

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 613

(Prince George's County Delegation)

Economic Matters

Prince George's County – Coal- and Gas-Fired Generating Stations –
Prohibitions (Prince George's County Stop Environmentally Unjust Coal and
Gas Plants Act of 2021) PG 410-21

This emergency bill prohibits a person from operating a coal- or gas-fired generating station if (1) any part of the generating station is located in Prince George's County and (2) the Public Service Commission (PSC) issued a certificate of public convenience and necessity (CPCN) for the construction of the generating station prior to the effective date of the bill. PSC is also prohibited from issuing any new CPCNs for coal- and gas-fired generating stations in Prince George's County.

Fiscal Summary

State Effect: State revenues decrease beginning as early as FY 2021 to the extent that the bill's immediate generating station closures lead to reduced income taxes and reduced real property tax assessments. The revenue decrease cannot be estimated, as income taxes associated with the generating stations and changes to the assessed value of the real property due to the closures are unknown, but the overall effect could be significant. Expenditures are not affected.

Local Effect: Prince George's County revenues decrease, potentially significantly, beginning as early as FY 2021 to the extent that bill's immediate generating station closures lead to reduced income taxes and reduced real and personal property tax assessments. Expenditures are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Current Law: Generally, a person may not begin construction in the State of a generating station unless a CPCN is first obtained from PSC. PSC is not prohibited from approving a generating station in any particular county. See the **Appendix – Certificate of Public Convenience and Necessity** for more general information on the CPCN siting and approval process.

Local Fiscal Effect: The bill immediately prohibits the continued operation of any existing, permitted, coal- or gas-fired generating station located in Prince George’s County. The three affected facilities in the county include: Keys Energy (natural gas); Brandywine Power (natural gas); and Chalk Point (coal, oil, natural gas). PSC advises that, although Chalk Point has plans to retire its coal units, the facility owner plans to continue operating the noncoal units.

It is unclear how quickly and to what extent county revenues will decrease from the closure of the plants, as real and personal property taxes are generally assessed and paid on an annual basis, and the closure of the plants does not mean that assessed values will decrease to zero. Still, the facilities account for a significant amount of property tax revenue. For example, the county advises that the Keys facility is responsible for \$3.4 million annually in revenue (in the form of a Payment in Lieu of Taxes Agreement, which decreases over time), the Chalk Point facility is responsible for \$4.4 million annually, and the Brandywine facility is responsible for \$0.5 million annually. Each facility’s employees will also no longer have a job and its related income.

Therefore, Prince George’s County revenues decrease, potentially significantly, beginning as early as fiscal 2021, from reduced income taxes and reduced real and personal property taxes, although the timing and specific amounts are unknown.

The bill also prohibits the siting of any new coal- or gas-fired generating stations in the county; local revenues decrease in future years to the extent that the prohibition stops the siting of such generating stations that otherwise would have located in the county.

Small Business Effect: The affected generating stations themselves are not small businesses; however, small businesses that currently benefit from the economic impact of the generating stations (*e.g.*, supply chain, maintenance, services, and food vendors) in the county are affected by the plant closures – particularly due to the immediacy of the effect.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Prince George's County; Maryland Department of the Environment; Department of Natural Resources; Office of People's Counsel; Public Service Commission; State Department of Assessments and Taxation; Department of Legislative Services

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rh/lgc

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Appendix – Certificate of Public Convenience and Necessity

General Overview

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCN). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment.

Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line unless a CPCN is first obtained from 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 process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project’s effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations.

Notification Process

On receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly that requests a copy.

Public Hearing and Comment

PSC must provide an opportunity for public comment and hold a public hearing on a CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality, and must provide weekly notice during the four weeks prior to the hearing,

both in a newspaper and online. PSC must also coordinate with each local government to identify additional options for providing notice of the hearing through other types of media. PSC must ensure presentation and recommendations from each interested State unit, and must allow representatives of each State unit to sit during hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

Public Service Commission Considerations

PSC must take final action on a CPCN application only after due consideration of recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located and various aspects of the State infrastructure, economy, and environment. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations for an overhead transmission line, including the need to meet existing and future electric demand.

Generating Station Exemptions

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

- the facility is designed to provide onsite 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 onsite, 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.