

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 931 (Senator Feldman)
 Education, Energy, and the Environment

**Public Utilities - Generating Stations - Generation and Siting (Renewable Energy
 Certainty Act)**

This bill (1) adds a new factor that the Public Service Commission (PSC) must consider before taking final action on a Certificate of Public Convenience and Necessity (CPCN); (2) establishes specified requirements for the construction of energy storage devices and certain solar energy generating stations; (3) imposes specified requirements and limitations on local jurisdictions with respect to the construction and development of such devices and generating stations; (4) authorizes local governments to establish community solar automatic enrollment programs, as specified; (5) establishes requirements for the sale, lease, and installation of residential rooftop solar energy generating systems and subjects violators to specified fines; and (6) requires PSC to conduct a study and report on the results of the study by December 1, 2026.

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by \$863,300 in FY 2026 and by at least \$434,000 annually thereafter; special fund revenues increase correspondingly. General/special fund expenditures for the Department of Natural Resources (DNR) increase by at least \$435,000 annually beginning in FY 2026. Special fund expenditures for the Maryland Energy Administration (MEA) increase by \$100,000 in FY 2026. Annuity Bond Fund (ABF) revenues decrease beginning in FY 2026. Any decrease may require either (1) an increase in the State property tax rate or (2) a general fund appropriation to cover debt service on the State’s general obligation (GO) bonds (not reflected in the table).

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	\$863,300	\$434,000	\$453,200	\$473,400	\$493,600
SF Expenditure	\$963,300	\$434,000	\$453,200	\$473,400	\$493,600
GF/SF Exp.	\$435,000	\$477,700	\$490,000	\$503,000	\$515,900
Net Effect	(\$535,000)	(\$477,700)	(\$490,000)	(\$503,000)	(\$515,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local property tax revenues decrease, potentially significantly, beginning in FY 2026. Local government expenditures increase minimally. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Solar Energy Generating Stations – Application and Approval Process

In general, a person may not begin construction of a solar energy generating station unless the construction has been approved by PSC in accordance with specified criteria and a CPCN has been issued under § 7-207 of the Public Utilities Article or PSC has approved the construction pursuant to § 7-207.1 of the Public Utilities Article (*i.e.*, the CPCN exemption process). However, such permitting requirements only apply to a solar energy generating station that (1) has the capacity to produce more than two megawatts of electricity as measured by the alternating current rating of the system's inverter; (2) is designed to produce electricity for sale on the wholesale market or is a community solar energy generating system under § 7-306.2 of the Public Utilities Article; and (3) is not located on a rooftop, carport, or brownfields site, or behind the meter of a retail electric customer.

Upon receiving an application to construct a solar energy generating station under the bill, PSC must provide immediate notice or require the applicant to provide immediate notice of the application to (1) the governing body of each county or municipality in which any portion of the generating station is proposed to be constructed or that is within one mile of the proposed location of the generating station; (2) each member of the General Assembly that represents any part of a county in which any portion of the generating station is proposed to be constructed or that is within one mile of the proposed location of the generating station; and (3) residents and property owners within one mile of the proposed location of the generating station.

When reviewing such an application, PSC must comply with and require the owner of the proposed solar energy generating station to comply with the public notice and comment requirements in § 7-207(d) of the Public Utilities Article and, if the proposed location of the generating station is in an area considered to be overburdened and underserved (as defined in § 1-701 of the Environment Article), require the person constructing the generating station to hold at least two public meetings in the community where it is to be located.

Solar Energy Generating Stations – Applicable Requirements for Owners

An owner of a proposed solar energy generating station must comply with various land use requirements, which include:

- providing a boundary of 150 feet between the generating station and any occupied buildings or dwellings not affiliated with the generating station;
- providing a boundary of 50 feet between the generating station and any parcels of land not affiliated with the generating station;
- providing nonbarbed wire fencing, as specified, around the generating station;
- providing for a landscaping buffer or vegetative screening if required by the local jurisdiction (the buffer must be planted in accordance with certain specifications);
- minimizing grading at the site to the maximum extent possible;
- not removing topsoil from the parcel and planting vegetation, as specified, to maintain the site's soil integrity;
- limiting mowing and other unnecessary landscaping;
- not using herbicides except to control invasive species (in compliance with the Maryland Department of Agriculture's (MDA) weed control program);
- posting, for the first three years of the life of the generating station, a landscaping bond equal to 50% of the total landscaping cost with the county in which the generating station is located; and
- ensuring that the generating station does not emit visible light during dawn to dusk operations, except as required by law, or for safety or emergency.

