

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 605 (Delegate Beitzel)  
Economic Matters

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Public Utility Companies - Generating Stations - Wind

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This bill prohibits the Public Service Commission (PSC) from exempting a wind-powered generating station from the certificate of public convenience and necessity (CPCN) requirement unless the facility is built for on-site consumption. PSC is no longer required to report on the number of applications for and locations of wind-powered generating stations, as was required under Chapter 163 of 2007.

The bill takes effect June 1, 2009.

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Fiscal Summary

**State Effect:** Since it is assumed that the bill will apply in a limited number of cases, State finances are not affected.

**Local Effect:** Local government finances are not directly affected by the bill.

**Small Business Effect:** None.

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Analysis

**Current Law:** Chapter 163 of 2007 authorized PSC to exempt wind-powered generating stations from the CPCN requirement if the following conditions are met: (1) the wind-powered facility is land-based; (2) the generating capacity is 70 megawatts or less; (3) the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and (4) PSC provides an opportunity for public comment at a public hearing. The Code of Maryland Regulations (COMAR 20.79.01.02) specifies that a small generating facility under 373 kilowatts does not need prior approval of PSC.

There are two other conditions in which an electric generating facility may apply to the PSC for approval without obtaining a CPCN: (1) the facility is designed to provide generated electricity for on-site consumption, the capacity is less than 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or; (2) the capacity of the generating station is less than 25 megawatts, at least 10% of the electricity generated is consumed on-site, and the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company.

**Background:** Commercial wind-powered electric generation has been slow to develop in Maryland. As of February 2009, PSC has only received two applications for a CPCN exemption. There are currently two potential wind energy projects in Garrett County under consideration that may come for approval in 2009. One has design capacity of 50 megawatts and the other has a capacity of 60 megawatts. **Appendix 1** shows proposed wind-powered generating stations in the State.

#### *Certificate of Public Convenience and Necessity (CPCN)*

The licensing of new electric power plants in the State is a comprehensive two-part process involving PSC and several other State agencies, *e.g.*, the Department of Natural Resources and the Maryland Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. Companies wishing to obtain a license for a new power plant must apply to PSC for a CPCN.

During the CPCN application process, the agencies hold extensive discussions with interested parties such as local governments, environmental organizations, the company proposing to build the power plant, and individual citizens. Concerns are identified and the State agencies incorporate those concerns into their evaluation.

Prior to CPCN being issued for a proposed power plant, the State agencies provide PSC the results of their evaluation and a consolidated set of recommendations as to whether the proposed site is suitable and whether the proposed power plant can be constructed and operated in an acceptable manner. The agencies also provide detailed recommendations on conditions that should be attached to CPCN. These conditions can relate, for example, to minimizing impacts to air, surface and groundwater, aquatic and terrestrial resources, cultural and historic resources, noise, and land use.

**State Fiscal Effect:** Requiring small wind generation facilities to obtain a CPCN increases the requirements of multiple State agencies and local governments who participate in the CPCN process. Due to the limited number of applications for an exemption from CPCN requirements, State expenditures will not be materially affected.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 583 (Senator Edwards) - Finance.

**Information Source(s):** Office of People's Counsel, Public Service Commission,  
Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2009  
mcp/rhh

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## Appendix 1 Status of Maryland Wind Projects

<b>Date Granted</b>	<b>Company</b>	<b>Location</b>	<b>Rated Capacity (MW)</b>	<b>Application Date</b>	<b>Exemption Application</b>	<b>Current Status</b>
10-29-2008	Criterion Power Partners, LLC.	Garrett County	70	1-23-2008	Yes	Exemption Approved 10-29-2008; Construction to begin in 2009
Pending	Dans Mountain Wind Force, LLC.	Allegany County	69.6	11-5-2008	Yes	Public hearing and comments phase
10-30-2006 (proposed order)	Synergics Wind Energy	Garrett County	40	6-30-2004	No	CPCN withdrawn: May 2008
3-20-2003	U.S. Wind Force LLC.	Garrett and Allegany counties	40	8-30-2002	No	Construction has not commenced; construction required to be completed by 3-20-2010
3-26-2003	Clipper Windpower, Inc.	Garrett County	110	8-26-2002	No	CPCN expired

Note: In January 2008, Clipper – under the name Criterion Power Partners – filed a CPCN Exemption for 70 MW of wind powered energy. The U.S. Wind Force and Synergics projects were submitted before Chapter 163 of 2007, which provides qualifying wind facilities with the option of applying for a CPCN exemption, was enacted.

Source: Public Service Commission