCN_SB 1025_Written Testimony_CCAN.pdf
Uploaded by: Ernesto Villasenor
Position: FAV

Committee:	**Education, Energy, and the Environment**
Testimony:	**Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity (SB 1025)**
Position:	**Favorable**
Hearing Date:	**March 7, 2024**

Ernesto Villaseñor, Jr., J.D
Chesapeake Climate Action Network Action Fund

On behalf of the Chesapeake Climate Action Network Action Fund, we offer our favorable support for SB 1025, also known as the Distributed Generation Certificate of Public Convenience and Necessity (DG-CPCN). This bill addresses a critical issue in Maryland's renewable energy landscape concerning the alignment of the permitting process with the unique needs of community solar projects.

Currently, the Certificate of Public Convenience and Necessity (CPCN) process, while effective for utility-scale and transmission-based projects, presents significant challenges for community solar developments. These projects, often similar in size and design, are burdened by a disproportionate amount of time and cost associated with the adjudicated CPCN process, hindering their timely deployment and undermining the state's renewable energy goals.

SB 1025 proposes a solution to this pressing issue. By introducing the DG-CPCN, tailored specifically for distributed solar energy generating systems, this bill will streamline the permitting process for community solar projects. Under the DG-CPCN framework, developers will be incentivized to leverage an optimized process that aligns with project scale and impact.

To qualify for the DG-CPCN, projects must adhere to standardized siting and design requirements established by the state, informed by stakeholder input and best practices. This ensures optimal project siting and design while expediting the permitting process for developers. Additionally, public agencies involved in CPCN reviews will benefit from more efficient processes, facilitating clean energy deployment across the state.

Additionally, implementing the DG-CPCN will notably ease the financial and logistical burdens faced by community solar developers compared to the traditional CPCN process. This simplified approach will speed up the approval process, enabling developers to use resources more efficiently for project implementation rather than dealing with bureaucratic obstacles.

Consequently, the DG-CPCN will accelerate the growth of solar energy across Maryland, leading to more clean energy generation and reducing the state's dependence on fossil fuels.

These challenges could be tackled by mandating the Public Service Commission (PSC) to establish standardized design requirements and licensing conditions developed over the past decade. For instance, the PSC could adopt set setback distances and landscape screening requirements deemed adequate to address aesthetic concerns for all new projects. This would eliminate the need for case-by-case determination of landscape screening and setback proposals, providing clarity to developers and counties alike. Standardized requirements would benefit various aspects of CPCN review.

In addition to expediting solar deployment, the DG-CPCN plays a crucial role in advancing Maryland's equity goals by ensuring that clean energy is accessible to all residents. By simplifying the permitting process, this legislation creates opportunities for communities across the state to participate in and benefit from solar energy projects. As more residents gain access to clean energy options, disparities in energy access and affordability are reduced, promoting social equity and inclusivity.

Moreover, by providing customers with access to clean energy and electricity savings, the DG-CPCN contributes directly to the state's renewable energy requirements outlined in its climate and energy plans. By accelerating the adoption of solar energy, Maryland moves closer to achieving its renewable energy targets, thereby reducing greenhouse gas emissions and mitigating the impacts of climate change. Additionally, the expansion of clean energy generation promotes environmental sustainability by reducing air and water pollution, protecting natural habitats, and conserving finite resources for future generations.

In summary, SB 1025 represents a vital step forward in advancing Maryland's renewable energy objectives. The implementation of the DG-CPCN not only streamlines the solar permitting process but also fosters social equity, advances renewable energy goals, and promotes environmental stewardship. We urge the Committee to find this legislation favorable, recognizing its potential to streamline the permitting process for community solar projects and accelerate the transition to a clean energy future in our state.

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SEIA Testimony SB1025.pdf
Uploaded by: Leah Meredith
Position: FAV

March 6, 2024

Senator Brian J. Feldman
Chair
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Senator Cheryl C. Kagan
Vice Chair
Senate Education, Energy, and
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RE: SEIA Support for SB1025– Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity

Dear Chair Feldman, Vice Chair Kagan, and Members of the Senate Education, Energy, and Environment Committee:

I am writing on behalf of the Solar Energy Industries Association ("SEIA") in **support** of SB1025 (Brooks) which establishes a distributed generation certificate of public convenience and necessity to authorize the construction and operation of a certain distributed solar energy generating system; requires the Power Plant Research Program to develop and submit to the Public Service Commission proposed siting and design requirements and licensing conditions; and prohibits a person from being required to obtain a distributed generation certificate of public convenience and necessity until a certain condition is met. It was referred to the Senate Education, Energy, and Environment Committee on February 2, 2024.

Founded in 1974, SEIA is the national trade association for the solar and storage industries, building a comprehensive vision for the advancement of these technologies. SEIA is leading the transformation to a clean energy economy by supporting policy measures that will drive needed investment in clean, domestic, local job-producing solar generation. We work with our 1,200+ member companies, which include solar manufacturers, service providers, residential, community and utility-scale solar developers, installers, construction firms, and investment firms, as well as other strategic partners, to shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Maryland is currently home to more than 200 solar businesses with many more national firms also conducting business in the state.

Last year, this legislative body passed HB908, which established a permanent community solar program in the state of Maryland. Community solar provides homeowners, renters, and businesses equal access to the economic and environmental benefits of solar energy generation regardless of the physical attributes or ownership of their home or business. Community solar expands access to solar for all, in particular low-to-moderate income utility customers. Maryland's community solar program requires every project to dedicate at least 40% of its capacity for lower income customers, and ensures all participating residential customers will have lower electricity costs.

It is critical that Maryland maximizes the economic and business opportunities associated with solar generation. Unfortunately, Maryland is behind in meeting its nation-leading solar targets, but community solar is poised for significant growth in Maryland in the coming years and is projected to be a major contributor to meeting the State's 14.5% solar energy requirement.

In 2022, the project size for community solar was increased from 2 to 5 megawatts, consistent with other community solar markets, and allow increasing economies of scale while still being on the distribution system and close to communities. Projects above 2 megawatts fall within the permitting jurisdiction of the state via the Maryland Public Service Commission and its Certificate of Public Convenience and Necessity ("CPCN") process.

Maryland's CPCN process is well equipped to handle complex utility-scale and transmission-based permitting reviews where each project is significantly different from the next. However, it is not well-aligned for most community solar projects, which are typically similar in size and design. Further, a CPCN can entail an adjudicated process that requires a disproportionate amount of time and cost for project developers relative to what's need for community solar project scale and impact. This misalignment between the permitting process and unique needs of community solar projects threatens to slow down and undermine renewable energy deployment. It will create an outsized burden not just for solar developers, but also the state agencies involved in CPCN reviews. This issue is compounded by the fact that the number of CPCN applications will grow exponentially in the coming years due to community solar.

SB1025 creates a Distributed Generation ("DG") CPCN process for qualifying community solar projects that will result in an optimal design and siting process for these projects. Developers will be incented to leverage the DG-CPCN in lieu of the standard CPCN process. To qualify, projects will need to meet the siting and design standards established by the state and informed by stakeholder input and industry best practices. This legislation will right-size the cost, time, and resource investments by community solar developers to be commensurate with project scale and impact. Public agencies will likewise benefit from an efficient yet robust process that facilitates clean energy deployment in the state. SB1025 will enable faster deployment of community solar, contributing to the state's solar energy requirements and providing customers, especially those who are low-moderate income, with access to clean energy and electricity savings, thus also supporting the state's equity goals.