For applicable solar energy generating stations, PSC may not issue a CPCN without due consideration of whether the applicant complies with these requirements.

An owner of a solar energy generating station must also (1) enter into a decommissioning agreement with PSC; (2) post a surety bond with PSC for up to 100% of the cost of decommissioning the generating station and its related infrastructure, less any salvage value; and (3) execute a securitization bond true-up every five years.

Energy Storage Devices – Application and Approval Process

A person may not begin construction of an energy storage device, as defined in current law, unless the construction has been approved by PSC in accordance with specified requirements.

Upon receiving an application to construct an energy storage device, PSC must provide immediate notice or require the applicant to provide immediate notice of the application to the same parties specified above for solar energy generating stations.

In general, when reviewing an application to construct an energy storage device, PSC must comply with and require the applicant to comply with § 7-207(d) of the Public Utilities Article if the project will store more than 100 kilowatts (generally, public notice and comment). Moreover, if the proposed location of the energy storage device is in an area considered to be overburdened and underserved (as defined in § 1-701 of the Environment Article), PSC must require the applicant to hold at least two public meetings in the community where the energy storage device is to be located. PSC must, however, exempt an energy storage device that is located within the boundaries of an existing electricity generating station from these meeting requirements.

Energy Storage Devices – Applicable Requirements for Owners

An owner of a proposed energy storage device must comply with several land use requirements, which include:

- providing nonbarbed wire fencing around the energy storage device, as specified;
- providing for a landscaping buffer or vegetative screening if required by the local jurisdiction, as specified;
- minimizing grading at the site to the maximum extent possible;
- not removing topsoil from the parcel; and
- not using herbicides except to control invasive species (in compliance with MDA’s weed control program).

Local Jurisdictions – Solar Energy Generating Stations and Energy Storage Devices

A local jurisdiction may not adopt zoning laws (or other laws or regulations) that (1) prohibit the construction or operation of solar energy generating stations or energy storage devices or (2) deny site development plans for these projects if they meet all applicable requirements. Furthermore, a local jurisdiction must expedite the review and approval of site development plans for generating stations and energy storage devices if the plans have met all applicable requirements.

A local jurisdiction may not require the use of a berm for either a solar energy generating station or an energy storage device.

For energy storage devices specifically, local jurisdictions must adopt standard processes for the review and approval of site development plans for the construction of these devices.

Personal and Real Property Tax Exemption for Specified Solar Facilities

Solar energy generating stations that meet specified requirements are exempt from personal and real property taxes. The property tax exemption applies to solar energy generating stations with more than two megawatts of capacity, which have been approved by PSC for a CPCN or CPCN exemption, that (1) are designed to produce electricity for sale on the wholesale market or qualify as community solar energy generating systems and (2) are not located on a rooftop, carport, or brownfields site or behind the meter of a retail electric customer. While local governments may not collect any property taxes from these generating stations, local jurisdictions may require them to make a payment in lieu of taxes (PILOT) of up to \$5,000 per megawatt of energy that they generate.

Community Solar Automatic Enrollment Projects

Local Governments: A local government is authorized, subject to specified requirements, to establish a community solar automatic enrollment program by submitting a local law, contract, or administrative approval to PSC that states whether (1) the local government will own and operate one or more automatic enrollment projects or (2) the local government or its designee will serve as the subscription coordinator for one or more of these projects owned by a third party. A local law, contract, or administrative approval establishing a community solar automatic enrollment program must also include a description of the mechanism by which the local government intends to enroll customers.

An “automatic enrollment project” means a community solar energy generating system (1) in which all or a portion of the subscribers are automatically enrolled and (2) that is owned and operated by a local government or for which a local government or its designee serves as the subscription coordinator.

