

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 761
Finance

(Senator Jennings)

**Public Utilities - Certificate of Public Convenience and Necessity - Exclusion
From Exemption**

This bill excludes specified solar facilities located on productive agricultural land from the existing Certificate of Public Convenience and Necessity (CPCN) exemption process.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations. The bill is not anticipated to result in substantively less solar capacity in the State, especially in the short term with other suitable land available.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The CPCN exemption process does not apply to a person who constructs a solar generating station that, when combined with solar generating station(s) located on contiguous parcels of productive agricultural land with different owners, has a capacity of at least two megawatts. The existing solar generating station(s) and the proposed solar generating station – not the land – must be owned by the same person.

Current Law: Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line (project) unless a CPCN is first obtained from the Public Service Commission (PSC). “Generating station”

is not defined in statute. However, the PSC definition in regulation excludes a facility with up to two megawatts of capacity if it meets other specified requirements.

The CPCN application process involves notifying specified stakeholders, public hearings, and the consideration of recommendations by State and local government entities and the project's effect on various aspects of the State infrastructure, economy, and environment. There are conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement.

Certificate of Public Convenience and Necessity Exemptions

There are three general conditions under which a person constructing an electric generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide on-site generated electricity, the capacity is up to 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;
- at least 10% of the electricity generated is consumed on site, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person that is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.

Background: According to the *2012 Census of Agriculture*, Maryland has approximately 2.0 million acres of farmland, which is about one-third of the State. As of January 2018, there was approximately 958 megawatts of solar capacity in the State, which is more than the combined solar capacity of Delaware, Pennsylvania, Virginia, and West Virginia. While solar technology is rapidly evolving, a 2013 National Renewable Energy Laboratories report estimated the land required for solar facilities at about eight acres per megawatt. Continued advancements will increase the capacity per acre in the future.

Small Business Effect: Individual small businesses that own agricultural land are affected to the extent that they receive less or no revenue from solar projects due to the bill, which may occur if solar companies decrease project size or construct in different areas so as to avoid the two-megawatt threshold on contiguous parcels of agricultural land. Some companies involved in the solar energy installation supply chain are small businesses. These businesses may experience a decrease in the demand for their services if the bill restricts solar projects. However, the bill is not anticipated to substantively decrease the overall amount of solar capacity installed in the State, especially in the short term.

Additional Comments: The Department of Legislative Services notes that the CPCN/CPCN exemption processes apply to *generating stations* – which have capacities of more than two megawatts. If an individual solar facility has a capacity of less than that amount, then it is not a “generating station” and the CPCN/CPCN exemption processes do not apply.

Additional Information

Prior Introductions: None.

Cross File: HB 1688 (Delegate West) - Rules and Executive Nominations.

Information Source(s): Public Service Commission; Office of People’s Counsel; Maryland Department of Agriculture; U.S. Department of Agriculture; National Renewable Energy Laboratories; PJM Environmental Information Services, Inc.; Department of Legislative Services

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