For these reasons, SEIA strongly **supports** this legislation and respectfully urges the Committee to issue a favorable report on SB1025. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Leah Meredith

Leah Meredith
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CCSA testimony_SB 1025_3-6-2024.pdf
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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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CHESSA - MD - EEE Testimony SB1025 Favorable 20240
Uploaded by: Robin Dutta
Position: FAV

7 March 2024

Senator Brian Feldman
Education, Energy, and the Environment Committee
2 West
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Annapolis, Maryland 21401

Testimony
SB1025: Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity
Position: Favorable

Chair Feldman, Vice Chair Kagan, Members of the Committee, thank you for the opportunity to testify on Senate Bill 1025, Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity. I am Robin Dutta, the Executive Director of the Chesapeake Solar and Storage Association (CHESSA). Our association has over 100 member companies in the solar and energy storage industries. Many members are Maryland-based. Others are regional and national companies with an interest and/or business footprint in the state. Our purpose is to promote the mainstream adoption of local solar, large-scale solar, and battery storage throughout the electric grid in order to realize a stable and affordable grid for all consumers.

I am here to provide testimony on SB1025, Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity. This is an important step towards modernizing the Public Service Commission (PSC) processes and regulations. With it, community solar projects can have faster development timelines and avoid an unnecessarily long and expensive regulatory process.

It is imperative that Maryland energy policy promote solar development in the state as quickly as is practicable and reasonable. The PSC's Renewable Energy Portfolio Standard Report for Calendar Year 2022 showed that the state fell far short of meeting the solar carve-out target. Only 55% of the state's 2022 solar target was met, showing that there was not enough deployment of solar capacity across residential, commercial, community solar, and wholesale market solar projects in Maryland. Maryland's nation-leading solar targets will ramp up considerably, and economic realities continue to hamper the needed growth in the state's solar industry.

Maryland energy policy needs to reflect the urgency to deploy more in-state solar, not only to meet the solar-specific targets but because near-term solar deployments should be a major part of the state's decarbonization actions.

SB1025 would re-align the PSC's processes around the Certificate of Public Convenience and Necessity (CPCN) to evaluate smaller groundmount solar facilities greater more appropriately than 2 MW and up to 5 MW, such as community solar projects, under different rules than large-scale renewables. The CPCN process was originally conceived for large power plants and energy

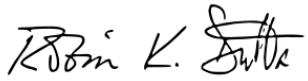
infrastructure siting, permitting, and approvals well before Maryland embarked on the clean energy transition. Community solar projects are not the size and scale of transmission lines or fossil fuel electric generation plants.

As Marylanders fully electrify their buildings and purchase electric vehicles, they will become more reliant on the electric grid than at any previous point. The grid of the future will have the combined roles that today's grid, natural gas system, and gas stations have. It will need to account for higher statewide electric loads, and greater electric demand in peak periods. As a result, Maryland solar needs to be built on homes, businesses, and on open land. SB1025 allows the PSC process to better help this "all of the above" solar strategy.

For these reasons, CHESSA asks the committee for a favorable report.

Thank you, and please reach out with any questions on solar and storage policy. CHESSA is here to be a resource to all committee members.

Sincerely,



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SIERRA CLUB

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Committee: Education, Energy, and the Environment

Testimony on: SB 1025 Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity

Position: Support

Hearing Date: March 7, 2024

The Maryland Chapter of the Sierra Club urges this Committee to favorably report **SB 1025 Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity.**

The bill creates a new streamlined permitting process for smaller scale distributed generation through the Public Service Commission. A new Distributed Generation Certificate Of Public Convenience and Necessity (DGCPCN) would create and authorize a new pathway for the construction and operation of a distributed solar energy generating system, which has the same definition as the community solar energy generation system found in §7–306.2 of the Public Utilities Article. The bill also directs the Department of Natural Resources' Power Plant Research Program (PPRP) to develop and submit to the Public Service Commission proposed siting and design requirements and proposed standard licensing conditions for the issuance of a DGCPCN.

We appreciate that the bill directs PPRP to consider appropriate setbacks and landscape considerations in their standard siting and design requirements for the new DGCPCN, along with environmental preservation, stormwater management, and consideration of the state's climate and renewable energy goals. These are important factors and considerations when considering the siting of solar energy development in the State. It is important to differentiate between best practices and guidance versus requirements.

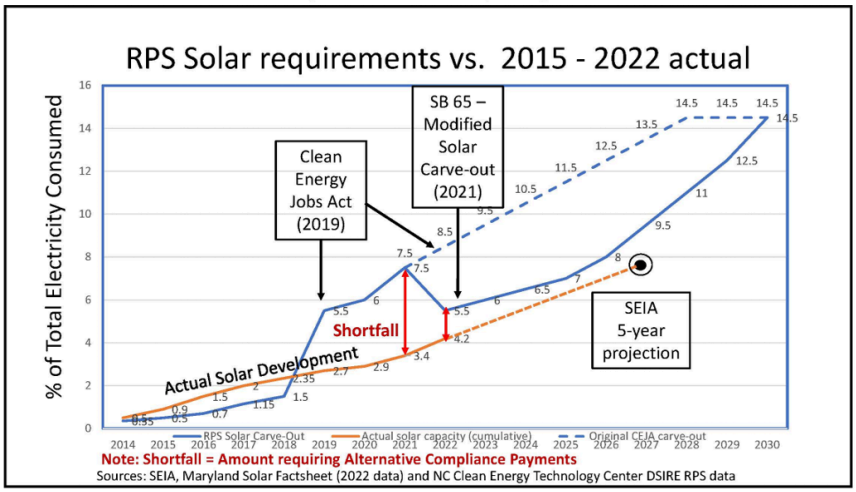
The current state permitting process for power plants, known as the Certificate of Public Convenience and Necessity, was designed for large units like nuclear or coal plants, and includes many components which do not make sense for distributed solar generation and create extra work and delay for both solar companies and staff and local staff. The proposed DHCPCN will create an appropriately scaled permitting process.

Solar energy is an essential component of Maryland's strategy in transitioning the state to clean renewable energy. Accordingly, through the Clean Energy Jobs Act (2019), Maryland set the statutory target of achieving 14.5% of the state's electricity consumption from solar generation by 2030. This goal was incorporated as a core element of MDE's recently released Climate

Pollution Reduction Plan, which serves as the roadmap to achieve the goals in the Climate Solutions Now Act.

Unfortunately, Maryland is falling far short of achieving its annual solar energy targets.

Maryland solar progress



This means we are falling short not only on our clean energy goals, but also endangering our climate goals. We commend the General Assembly for continuing to provide attractive incentives to build community solar on rooftops, brownfields, industrial zones, and parking lots, but it is becoming increasingly hard to site community solar projects in the 2-5 MW range on the ground. This bill would address this issue by standardizing standards and procedures for smaller solar energy generating projects across the state, and thereby ensure these critical projects are constructed in a timely manner.

The Sierra Club believes that Maryland should do everything it can to incentivize solar generation and deployment within the state. This bill would do just that. For these reasons, we recommend the Committee favorably report SB 1025.

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Position: FWA

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Bill No.: _____
Requested: _____
Committee: _____

Drafted by: Foxworth
Typed by: Lynn
Stored – 02/05/24
Proofread by _____
Checked by _____

By: **Senator Brooks**

A BILL ENTITLED

AN ACT concerning

Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity

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

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

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

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

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

BY adding to
Article – Public Utilities
Section 7–207.3
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

Preamble

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

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

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

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

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

Article – Natural Resources

3–306.

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

Article – Public Utilities

7–207.

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

1. a generating station; or

2. a qualified generator lead line.

