

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 928 (Delegate Embry, *et al.*)
 Environment and Transportation

**Certificates of Public Convenience and Necessity - Transmission Lines -
 Applicability and Waivers**

This bill, except as otherwise specified, replaces references to “overhead transmission lines” with “transmission lines” in § 7-207 of the Public Utilities Article. Accordingly, a person may not begin construction of an *overhead or underground* transmission line designed to carry in excess of 69,000 volts without first obtaining a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission (PSC). (Under current law, a person is only required to obtain a CPCN to construct an *overhead* transmission line). Additionally, for construction related to an existing transmission line, the bill (1) repeals an existing provision requiring PSC to waive the CPCN requirement under specified circumstances (with respect to an overhead transmission line) and (2) requires PSC to consider certain factors before granting a waiver for good cause. By July 1, 2027, PSC must adopt regulations that establish specific criteria for determining whether to waive, for good cause, the CPCN requirement for such construction.

Fiscal Summary

State Effect: PSC and the Office of People’s Counsel can likely implement the bill’s changes with existing budgeted resources. General/special fund expenditures for the Department of Natural Resources (DNR) increase by \$516,900 in FY 2027; future years reflect annualization, inflation, and ongoing costs. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	516,900	564,100	578,700	593,600	608,700
Net Effect	(\$516,900)	(\$564,100)	(\$578,700)	(\$593,600)	(\$608,700)

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

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: For construction related to an existing overhead transmission line, the bill repeals a provision requiring PSC to waive the CPCN requirement if the commission finds that the construction does not require (1) obtaining new real property or additional rights-of-way through eminent domain or (2) larger or higher structures to accommodate increased voltage or larger conductors. Additionally, when determining whether to grant a good-cause waiver from the CPCN requirement for such construction under the bill (which relates to both existing overhead *and* underground transmission lines), PSC must consider the cost of the construction on ratepayers, the impact of the construction on the environment, and any other matter that PSC deems appropriate.

Current Law: Generally, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction unless a CPCN is first obtained from PSC. However, there are several potential pathways for construction related to an *existing* overhead transmission line to occur without a CPCN. First, PSC may waive the requirement to obtain a CPCN for good cause. Second, the commission must waive the requirement if it finds that the construction does not require (1) the obtainment of new real property or additional rights-of-way through eminent domain or (2) larger or higher structures to accommodate increased voltage or larger conductors. Finally, a person may undertake necessary construction, including repairs, to avoid an imminent safety hazard or reliability risk; the person must file a report with PSC within 30 days of completing the work.

The application process for a CPCN 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; and the effect of climate change on the project.

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

State Expenditures: DNR advises that the bill is likely to increase the number of transmission line projects that apply for a CPCN each year, resulting in an increased workload for DNR’s Power Plant Research Program (PPRP). DNR estimates that the bill may result in two additional CPCN applications annually, although the actual number may vary. Due to the complexity and time-intensive nature of CPCN reviews for transmission lines, DNR advises that PPRP requires additional staff and consultants to manage the increased workload.

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.

Accordingly, general/special fund expenditures for DNR increase by \$516,938 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring two site assessors for PPRP to complete evaluations of the additional CPCN applications anticipated to be submitted under the bill, as well as one part-time attorney to provide necessary legal support. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, in addition to \$250,000 in consulting expenses.

Positions	2.5
Salaries and Fringe Benefits	\$240,557
Consultant Costs	250,000
Other Operating Expenses	<u>26,381</u>
Total FY 2027 DNR Expenditures	\$516,938

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including ongoing consultant costs of \$250,000 annually.

Additional Comments: PSC advises that the bill’s repeal of a provision requiring the commission, under certain circumstances, to grant a waiver from the CPCN process for construction related to an existing overhead transmission line could reduce electricity costs for ratepayers. According to PSC, this mandatory exemption precluded consideration of potentially more cost-effective alternatives to replacing aging transmission facilities. However, the Department of Legislative Services advises that the extent of any potential impact on electricity costs cannot be reliably estimated.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Cecil, Frederick, Montgomery, and Somerset counties; cities of Frederick and Havre de Grace; Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Planning; Maryland Department of Transportation; Office of People's Counsel; Public Service Commission; Department of Legislative Services

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caw/lgc

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

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.