

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 26 (Senator McKay)
Education, Energy, and the Environment

Public Utilities - Off-Grid Electricity Providers - Exemption

This bill generally exempts an “off-grid electricity provider” that begins to generate, transmit, distribute, or sell electricity beginning October 1, 2026, from any provision of the Public Utilities Article and any regulation, order, or permit adopted or issued under the article. However, when constructing an electric generating facility, an off-grid electricity provider must comply with the requirements in § 7-207 of the Public Utilities Article (that requires a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission (PSC) prior to the construction of an electric generating facility) and § 7-207.1 of the Public Utilities Article (that establishes an approval process through PSC for persons exempt from the CPCN requirement). Any person that qualified as an off-grid electricity provider whose electric generating facility subsequently interconnects with the electric system in the State, crosses State lines, or becomes located within or crosses any federal, State, or municipal roadway or right-of-way may no longer be considered an off-grid electricity provider for purposes of the bill.

Fiscal Summary

State Effect: State finances and operations are not materially affected, under the assumptions discussed below.

Local Effect: Local government finances and operations are not materially affected, under the assumptions discussed below.

Small Business Effect: None.

Analysis

Bill Summary: An “off-grid electricity provider” means a person that owns or operates an electric generating facility that (1) does not interconnect with the electric system in the State; (2) does not cross State lines; and (3) is not located within and does not cross any federal, State, or local roadway or right-of-way.

Current Law: PSC must supervise and regulate public service companies, which includes electric companies, subject to its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination.

Public Service Commission - Generation Regulatory Limit

PSC does not have authority over generation facilities, except in approving siting of new facilities in the State under the CPCN process. PSC may only assert jurisdiction when a facility qualifies as a generating station. “Generating station” means property or facilities located in Maryland constituting an integral plant or generating unit for the production of electric energy, including any new production unit that would be added to an existing production plant. State law provides that a “generating station” excludes:

- a facility used for electricity production with a capacity of up to 2.0 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 2.0 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).

Certificate of Public Convenience and Necessity

PSC is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through the CPCN process, which is a comprehensive process involving several other State agencies, including the Department of Natural Resources and its Power Plant Research Program and the Maryland Department of the Environment.

Generally, facilities with generating capacities of up to 2.0 megawatts do not require a CPCN. Section 7-207.1 of the Public Utilities Article specifies conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement; however, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct such a generating station.

For more information on the CPCN process (under § 7-207 of the Public Utilities Article) and the approval process for a person who is exempted from the CPCN requirement (under § 7-207.1 of the Public Utilities Article), see the **Appendix – Certificate of Public Convenience and Necessity**.

State/Local Fiscal Effect: This analysis assumes that the bill does not alter the applicability of §§ 7-207 and 7-207.1 of the Public Utilities Article as they relate to the evaluation and permitting of an electric generating facility owned or operated by an off-grid electricity provider; the electric generating facility remains subject (or not) to those provisions, as applicable, depending on the specifics of the facility – such as its capacity. Under this assumption, the bill does not materially affect State or local finances or operations associated with the CPCN or CPCN exemption processes. To the extent that the bill alters the applicability of one or both of those sections, State and local finances and operations related to those processes are affected.

Additional Information

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

Designated Cross File: HB 1190 (Delegate Hinebaugh) - Environment and Transportation.

Information Source(s): Public Service Commission; Office of People’s Counsel; Department of Natural Resources; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2026
jg/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 (CPCNs). 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, qualified generator lead line, overhead transmission line designed to carry more than 69,000 volts, or certain energy storage devices 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.

Exemptions Under § 7-207.1 of the Public Utilities Article

Section 7-207.1 of the Public Utilities Article specifies three 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.

Exemptions Under § 7-207.4 of the Public Utilities Article

The Renewable Energy Certainty Act of 2025 (Chapters 623 and 624) establishes the Distributed Generation Certificate of Public Convenience and Necessity (DGCPCN), a certificate that PSC may issue – in lieu of a CPCN – to a person seeking to construct and operate community solar projects that have a generating capacity of 2 megawatts to 5 megawatts and meet other specified requirements. A DGCPCN carries the same force and effect as a CPCN while offering applicants a streamlined review process; however, until PSC begins accepting applications for DGCPCNs (likely in 2027), a CPCN will still be required to construct a community solar project.

As with the CPCN process, PSC must provide an opportunity for public comment and hold a public hearing on a DGCPCN application in each county where any portion of the project is proposed to be located.

Additional Information

For a more thorough discussion of the above topics, along with legislative history and recent data trends, see [*The Maryland Certificate of Public Convenience and Necessity*](#) on the Department of Legislative Services' website.