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

1. COMMISSION APPROVAL FOR CONSTRUCTION UNDER § 7–207.1 OF THIS SUBTITLE; OR

2. A DISTRIBUTED GENERATION CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7–207.3 OF THIS SUBTITLE.

7–207.1.

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

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

7–207.3.

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

(2) "DISTRIBUTED GENERATION CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY" OR "DGCPCN" MEANS A CERTIFICATE ISSUED BY THE COMMISSION UNDER THIS SECTION THAT AUTHORIZES THE CONSTRUCTION AND OPERATION OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM.

(3) "DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM" MEANS A COMMUNITY SOLAR ENERGY GENERATING SYSTEM, AS DEFINED IN § 7–306.2 OF THIS TITLE, THAT:

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

(II) HAS A CAPACITY TO PRODUCE MORE THAN 2 MEGAWATTS BUT NOT MORE THAN 5 MEGAWATTS OF ALTERNATING CURRENT; AND

(III) IS NOT LOCATED WITHIN A MUNICIPAL CORPORATION.

(4) "POWER PLANT RESEARCH PROGRAM" MEANS THE PROGRAM WITHIN THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 3, SUBTITLE 3 OF THE NATURAL RESOURCES ARTICLE.

(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 DGCPCN.

(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 DGCPCN UNDER THIS SECTION.

~~19~~

(B) (1) ON OR BEFORE ~~JANUARY~~ JULY 1, 2025, THE POWER PLANT RESEARCH 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 DGCPCN.**

~~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 **(I) ACHIEVEMENT OF THE STATE'S CLIMATE AND RENEWABLE**

ENERGY COMMITMENTS;

(II) REASONABLE SETBACKS AND LANDSCAPE SCREENING REQUIREMENTS;

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

1. REDUCE SOLAR PANEL SHADING;

2. FACILITATE INTERCONNECTION INFRASTRUCTURE; AND

3. ENSURE ADEQUATE SITE ACCESS;

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

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

(VI) PUBLIC SAFETY;

(VII) INDUSTRY BEST PRACTICES; AND

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

(C) (1) ON OR BEFORE JULY 1, 2026~~5~~, THE COMMISSION SHALL ADOPT REGULATIONS TO:

(I) IMPLEMENT STANDARD SITING AND DESIGN REQUIREMENTS AND STANDARD LICENSING CONDITIONS FOR A DGCPCN;

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

(III) SPECIFY THE COMMISSION'S PROCEDURE FOR PROCESSING

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

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

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

~~(E)~~ (1) ~~UNLESS A DGCPCN IS FIRST OBTAINED FROM THE COMMISSION IN ACCORDANCE WITH THIS SECTION,~~ A PERSON MAY NOT BEGIN CONSTRUCTION IN THE STATE OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM UNLESS THE COMMISSION ISSUES:

(I) A DGCPCN IN ACCORDANCE WITH THIS SECTION; OR

(II)A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7-207 OF THIS SUBTITLTE.

~~.~~.

~~(2)~~ WHEN A PERSON SUBMITS AN APPLICATION FOR A DGCPCN TO THE COMMISSION, THE PERSON SHALL SUBMIT A COPY OF THE APPLICATION TO:

~~(I)~~ THE POWER PLANT RESEARCH PROGRAM; AND

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

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

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

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~~26~~28 **(G) (1) WITHIN 90 DAYS AFTER THE DATE AN APPLICATION FOR A** ~~27~~29 **DGCPCN IS FILED WITH THE COMMISSION, THE POWER PLANT RESEARCH** ~~28~~30 **PROGRAM SHALL:**

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

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

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

(H) (1) WITHIN ~~45~~60 DAYS AFTER THE POWER PLANT RESEARCH PROGRAM MAKES ITS DETERMINATION UNDER SUBSECTION (G)(1) OF THIS SECTION, THE COMMISSION SHALL SCHEDULE AN ADMINISTRATIVE MEETING OR AN EXPEDITED HEARING BEFORE A PUBLIC UTILITY LAW JUDGE TO CONSIDER THE APPLICATION FOR A DGCPCN.

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

~~(I)~~ **THE COMMISSION OR PUBLIC UTILITY LAW JUDGE SHALL DETERMINE WHETHER THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS; AND~~:**

(II) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS, THE COMMISSION ~~SHALL~~ MAY GRANT A DGCPCN TO THE APPLICANT TO CONSTRUCT THE PROPOSED DISTRIBUTED SOLAR GENERATING STATION SUBJECT TO THE STANDARD LICENSING CONDITIONS.~~;~~

~~**(II) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM**~~

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

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

(I) (1) A DGCPCN 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 DGCPCN ISSUED BY THE COMMISSION UNDER THIS SECTION IS SUBJECT TO § 7-207(H) OF THIS SUBTITLE.

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

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

SB1025_Brooks.pdf
Uploaded by: Benjamin Brooks
Position: FWA

Benjamin Brooks
Legislative District 10
Baltimore County

Education, Energy, and the Environment Committee

Energy Subcommittee

Chair, Joint Electric Universal Service Program Workgroup

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TESTIMONY IN SUPPORT OF SB1025
Public Utilities – Distributed General Certificate of Public Convenience and Necessity

Education, Energy and the Environment Committee
March 7, 2024

Chair Feldman, Vice-chair Kagan and Members of the Committee

Thank you for the opportunity to testify before you on SB1025: Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity. This bill will establish the Distributed Generation Certificate of Public Convenience and Necessity (DG-CPCN), a new certification process required for constructing and operating solar energy projects (2-5 MW) in the State of Maryland. This new process is designed to streamline the development of renewable energy infrastructure while ensuring environmental protection and public safety.

Last year, I sponsored legislation making the Community Solar Program permanent in Maryland. Those projects are being implemented and we are poised to be a leader in that arena. SB1025 builds off the success of last session and serves to work in conjunction with that legislation. While we provided additional incentives last year to build community solar on rooftops, brownfields, industrial zones and parking lots, the truth is, community solar will also need to be constructed on the ground.

Under current law, 2-5 MW community solar projects must go through a CPCN process that was initially designed for large-scale power plants. For reference, the CPCN process was originally created through the Power Plant Siting Act of 1971 in response to concerns over the ability of the State to provide significant technical review of the impacts of the proposed Calvert Cliffs nuclear plant. However, this comprehensive review process does not make sense for smaller community solar projects which are usually sized between 2-5 megawatts. While the current CPCN review is valuable for ensuring high standards for new power plant projects, the rise in community solar projects may in fact overburden state agencies and developers with unnecessary roadblocks.

SB1025 would require the Power Plant Research Program (PPRP) to develop standard siting and design requirements for community solar projects and submit it to the Public Service Commission (PSC). These requirements must be in line with the State's renewable energy commitments, incorporating environmental preservation, reasonable setbacks, landscape

screening, and strict adherence to stormwater management, erosion control, and site stabilization. Additionally, these projects are required to minimize impacts on historic sites, ensure public safety, follow industry best practices, and comply with specific licensing conditions previously established by the Commission for solar energy generating systems. This process would be developed in collaboration with local governments, agricultural interests, environmental advocates, and the solar industry. Once these regulations are adopted, DG-CPCNs will be issued after a review by the PSC or a Public Utility Law Judge.

The benefits of this bill are clear:

1. Streamlining the CPCN process for community solar projects will accelerate the deployment of clean energy, contributing to Maryland's climate and renewable energy goals.
2. By establishing clear, standardized requirements, we reduce uncertainty for developers and simplify participation for counties and interested parties, ultimately making the development process more efficient and predictable.
3. By facilitating the inclusion of more community solar projects that can serve low-and moderate-income families, we reinforce our commitment to equitable access to renewable energy.