A local government or its designee must identify the customers that will be automatically enrolled under a community solar automatic enrollment project, subject to the following conditions:

- subscribers must be residential customers, including customers residing in multifamily dwelling units;
- at least 51% of subscribers must be “LMI subscribers” (as defined in current law);
- all customers selected to be automatically enrolled as subscribers must be within the service territory of the electric company where the project is located;
- subscribers may decline or opt out from a subscription at any time (by phone, in writing, or online); and
- a local government may not charge a fee or penalty for enrollment in or exiting from an automatic enrollment project.

An automatic enrollment project must utilize consolidated billing and provide a guaranteed bill credit discount to subscribers. A local government may contract with a designee to identify and manage the subscriptions to an automatic enrollment project. At least 90 days before subscribers begin receiving their first bill credits, a local government or its designee must provide written notice – via the U.S. Postal Service – to all subscribers who were automatically enrolled in a community solar automatic enrollment project. The notice must provide specified information, including an explanation of the consolidated billing procedures of the project.

Electric Companies: An electric company must facilitate the establishment of an automatic enrollment project – if a local government has made a valid submission to PSC to establish a community solar automatic enrollment program – by enrolling the customers identified by the local government or its designee as subscribers to the project at the subscription size that it or its designee identified. The electric company must also facilitate the establishment of an automatic enrollment project by providing access to:

- the historic billing usage of customers that may be automatically enrolled in the project;
- point-of-service delivery for customers that may be automatically enrolled in the project;
- participation in energy assistance programs;
- subscriptions to community solar energy generating systems;
- account numbers for customers that may be automatically enrolled in the project, if applicable; and
- any other reasonable information required by the local government or its designee to enroll customers in the project.

Other Provisions: The enrollment and management of automatic enrollment subscribers to a community solar automatic enrollment project is not subject to COMAR 20.62.05 (generally, consumer protections for community solar).

A local government or its designee may verify the income of a prospective subscriber for eligibility as an LMI subscriber using various specified methods.

Community Solar Energy Generating Systems – Unsubscribed Energy

The existing process related to payments for unsubscribed energy generated by a community solar generating system not owned by an electric company is modified to create a banked bill credit process prior to direct purchase by the electric company. More specifically, any unsubscribed energy generated by a community solar energy generating system that is not owned by an electric company must create banked bill credits tracked by

the electric company that, within one year after the date that a banked bill was created, may be allocated to one or more subscribers. The generation associated with a banked bill credit not allocated to a subscriber within one year after the date that the credit was created must be purchased under the electric company's process for purchasing the output from qualifying facilities at the amount it would have cost the electric company to procure the energy.

Residential Rooftop Solar Energy Generating Systems

A seller or lessor of residential rooftop solar energy generating systems must (1) provide to the buyer or lessee a five-year full warranty on the installation and component parts of the system; (2) include any manufacturer's warranties for any of the products or components of the system; (3) inform the buyer or lessee of the minimum level of weather-adjusted energy production the buyer or lessee may expect from the system; and (4) certify, in writing, that installation of the system is compliant with all federal, State, and local laws regarding workmanship and that the solar panels, inverters, racking systems, and all other components meet the minimum standards for product design. If a seller or lessor violates any of these requirements, the seller or lessor is subject to a fine of up to \$1,000 for each violation.

PSC and MEA must develop technical safety standards for the installation and maintenance of residential rooftop solar energy generating systems and establish minimum qualifications for individuals installing and maintaining these systems.

Required Study by the Public Service Commission

PSC must conduct a study to establish a process by which the commission may establish partnerships between electric companies and electricity suppliers for electricity generation projects. The process must conform to specified requirements that generally expedite the review, approval, and interconnection of the generation projects and prioritize potential partnerships that have little or no impact on customer rates. By December 1, 2026, PSC must report to the Governor and the General Assembly on the results of the study.

Existing Obligations and Contract Rights

A presently existing obligation or contract right may not be impaired in any way by the bill.

Current Law:

Certificate of Public Convenience and Necessity Process

Generally, 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. The application process involves notifying specified stakeholders, public hearings, 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.

PSC must take final action on a CPCN application only after due consideration of the recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; the effect of the project on various aspects of the State infrastructure, economy, and environment; the effect of climate change on the project; and, for a generating station only, other specified information.

