

**Department of Legislative Services**  
Maryland General Assembly  
2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1219  
Economic Matters

(Delegate Miller, *et al.*)

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**Maryland Co-Location Energy Innovation and Reliability Act**

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This bill requires the Public Service Commission (PSC) to adopt regulations related to the construction of a generating station that is co-located with a data center but is not interconnected with the electric transmission or distribution system.

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**Fiscal Summary**

**State Effect:** PSC can adopt the required regulations with existing budgeted resources. The Office of People’s Counsel can likely participate in related PSC proceedings with existing budgeted resources. The effect of the bill on State finances cannot be reliably determined at this time, but could be significant, as discussed below. The effect on electricity rates cannot be reliably determined at this time.

**Local Effect:** The effect on local finances cannot be reliably determined at this time, but could be significant, as discussed below.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The regulations must:

- define a generating station as an independent resource not subject to State laws and regulations related to retail electric customers or electricity suppliers;
- clarify that State-mandated electric distribution system fees or renewable energy portfolio standard obligations do not apply to the generating station or energy generated at the generating station;

- ensure that a generating station includes backup sources of electricity for reliability, including on-site generating capacity;
- develop robust protective measures to ensure that a generating station does not interact with the electric transmission or distribution system;
- require a generating station to include cybersecurity safeguards;
- ensure that an applicant for a Certificate of Public Convenience and Necessity (CPCN) for the construction of a generating station demonstrate during the application process that the generating station must (1) be an independent resource that will not be interconnected with electric transmission or distribution system; (2) comply with all relevant State and federal laws; and (3) contribute to the State’s energy goals; and
- require a person that owns or operates a generating station to submit an annual report to PSC that includes information regarding (1) the source and amount of energy used at the generating station; (2) the environmental impact of the generating station; (3) the generating station’s contributions to State energy goals through energy efficiency or emissions reductions; and (4) compliance with operational standards for the generating station.

**Current Law:** PSC is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through CPCNs. For additional information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

Chapter 537 of 2024 required PSC to study and make recommendations on issues related to the utilization of end-use electricity customer load that is physically connected to the facilities of an existing or planned electric generation facility, also known as co-located load configuration or co-location. PSC was required to [report](#) its findings and recommendations to the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee by December 15, 2024. PSC established Public Conference 61 to address these topics and requested comments from relevant stakeholders, which, along with several Federal Energy Regulatory Commission proceedings, informed the final report.

The report focuses on an emerging co-location arrangement in which a load co-locates with a generator that is interconnected to the grid, but is situated behind the generator’s meter. Under this arrangement, a load (such as a data center) sets up its facilities to offtake electricity directly from the generator instead of interconnecting directly with the electric grid. In this scenario, some or all of the generator’s capacity could be reserved for the exclusive use of the co-located load, in which case it would not be considered available to serve the wider electric grid. The report labels this arrangement a “Type B” configuration, in contrast to a “Type A” configuration that still interconnects to the grid.

The Department of Legislative Services notes that the co-location arrangement contemplated by the bill is neither of these configurations; under the bill, the *generating station* is not connected to the electric grid.

The report addresses the various impacts on reliability, rates, and regional energy market of co-location and concludes that “some forms of co-location represent novel approaches to connecting load to the grid. However, certain other co-location proposals have the potential to create immediate and significant challenges to the grid, impacting overall resource adequacy and rates charged to customers. These approaches may warrant changes in the [Public Utilities Article] and future consideration as variations on those approaches develop.” Specific recommendations in the report include the following.

- The General Assembly should confirm in statute that the load in a co-location arrangement is a retail electric customer, addressing the arrangement as a retail electric sale subject to PSC jurisdiction.
- The General Assembly should clarify whether generators that engage in a “Type B” (generally, “behind-the-meter”) co-location arrangement violate utility franchise agreements under the definition of electric company, or if they should be granted an exception and what the terms of that exception may be.
- The General Assembly should clarify the distinction between retail net metering and a Type-B co-location arrangement.
- The General Assembly should make clear whether the electric company, through which tariffs can be assigned, is the utility in whose territory the load resides. Additionally, or alternatively, the General Assembly should make clear whether any co-location party is an electric company or an electricity supplier, thereby requiring it to meet State renewable energy requirements.
- The General Assembly should require costs for programs like the Electric Universal Service Program and EmPOWER Maryland, as well as other costs that may be deemed appropriate, be allocated to large co-located loads.
- The General Assembly should ensure that there are rules in place to impose penalties on a co-location arrangement at which load unexpectedly comes onto the grid to preclude the risk of reliability challenges, along with related cybersecurity requirements.
- The General Assembly should define the degree of control the State should exercise over co-location arrangements in Maryland, such as a review process similar to CPCNs for determining whether each proposed co-location instance is in the public interest before it is allowed to proceed.
- Large co-located loads should be encouraged to bring new, clean energy generation with them.

**State/Local Fiscal Effect:** As discussed in the PSC report above, the regulatory environment around data center co-location remains uncertain at the federal and state levels. Additionally, whether and to what extent the bill can be considered responsible for a particular new generating station co-locating (or not) behind-the-meter with a data center (new or not) in the State is unknown. Therefore, the effect on State and local finances due to the bill is likewise unknown. However, generally, any new generating station and/or new data center constructed in the State, due to the bill, when it otherwise would not have been, increases State and local revenues from the associated economic activity. Still, given the growing data center industry and its large power demands, the effect on State and local finances could be significant over time.

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### **Additional Information**

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

**Designated Cross File:** None.

**Information Source(s):** Public Service Commission; Maryland Department of the Environment; Department of Natural Resources; Maryland Energy Administration; Office of People's Counsel; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2025  
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# Appendix – Certificate of Public Convenience and Necessity

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## *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.