SB1025 is not meant to circumvent local governments or other interested parties, but merely seeks to identify certain standards, based on stakeholder input and industry best practices, for these smaller power generating projects uniformly across all 24 jurisdictions. This bill will help guide solar development in Maryland and ensure that the community solar projects can be constructed in a timely manner so we can accomplish the equity, energy, and economic benefits of last year's bill.

For these reasons, I am requesting a favorable report on SB1025.

With kindest regards,

Benjamin T. Brooks

Benjamin Brooks

SB1025-FWA-AdvocatesForHerringBay.pdf
Uploaded by: Kathleen Gramp
Position: FWA

Testimony of the Advocates for Herring Bay[1]
Regarding SB 1025 – Public Utilities – DGCPCN
Submitted by Kathleen Gramp, March 6, 2021

Favorable with amendments

SB 1025 would affect environmental standards for developing solar generation projects in Maryland. It would establish a new regulatory framework for the cohort of projects between 2 and 5 megawatts of capacity (or DGCPCN[2]), allowing those projects to be approved on an expedited basis if they meet standard conditions and procedural requirements. Under the bill, that regime would include uniform standards for addressing impacts on forests and stormwater runoff, subject to certain limitations.

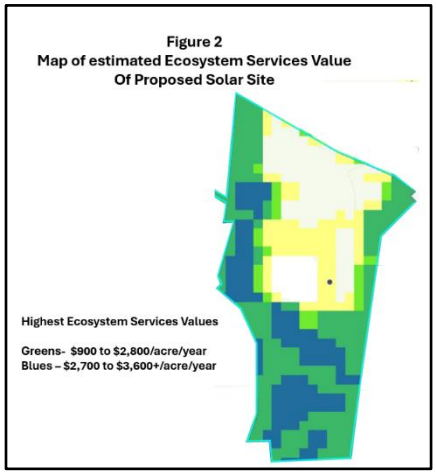
The Advocates for Herring Bay (AHB) commend the sponsors for acknowledging the importance of minimizing the impacts of solar projects on runoff and ecologically valuable lands. We are concerned, however, that SB 1025 will be ineffective in managing environmental impacts unless the bill is amended in the following two ways:[3]

1. Conserve forests by limiting impacts to incidental amounts with an insignificant ecological impact. SB 1025 calls for consideration of forest conservation "except where necessary to reduce solar panel shading; facilitate interconnection infrastructure; and ensure adequate site access." In the absence of any statutory safeguards, that open-ended language would allow a developer to clearcut forested areas to allow for construction and production. The need for guardrails is not an abstract issue. As shown in Figure 1, developers have built solar facilities on forested parcels in Maryland.

Proposed amendment. At a minimum, AHB recommends that this language be amended to establish a presumption that forests should be conserved, with an allowance only for incidental and insignificant losses or disturbances of forests or other ecologically valuable resources.

AHB also recommends that the bill provide an analytical basis for evaluating the scale of any impacts. In lieu of bright lines, like the number of acres cleared, we suggest using the cutting-edge tool developed by the Maryland Department of Natural Resources (DNR) to quantify Ecosystem Services Values (ESV). The color-coded mapping tool on the state's Greenprint GIS website (see example of a proposed solar site in Figure 2) would allow agencies and applicants to quickly gauge the likelihood and extent of impacts on ecologically valuable resources.

Figure 1



[1] The Advocates for Herring Bay, Inc. is a community-based environmental group in Anne Arundel County.
[2] DGCPCN refers to Distributed Generation projects receiving a Certificate of Public Convenience and Necessity.
[3] Illustrative text for possible amendments is provided at the end of this document.

2. Ensure that stormwater and erosion standards reflect recent research on best practices. Maryland's solar-specific stormwater law was enacted in 2012. Since then, the state has been experiencing more intense rain events stemming from climate change. Maryland is now in the awkward position of having a law that forces state and local permitting agencies to ignore the effects of the solar panels when calculating runoff,[4] which can lead to underestimates of stormwater impacts from high rainfall events. As shown in Attachment 1, underestimates are especially common when rainfall exceeds one inch over a 24-hour period.

The environmental consequences of underestimating runoff vary across the state. Recent research by the National Renewable Energy Lab found that runoff from solar projects largely depends on site-specific features, particularly soil density and compaction and the type of ground cover under and around the arrays. As shown in Attachment 1, counties in Maryland's coastal plain regions may be at higher risk for runoff than those elsewhere because of differences in the density of their soils. Even within counties, projects differ in their soil characteristics. Accounting for those differences is especially important for mitigating runoff in MS4 jurisdictions.

Proposed amendment: Acting now to update Maryland's solar-stormwater standards would yield environmental benefits over the multi-decade life of DGCPCN projects and may lower the cost of solar generation for those that follow best practices.[5] Thus, AHB urges the Committee to amend HB 1046 to require that the stormwater standards applied to DGCPCN projects account for the latest research on best practices, including methods that reflect the effects of the solar panels, the geographic diversity of Maryland's soils, and effectiveness of different ground covers.

Illustrative text for amendments to address AHB policy issues

Item 1: Environmental Preservation and Forest Conservation

7-207.3(B)(2)(III), page 4
Line 16, strike "except where necessary to"
and insert
"giving consideration to the need for incidental impacts that would have an insignificant effect on the Ecosystem Services Value of the project site as estimated by the Department of Natural Resources and are necessary to"

Item 2: Stormwater Management, Erosion Control

7-207.3(B)(2)(IV), page 4
Line 21, insert after "stabilization"
that accounts for the effects on runoff of the solar panels, soil density and compaction, and ground cover under and around the panels.

[4] See HB 1117, which only allows the pole and base of the solar structure to be classified as an impervious surface.
[5] See Great Plains Institute, Best Practices: Photovoltaic Stormwater Management Research and Testing (PV-SMaRT), January 2023

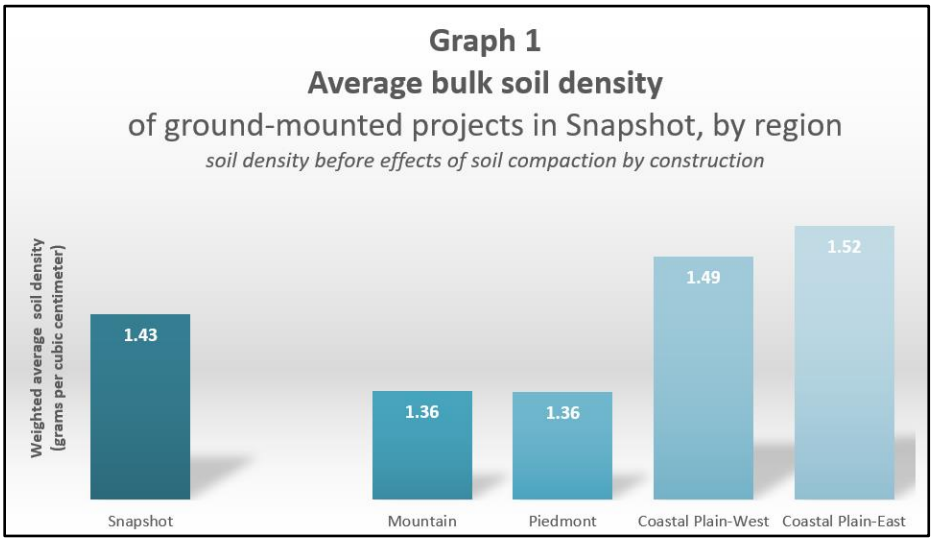
Attachment 1: Overview of Solar Stormwater Runoff Estimates and Issues

Presentations at an April 2023 conference convened by the Chesapeake Bay Program addressed some of the challenges and opportunities for managing stormwater runoff from solar arrays.[6] The conference included a review of a federally funded modelling effort known as "PV-SMaRT," which is being developed by the National Renewable Energy Lab (NREL) and the Great Plains Institute (GPI) to estimate the key drivers of runoff from solar projects.[7]

Policymakers can use the PV-SMaRT calculator to gauge how estimated runoff may differ under varied environmental conditions.[8] Key inputs to the model include the density and depth of the soil, the type of ground cover under the arrays, and rainfall in a 24-hour period. All of the data presented in this Attachment assume that solar panels have an average width of 10 feet and are installed in rows 25 feet apart.