Chapter 515 of 2023 specified that a county or municipality has the authority to approve or deny any local permit required under a CPCN issued by the PSC. A county or municipality must approve or deny such a permit within a reasonable time and in accordance with local laws, to the extent that local laws are not preempted by State law. A county or municipality is prohibited from conditioning the approval of a local permit required under a CPCN on receipt of a conditional use approval, a special exception approval, or a floating zone approval for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the CPCN.

For additional information on the CPCN process, please see the **Appendix – Certificate of Public Convenience and Necessity**.

Community Solar Energy Generating Systems

A community solar energy generating system is a system that, in addition to other requirements:

- has a generating capacity that does not exceed five megawatts as measured by the alternating current rating of the system's inverter;
- has at least two subscribers, but no limit to the maximum number of subscribers;
- serves at least 40% of its energy output to "LMI subscribers" unless the system is wholly owned by the subscribers to the system; and
- credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering.

An “LMI subscriber” is one that is low-income, moderate-income, or resides in a census tract that is an overburdened and underserved community, as those terms are further defined. Generally, an overburdened community is any census tract for which three or more specified environmental health indicators are above the 75th percentile statewide. An underserved community is any census tract in which, according to the most recent U.S. Census Bureau survey, (1) at least 25% of the residents qualify as low-income; (2) at least 50% of the residents identify as nonwhite; or (3) at least 15% of the residents have limited English proficiency. Low-income means having an annual household income that is at or below 200% of the federal poverty level or being certified as eligible for any federal, State, or local assistance program that limits participation to households whose income is at or below 200% of the federal poverty level. Moderate-income means having an annual household income that is at or below 80% of the median income for Maryland.

Subscribers must be in the same electric service territory as the system. Investor-owned electric companies must participate in the program; large electric cooperatives and municipal utilities may choose to participate. Community solar is a form of net metering, which is subject to an overall statewide cap of 3,000 megawatts.

For a general overview of net metering and other notable State incentives for solar, see the **Appendix – Incentives for Solar Energy Generating Systems**.

Specified Nonresidential Solar Systems Exempt from Valuation or State or Local Property Taxes

Under § 7-249 of the Tax-Property Article, specified nonresidential solar energy generating systems that are constructed on the rooftops of buildings or on parking facility canopies are not subject to valuation or to State or local property taxes. The exemption applies only to a system approved by PSC for a CPCN or CPCN exemption on or after July 1, 2024.

Maryland Energy Storage Program

Chapter 570 of 2023 required PSC to establish the Maryland Energy Storage Program and establish targets for the cost-effective deployment of new energy storage devices in the State with a goal of achieving at least a cumulative total of 750 megawatts by the end of the 2027 PJM Interconnection, LLC (PJM) delivery year, 1,500 megawatts by the end of the 2030 PJM delivery year, and 3,000 megawatts by the end of the 2033 PJM delivery year. If a target cannot be met cost effectively, the target must be reduced to the maximum cost-effective amount for the relevant delivery year. The program must be implemented by July 1, 2025, as specified.

Payment in Lieu of Taxes Agreements

A PILOT is an agreement between a jurisdiction and a developer, business, or landowner that substitutes a negotiated payment for annual real estate taxes that are traditionally due on a property. The [Guide to the Property Tax Structure in Maryland](#) provides a summary on the jurisdictions with existing PILOT agreements and the extent to which the assessable base has been exempt from taxation. The [Guide to Local Government Taxing Authority](#) provides an overview on each county government’s statutory authority to impose local taxes and establish tax credits and exemptions.

Brownfields

Under § 7-207 of the Public Utilities Article, “brownfields site” means (1) a former industrial or commercial site identified by federal or State laws or regulation as contaminated or polluted; (2) a closed landfill regulated by the Maryland Department of the Environment; or (3) mined land.

Consolidated Billing

“Consolidated billing” means a payment mechanism that requires an electric company to, at the request of a subscriber organization or subscription coordinator, (1) include the monthly subscription charge of a subscriber organization or subscription coordinator on the monthly bills rendered by the electric company for electric service and supply to subscribers and (2) remit payment for those charges to the subscriber organization or subscription coordinator.

Public Service Commission Civil Penalties

In addition to any other authorized penalty, PSC may impose a civil penalty of up to \$25,000 against a person who violates specified provisions or an outstanding direction, order, rule, or regulation of PSC. Each day or part of a day the violation continues is a separate offense. Civil penalties collected by PSC under this authority are paid into various special funds, depending on the nature of the violation.

State Fiscal Effect:

Annuity Bond Fund

The bill exempts solar energy generating stations that meet specified requirements from State (and local) property taxes. Accordingly, ABF revenues decrease, beginning as early as fiscal 2026, from reduced real property tax revenues. The amount of potential revenue loss is unknown, but it is likely to be modest.

Debt service payments on the State’s GO bonds are paid from the ABF. Revenue sources for the fund include State property taxes; premium from bond sales; and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the ABF to make up any differences between the debt service payments and funds available from property taxes and other sources. To offset the reduction in State property tax revenues, general fund expenditures could increase in an amount equal to the decrease in ABF revenues, or the State property tax rate would have to be increased in order to meet debt service payments. This assumes that the ABF does not have an adequate fund balance to cover any reduction in State property tax revenues.

Public Service Commission

PSC advises that the incremental workload required by the bill cannot be absorbed within existing resources. According to PSC, the commission could receive 200 additional filings each year as a result of the bill. Additional funds are also required, in fiscal 2026 only, for consulting expenses associated with the completion of a study required under the bill.

Accordingly, special fund expenditures for PSC increase by \$863,345 in fiscal 2026, which accounts for the bill’s October 1, 2025 effective date. This estimate reflects the cost of (1) hiring one engineer, one staff attorney, one Public Utility Law Judge, and one assistant general counsel to handle PSC’s increased workload and (2) engaging consultants to assist with the required study. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time \$500,000 consulting expense.

Positions	4.0
Salaries and Fringe Benefits	\$333,870
Consultant Costs	500,000
Other Operating Expenses	<u>29,475</u>
Total FY 2026 PSC Expenditures	\$863,345

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time consulting costs.

Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

It is unclear where revenues from civil penalties assessed by PSC accrue to under the bill. Generally, revenues from civil penalties assessed by PSC under § 13-201 of the Public Utilities Article accrue to one of several special funds, depending on the nature of the violation. However, this estimate assumes a limited number of civil penalties are

assessed by PSC under the bill and that, therefore, State finances are not materially affected.

Department of Natural Resources

DNR advises that the bill significantly increases the number of projects that its Power Plant Research Program (PPRP) must review, particularly for energy storage. DNR further advises that PPRP needs to develop energy storage guidelines and recommended license conditions for energy storage devices and establish a decommissioning template for PSC to use. As a result, PPRP requires additional staff and contractual support to manage its increased workload under the bill.

In general, special funds from the Environmental Trust Fund are used to fund PPRP's operations. However, general funds may be required to cover part or all of the expenses that PPRP incurs under the bill because the department anticipates a special fund revenue shortfall.

Therefore, general/special fund expenditures for DNR increase by \$435,017 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of (1) hiring two full-time site assessors and one half-time site assessor and (2) using consultants on an ongoing basis. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and \$200,000 in consultant costs.

Positions	2.5
Salaries and Fringe Benefits	\$213,325
Consultant Costs	200,000
Other Operating Expenses	<u>21,692</u>
Total FY 2026 DNR Expenditures	\$435,017

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) ongoing consultant costs of \$200,000 annually.

Maryland Energy Administration

The bill requires PSC and MEA to develop technical safety standards for the installation and maintenance of residential rooftop solar energy generating systems. PSC advises that developing such standards is outside of its expertise and authority (which is only for siting solar projects). Accordingly, this analysis assumes that MEA takes the lead in developing the technical safety standards. However, MEA similarly advises that the installation of solar energy generating systems is not within the expertise of its existing staff. Therefore, special fund expenditures for MEA (specifically, the Strategic Energy Investment Fund)

increase by \$100,000, in fiscal 2026 only, to hire a consultant to assist with formulating these standards.

Local Fiscal Effect:

Personal and Real Property Tax Exemption for Specified Solar Facilities

The bill exempts solar energy generating stations that meet specified requirements from local personal and real property taxes. However, the bill authorizes a local jurisdiction to require an exempt solar energy generating station to make a PILOT of up to \$5,000 per megawatt of capacity.