To apply the model to conditions in Maryland, AHB developed a "snapshot" of the types of soils under existing ground-mounted solar arrays using the U.S. Department of Agriculture's (USDA's) Web Soil Survey.[9] Because of data limitations, it was not possible to account for every ground-mounted solar project in the state. However, AHB's Snapshot covers over 1,700 acres of solar arrays spread across 20 counties and may provide reasonable parameters for estimating stormwater runoff using the PV-SMaRT calculator.[10]

Graph 1 summarizes USDA's data on the weighted-average bulk density of the soils at the sites shown in the Snapshot. Because of the data limitations, this analysis aggregates the county-level results into broad geographic regions.[11] Several sites had slopes higher than 10 percent, notably those on brownfields, but all of the runoff estimates presented here assume lower slopes. USDA's data also suggest that soil depths will exceed the 60-inch metric used in the PV-SMaRT calculator.

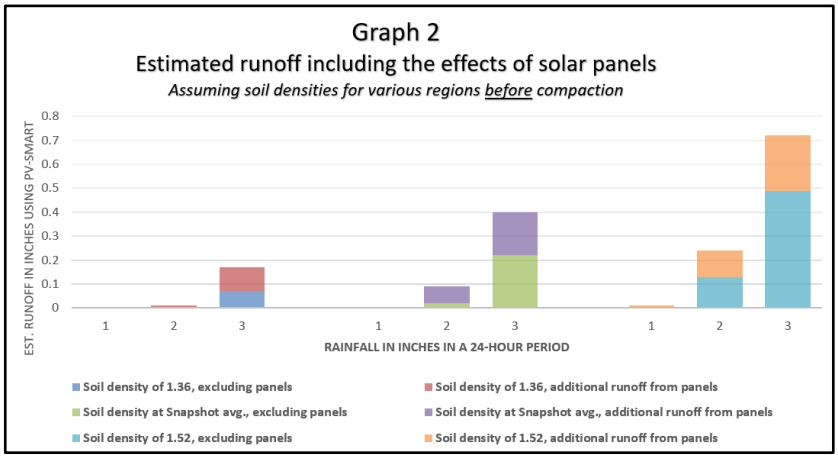


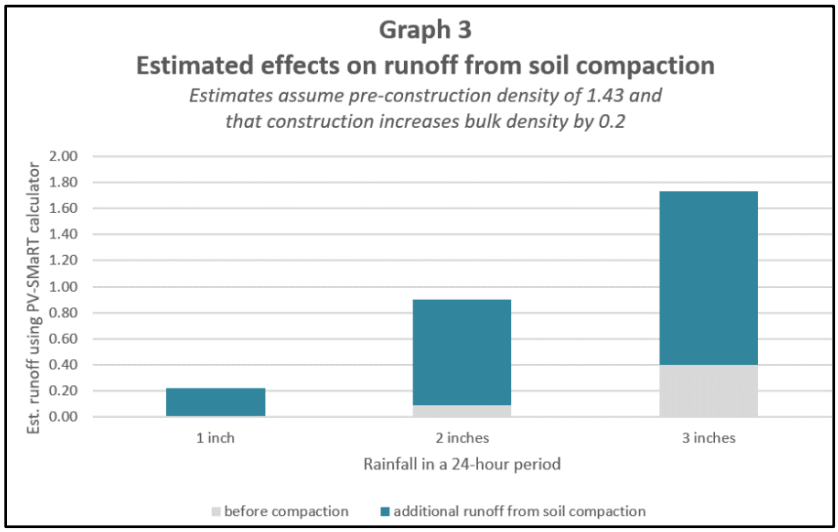
[6] See the proceedings of the April 2023 Scientific and Technical Advisory Committee's conference on Best Management Practices to Minimize Impacts of Solar Farms on Landscape Hydrology and Water Quality
[7] See Great Plains Institute, Best Practices: Photovoltaic Stormwater Management Research and Testing (PV-SMaRT), January 2023.
[8] NREL's overview of the PV-SMaRT program includes a link to the PV-SMaRT calculator.
[9] See USDA Web Soil Survey.
[10] See Advocates for Herring Bay, Solar Soil Snapshot, 2024.
[11] For this analysis, the "Mountain" region includes Allegany, Garrett, and Washington Counties; "Piedmont" includes Baltimore, Carroll, Frederick, Harford, Howard, and Montgomery Counties; "Coastal Plain-West" includes Anne Arundel, Charles, and Prince George's Counties; and "Coastal Plain-East" includes Caroline, Cecil, Dorchester, Kent, Queen Anne's, Talbot, Wicomico, and Worcester Counties.

The following graphs summarize estimates of potential stormwater runoff trends in Maryland using the PV-SMaRT calculator and data from AHB's Snapshot. Unless otherwise noted, the estimates assume that the ground cover under the solar panels is turf grass. In addition, the estimates of runoff account for mitigation benefits of the "disconnection" distances between rows of panels. That is, the amounts shown are the incremental amounts of runoff not addressed by the vegetation between rows.

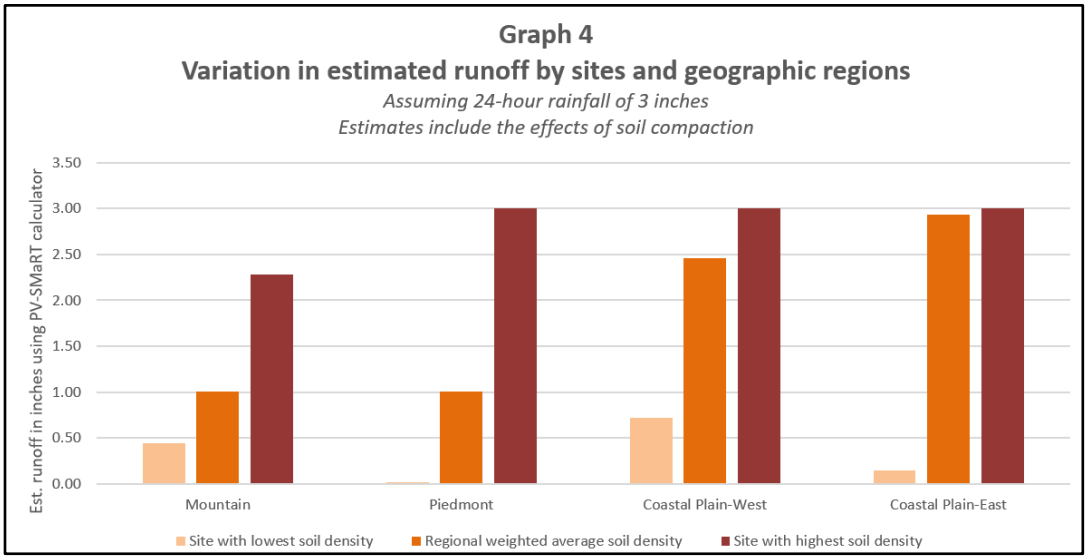
- Graph 2 shows the importance of including the solar panels in the calculation of impervious surfaces, especially as Maryland experiences more intense rain events;
- Graph 3 attests to the importance of accounting for the effects of bulk soil density on stormwater runoff, especially after any soil compaction resulting from construction[12];
- Graph 4 illustrates the importance of accounting for the geographic diversity of soil densities among projects and regions of the state; and
- Graph 5 shows variations in the amounts of runoff that can be absorbed by different types of ground covers under the solar panels.

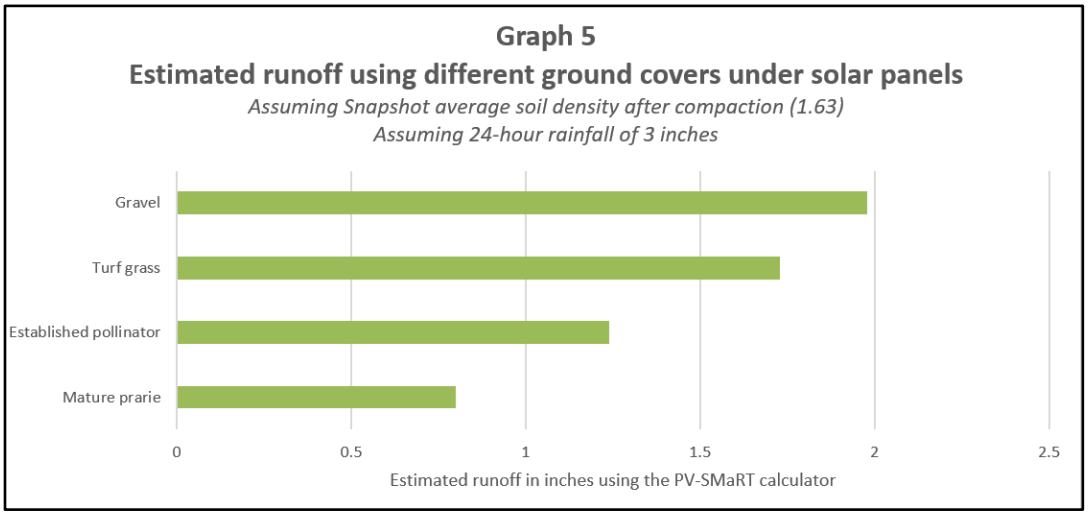
Finally, sustaining the infiltrative capacity of vegetation over the multi-decade life of solar projects will require continuous monitoring and maintenance. Patchy growth—which increases stormwater runoff—is already an issue for some existing Maryland solar projects (see Figure 1).





[12] This analysis assumes that compaction will increase soil density by 0.2, the amount estimated by the Center for Watershed Protection for "construction, no grading." See Stormwater Center, Compaction of Urban Soils.


Graph 4
Variation in estimated runoff by sites and geographic regions
Assuming 24-hour rainfall of 3 inches
Estimates include the effects of soil compaction
Est. runoff in inches using PV-SMaRT calculator
3.50
3.00
2.50
2.00
1.50
1.00
0.50
0.00
Mountain
Piedmont
Coastal Plain-West
Coastal Plain-East
Site with lowest soil density
Regional weighted average soil density
Site with highest soil density


Graph 5
Estimated runoff using different ground covers under solar panels
Assuming Snapshot average soil density after compaction (1.63)
Assuming 24-hour rainfall of 3 inches
Gravel
Turf grass
Established pollinator
Mature prarie
0
0.5
1
1.5
2
2.5
Estimated runoff in inches using the PV-SMaRT calculator

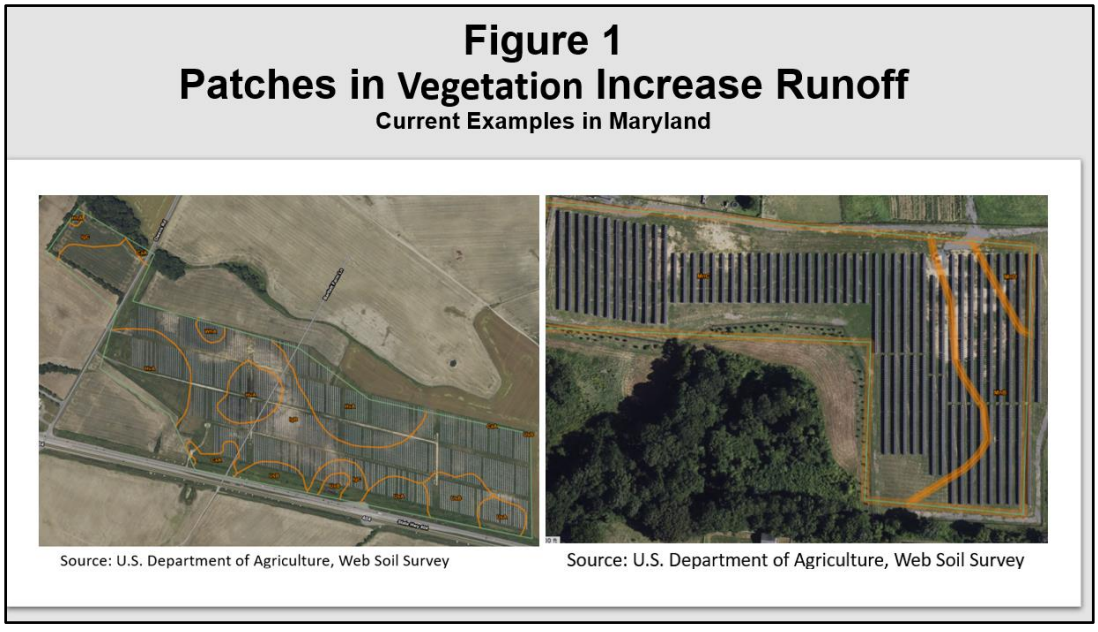


Figure 1
Patches in Vegetation Increase Runoff
Current Examples in Maryland
Source: U.S. Department of Agriculture, Web Soil Survey
Source: U.S. Department of Agriculture, Web Soil Survey

QAC Solar Array Fact Sheet_SB1025 Testimony.pdf
Uploaded by: Amy Moredock
Position: UNF

Queen Anne's County

DEPARTMENT OF PLANNING & ZONING
110 Vincit St., Suite 104
Centreville, MD 21617

Telephone Planning: (410) 758-1255
Fax Planning: (410) 758-2905
Telephone Permits: (410) 758-4088
Fax Permits: (410) 758-3972

To: Senator Brian J. Feldman, Chair
Education, Energy, and the Environment Committee
From: Amy G. Moredock, Planning Director
Subject: OPPOSITION – HB1046/CF SB 1025
Consideration of Queen Anne's County, MD Solar Provisions and Implementation as relates provisions outlined in HB1046/CF SB 1025

Maryland's Renewable Energy Goal (Renewable Portfolio Standard):

- By 2030: (mandated by law)
  - 50% of the total energy sold in MD shall come from renewable resources.
    - Solar carve-out – out of the above requirement, at least 14.5% of the energy shall come from solar facilities.
- By 2035: (Governor's goal, but not law yet)
  - 100% of the total energy production in MD shall come from renewable resources.
- Acreage of land & megawatts required throughout the State to meet the solar goal of 14.5% by 2030.
  - Approximately anywhere from 11,000 acres to 18,000 acres of Utility-Scale Solar needed to meet the Maryland 2030 standard*
  - Approximately 2,274 megawatts required from Utility-Scale Solar to meet the Maryland 2030 standard*

***Information from the presentation of Bob Sadzinski Director, Power Plant Research Program, at the MDA Solar Summit. See slide at the end of this memo.**

QAC Solar Pilot Program (payment-in-lieu-of-taxes):

- In QAC, Pilot agreements will be made available for up to 2,000 acres of commercial solar arrays.
- Currently there are approximately 753.3 acres in the County Pilot Program.
- After the 2,000 acres have been utilized, the Pilot Program will no longer be available. Solar may still be constructed, but they will not be eligible for the tax relief of the Pilot Program.