Accordingly, local property tax revenues decrease, beginning in fiscal 2026, from reduced real and personal property tax revenues associated with solar energy generating stations. The amount of each local jurisdiction's decrease in property tax revenues depends on the number of solar energy generating stations eligible for the property tax exemption and the assessed value of each affected property. To the extent that a local jurisdiction negotiates PILOT agreements with owners of exempt solar energy generating stations or imposes a PILOT agreement on them, the local jurisdiction's decrease in property tax revenues is mitigated.

For context, the State Department of Assessments and Taxation estimates local government revenues (net of maximum authorized PILOT revenues), decrease by approximately \$5.2 million in fiscal 2026, escalating to \$13.1 million in fiscal 2030, from the personal property tax exemption. (The estimate is based on approximately 2,300 megawatts of new solar capacity being built in the next five years.)

Project Siting

PSC advises that the bill overrides local authority on the siting of certain solar energy generating systems and on energy storage devices, thus limiting the ability of local governments to deny or restrict the development of certain projects. The Department of Legislative Services advises that while the bill shifts some control over the approval and siting of energy storage devices and certain solar energy generating stations from local governments to PSC, the overall impact on local government finances is generally anticipated to be limited.

Community Solar Automatic Enrollment Projects

Local government expenditures may increase for counties or municipalities that choose to establish community solar automatic enrollment programs, as authorized by the bill. A jurisdiction that establishes such a program must either own and operate automatic

enrollment projects or, if they are owned by a third party, serve as the subscription coordinator for those projects. Under the bill, a local government or its designee is also responsible for identifying qualified customers for automatic enrollment and providing written notice to all customers who are selected for enrollment.

It is likely that jurisdictions that establish community solar automatic enrollment programs will need additional staffing or contractual support to comply with all these requirements. Nevertheless, the extent to which local government expenditures increase cannot be reliably estimated at this time and depends on several factors, including the number of new community solar energy generating systems that are built and how many jurisdictions opt to establish community solar automatic enrollment programs.

Small Business Effect: To the extent that the bill results in increased development of solar energy generating stations and energy storage devices, small businesses that provide construction or consulting services for such projects likely benefit. Additionally, the bill's requirements pertaining to the sale, leasing, and installation of residential rooftop solar energy generating systems may have a meaningful effect on small businesses that operate in the residential solar market.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1036 (Delegates Wilson and Crosby) - Economic Matters.

Information Source(s): Anne Arundel, Baltimore, Cecil, and Frederick counties; City of Frederick; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Planning; Maryland Energy Administration; Office of People's Counsel; Public Service Commission; State Department of Assessments and Taxation; Department of Legislative Services

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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 qualified generator lead line unless a CPCN is first obtained from PSC.

State law provides that a “generating station” excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other 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. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

Notification Process

Upon 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 who 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, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the 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 (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. 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 specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide greenhouse gas emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

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 a specified 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 a specified 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 who 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.

Appendix – Incentives for Solar Energy Generating Systems

State law establishes multiple incentives for solar energy generating systems of different types, sizes, and locations. The following is an overview of notable State incentives, which may be combined, depending on the specifics of a particular solar energy generating system.

Production Incentives

Net Metering

Under § 7-306 of the Public Utilities Article, the Public Service Commission (PSC) must require electric companies to develop and make net metering tariffs available to eligible customer-generators. Net metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by the customer and fed back to the grid over the customer's billing period. Under net metering, the customer pays only for energy used, netted against energy generated, plus the fixed monthly customer charge. In the event that more energy is generated than used, the electric company must pay the customer the value of the difference, subject to specified requirements. Generally, net excess generation payments are made annually, although certain customers may instead choose to accrue net excess generation indefinitely.

Generally, the generating capacity of an eligible customer-generator for net metering may be up to 2 megawatts, although there are exceptions allowing for larger capacities, including for community solar. Community solar systems are those that meet specified requirements, have multiple subscribers, and engage in virtual net metering.

There are multiple eligible energy sources for net metering, although most of the installed capacity is solar. The statewide capacity limit is 3,000 megawatts.