Solar Overlay District:

- After GIS analysis, there are approximately *30,958 acres* of tillable land within the overlay area available for solar development.

Operating Community & Utility Solar Development in QAC:

- Bluegrass approx. 80 megawatts (Pilot program – 408.8 acres)
- Lowin Farms approx. 10 megawatts
- Cedar Lane approx. 6 megawatts
- Garcia approx. 2 megawatts (Pilot Program – 18.5 acres)

TOTAL approx. 98 megawatts

Pending Community & Utility Solar Development in QAC:

- Jones Farm approx. 80 megawatts (Pilot Program – 326 acres)
- Centreville White approx. 4 megawatts
- Red Lion approx. 2 megawatts
- Cedar Lane approx. 2 megawatts

TOTAL approx. 88 megawatts

QAC Tax Rate (Information from the Finance Dept):

- Tax rate for AG property.
  - The tax rate for AG is the same rate as all other properties ($0.83/$100). The lower tax is based on the assessment that SDAT applies. They have a formula that decreases the assessment based on acreage and income generated from the farm. So, it's difficult to determine exactly what the "effective" rate would be.
- Tax rate for personal property on top of AG (non-pilot program).
  - Formula to determine: $2.075/$100 of assessed valuation x 50%
- Tax rate for personal property on top of AG (pilot program).
  - PILOTS are 60% of the above personal property tax, amortized over 35 years.
- Information regarding the difference between "regular" farmland tax revenue vs. revenue that could be generated if they had solar systems on them.
  - See the information below

Bluegrass Solar (OneEnergy Development)

John Powell Rd / Pondtown Rd / Ewingtown Rd / 2 mi N of Church Hill

SDAT Bus ID: Z17162777

	Parcel ID	Year	Acres	Class	Asmnt	RE Tax	PP Tax	PILOT
Parcel(s):	1802009617	2020	210	AG	135,900	1,151	0	0
		2024	205	COMM	4,044,800	33,572	123,687	74,212
	1802013746	2020	110	AG	35,700	302	0	0
		2024	109	COMM	2,072,300	17,200	65,766	39,459
	1802001101	2020	309	AG	134,700	1,141	0	0
		2024	303	COMM	4,610,400	38,266	182,816	109,690

Potential RE & PP Tax Revenue Over 10 Years:		*Revenue / Acre / Year:*
- NO Solar, Stays AG	25,940	4.12
- With Solar, NO PILOT	3,811,729	1,733.98
- With Solar, PILOT	2,322,653	1,174.26

Garcia Community Solar Array (Nexamp)

400 Woods Point Rd

SDAT Bus ID: Z18385567

	Parcel ID	Year	Acres	Class	Asmnt	RE Tax	PP Tax	PILOT
Parcel(s):	1804035232	2020	100	AG	1,496,910	12,680	0	0
		2024	100	AG*	1,684,000	13,977	12,755	7,653

Potential Revenue Over 10 Years:		*Revenue / Acre:*
- NO Solar, Stays AG	126,800	126.80
- With Solar, NO PILOT	267,323	1,430.83
- With Solar, PILOT	216,302	920.62

Lowin Farms (Allegany Solar)

29500 Queen Anne Highway (St Rt 404)

SDAT Bus ID: Z18069153

	Parcel ID	Year	Acres	Class	Asmnt	RE Tax	PP Tax	PILOT
Parcel(s):	1803006611	2016	279	RES	170,200	1,442	0	0
		2024	279	AG	1,533,967	12,732	158,662	95,197

Potential Revenue Over 10 Years:		*Revenue / Acre:*
- NO Solar, Stays AG	14,420	5.17
- With Solar, NO PILOT	1,713,940	1,739.32
- With Solar, PILOT	1,079,292	1,071.27

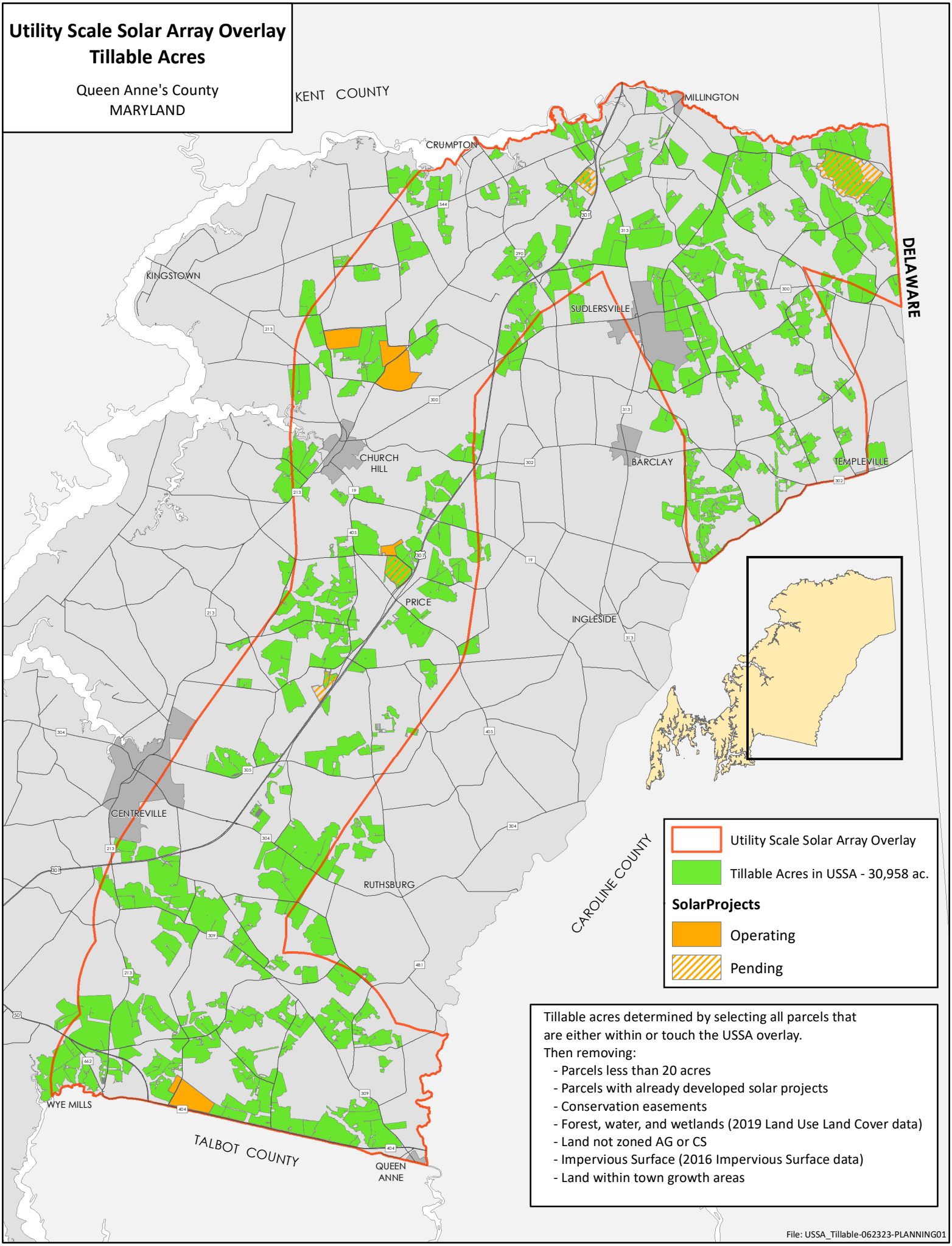
Projected Acres of Utility-Scale Solar Needed to Reach the RPS Goal.