Renewable Energy Portfolio Standard

Under Title 7, Subtitle 7 of the Public Utilities Article, which establishes the State Renewable Energy Portfolio Standard (RPS), utilities and other competitive energy suppliers must submit renewable energy credits (RECs) equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Generally, an REC is a tradable commodity equal to one megawatt-hour of electricity generated or obtained from a renewable energy generation source. In program compliance year 2025, RPS percentage requirements

include 7.0% from solar, which must be connected to the electric distribution grid serving Maryland.

Under § 7-709.1 of the Public Utilities Article, PSC must establish a Small Solar Energy Generating System Incentive Program and begin determining eligibility by January 1, 2025. Under the program, a solar energy generating system that meets specified requirements and is certified by PSC generates certified solar RECs, which have an RPS compliance value of 150%, for 15 years. In addition to other requirements, an eligible system must be placed in service between July 1, 2024, and January 1, 2028, inclusive.

Grant and Loan Incentives

Under § 9-20B-05 of the State Government Article, the Maryland Energy Administration (MEA) must administer SEIF. Among other revenue sources, SEIF receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative (RGGI) and ACP revenues through the State RPS. RGGI-sourced funding is allocated through a statutory formula that provides significant annual funding for clean energy programs and initiatives, in addition to other purposes. In practice, MEA offers a variety of residential and commercial grants and rebates for different types of solar installations. Solar ACP revenues must be used make grants and loans to support the creation of new solar energy sources in the State that are owned by or directly benefit low-to-moderate income communities, overburdened or underserved communities, or households with low- to-moderate income.

Tax Incentives

Solar Energy Property Generally Not Subject to State or Local Real Property Tax

Under § 7-242 of the Tax-Property Article, solar energy property is generally not subject to State or local real property tax. “Solar energy property” means equipment that is installed to use solar energy or solar thermal electric energy to generate electricity to be used in a structure or supplied to the electric grid or provide hot water for use in a structure.

Specified Nonresidential Solar Systems Exempt from Valuation or State or Local Property Taxes

Under § 7-249 of the Tax-Property Article, specified nonresidential solar energy generating systems that are constructed on the rooftops of buildings or on parking facility canopies are not subject to valuation or to State or local property taxes. The exemption applies only to a system approved by PSC for a Certificate of Public Convenience and Necessity (CPCN) or CPCN exemption on or after July 1, 2024.

Community Solar Personal Property Tax Exemption

Under § 7-237 of the Tax-Property Article, a community solar energy generating system with up to 5 megawatts of capacity that meets specified requirements is exempt from the county and municipal personal property tax through the life cycle of the system. To be eligible, a system must (1) be placed in service after June 30, 2022, and be approved by PSC by December 31, 2030; (2) provide at least 50% of the energy produced to low- to moderate-income customers at reduced prices, as specified; and (3) be used for agrivoltaics or be installed on a rooftop, brownfield, parking facility canopy, landfill, or clean fill.

Community Solar Real Property Tax Credit

Under § 9-111 of the Tax-Property Article, the State and local governments must grant a 50% property tax credit for a brownfield, landfill, or clean fill on which a specified community solar energy generating system is installed.

Optional Local Property Tax Credit for Solar Energy Devices

Under § 9-203 of the Tax-Property Article, counties and municipalities are authorized to grant tax credits against county or municipal property taxes for the use of a solar energy, geothermal energy, or qualifying energy conservation device in a structure for the purposes of heating and cooling, electricity generation, or the provision of hot water. Local governments may establish related definitions in determining eligibility for the credit.

Optional Local Real Property Assessment Reduction for Certain Parking Canopies

Under § 7-250 of the Tax-Property Article, the governing body of a county or municipality may reduce or eliminate, by law, the percentage of the assessment of any real property that is subject to the county or municipal property tax if the real property includes a parking facility on which a solar energy generating system has been constructed on its canopy. These provisions apply only to real property that includes a parking facility on which a system has been approved by PSC for a CPCN or CPCN exemption on or after July 1, 2024.

Sales and Use Tax Exemptions

Under § 11-230 of the Tax-General Article, the sales and use tax does not apply to the sale of solar energy equipment, which is defined as equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or supplied to the electric grid, or provide hot water for use in a structure.

Under § 11-207 of the Tax-General Article, the sales and use tax does not apply to the sale of electricity generated by solar energy equipment for use in residential property owned by an eligible customer-generator under the State's net metering law.