MARYLAND DEPARTMENT OF NATURAL RESOURCES

YEAR	Utility Scale Required to Meet RPS (MWs)	Estimated Rooftop Solar (MWs)	Total Solar Capacity (MW)	Estimated Annual UPV Capacity Needed (MW)	Estimated Annual DPV Capacity Needed (MW)	Acres of Land, UPV, 5 acres/MW	Acres of Land, UPV, 8 acres/MW
2023	758	1099	1857	52	52	3,790	6,064
2024	833	1173	2006	75	75	4,163	6,660
2025	902	1243	2145	70	70	4,512	7,219
2026	1083	1288	2371	180	45	5,413	8,661
2027	1357	1357	2714	274	69	6,785	10,855
2028	1634	1426	3060	277	69	8,172	13,075
2029	1906	1494	3400	272	68	9,530	15,247
2030	2274	1586	3860	368	92	11,372	18,195

Utility Scale Solar Array Overlay
Tillable Acres

Queen Anne's County
MARYLAND



Tillable acres determined by selecting all parcels that are either within or touch the USSA overlay.
Then removing:

- Parcels less than 20 acres
- Parcels with already developed solar projects
- Conservation easements
- Forest, water, and wetlands (2019 Land Use Land Cover data)
- Land not zoned AG or CS
- Impervious Surface (2016 Impervious Surface data)
- Land within town growth areas

File: USSA_Tillable-062323-PLANNING01

SB1025-EEE_MACo_OPP.pdf
Uploaded by: Dominic Butchko
Position: UNF

Senate Bill 1025

Public Utilities - Distributed Generation Certificate of Public Convenience and Necessity

MACo Position: **OPPOSE**

To: Energy, Education, and the Environment Committee

Date: March 7, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **OPPOSES** SB 1025. This bill, among other actions, removes virtually any community-level input into the siting and approval of energy projects from 2-5 megawatts in scope, and mandates that the Public Service Commission (PSC) approve, not merely consider, a project that meets certain modest guidelines, regardless of any other factors.

For several months before the 2024 General Assembly legislative session, MACo, the Maryland Municipal League, the Maryland League of Conservation Voters, multiple agencies across the executive branch, conservation organizations, varied representatives of solar industry, and other stakeholders were engaged in intense negotiations working toward legislation that would provide certainty, guardrails, and incentives for all stakeholders in meeting the state's solar energy goals. These negotiations came close to reaching a consensus package, until unexpectedly, representatives of the solar industry walked away from the table to pursue a dramatically fast-tracked process to fully remove any community input from siting projects, embodied in SB 1025. This disappointing turn undermined a potentially productive consensus outcome.

It is important to note that the Solar Incentives Taskforce, established by the General Assembly to develop recommendations for encouraging solar in Maryland, rejected the concepts in SB 1025. Furthermore, the sponsors and supporters of the "Brighter Tomorrow Act," the bill to implement those Task Force recommendations, also declined to add these elements into their final bill.

If enacted, SB 1025 would further neuter the minor remaining county input for projects of 2-5 MW and would establish a nearly "rubber stamp" state-level process with a very narrowly defined area for evaluation and review. 7-207.3 (E) and (F) establishes a requirement whereby the PSC must inform the governing body of a county where the project is located, must hold a public hearing, and must allow for public comment. Sections (G) and (H) outline that PSC must only consider if a project satisfies standards developed by the Maryland Department of Natural Resources Power Plant Research Program (PPRP), and – if deemed satisfied – then they "shall" approve. Therefore in its entirety, these sections establish a paper-thin review process with zero role for public comment, no matter what that comment period may reveal.

The establishment of the PPRP standards is the first and only opportunity to identify potential concerns for all 2-5 MW projects for anyone, now and forever. This extends far beyond any reasonable approval process, ignores important input on community health and safety, and represents an unreasonable departure from the already-streamlined Maryland approval process for major generation sites.

Even the most ardent clean energy supporter should take pause before endorsing such a shallow approval and siting process for these increasingly small energy sources. Accordingly, counties strongly urge the Committee to issue SB 1025 an **UNFAVORABLE** report.

SB1025_DNR_LOI_EEE_3-7-24.pdf
Uploaded by: Dylan Behler
Position: INFO

MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

March 7, 2024

BILL NUMBER: **Senate Bill 1025 – First Reader**

SHORT TITLE: **Public Utilities – Distributed Generation Certificate of Public Convenience and Necessity**

DEPARTMENT'S POSITION: **LETTER OF INFORMATION**

EXPLANATION OF DEPARTMENT'S POSITION:

The Maryland Department of Natural Resources provides the following regarding Senate Bill 1025. PPRP recognizes the benefits of an expedited community solar review while maintaining the integrity of the CPCN review process. The impact of the bill is significant on the Power Plant Research Program (PPRP) in both additional expenditures and the need for more staff including an additional attorney. There are also no additional funds provided in the bill for increased PPRP staff and consultants. In addition to that, PPRP is concerned that no standard conditions can be formulated that apply to all solar cases within the diverse Maryland landscapes.

BACKGROUND INFORMATION:

PPRP coordinates the environmental and socioeconomic statewide CPCN. As such, PPRP examines approximately 70 factors related to the potential impact of solar generation projects in coordination with the seven state agencies. PPRP has both the expertise and experience to complete the analysis of these complicated tasks with proficiency while new staff members will be directed to the ongoing caseload. A significant and increasing number of consultants will continue to assist PPRP. PPRP currently submits a Project Assessment Report, Testimony, Licensing Conditions, and a recommendation for the Project to the PSC.

The Power Plant Research Program at the Department is funded through the Environmental Trust Fund Surcharge on all electricity customers in the State. The current rate of $.0001500/kWh has been in place for the last 35 years and if PPRP's workload continues to be increased, the current funding levels from the Environmental Trust Fund will not be able to meet future and current workloads.

BILL EXPLANATION:

This bill requires PPRP to develop standard siting and design requirements and standard licensing conditions, ostensibly to facilitate the CPCN license review of community solar projects from 2 to 5 MW. PPRP has six months to complete a CPCN license review and submit recommendations to the PSC. It should be noted that PPRP has never been the cause of a delay in the PSC's Procedural Schedule. While developing the standard siting and design requirements under this bill, PPRP must allow public comments and consider several factors. But these are submitted to the PSC who have no opportunity to modify them but must adopt regulations reflecting these conditions. Once the PSC adopts regulations for a DGCPCN, applicants may submit community solar projects to the PSC.

Contact: Dylan Behler, Director, Legislative and Constituent Services
dylan.behler@maryland.gov ♦ 410-260-8113 (office) ♦ 443-924-0891 (cell)

SB 1025_Information_PSC.pdf
Uploaded by: Frederick Hoover
Position: INFO

STATE OF MARYLAND

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,

Frederick H. Hoover, Chair
Maryland Public Service Commission