

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 799 (Delegate Miller, *et al.*)
Environment and Transportation

Maryland Co-Location Energy Innovation and Reliability Act

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.

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. In addition, it is assumed that the Department of Natural Resources can likely assist PSC, if needed, using existing 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.

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 (RPS) 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 the 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 3 of the 2025 Special Session – Report on Data Center Development

Chapter 3 of the 2025 special session requires the Maryland Department of the Environment, the Maryland Energy Administration, and the University of Maryland School of Business, respectively, to complete assessments of the likely environmental, energy, and economic impacts of data center development in Maryland, including, among other things, (1) how data centers will affect future energy infrastructure needs and costs paid by ratepayers and (2) the likely impact of data centers on State and local revenues and expenditures and the jobs likely to be created through the construction and operation of data centers. The Department of Legislative Services (DLS) must coordinate the preparation of the assessments and synthesize them into a final report to be submitted to the Governor and the General Assembly by September 1, 2026.

Chapters 625 and 626 of 2025 – Next Generation Energy Act

Large Load Rate Schedule

Chapters 625 and 626 of 2025 (Next Generation Energy Act) requires electric utilities to establish a specific rate schedule for a “large load customer” (a commercial or industrial customer for retail electric service that has or is projected to have an aggregate monthly demand of at least 100 megawatts and a load factor of over 80%), approved by PSC, that:

- requires a large load customer to cover the just and reasonable costs associated with any electric transmission or distribution system buildout required to (1) interconnect the customer to the electric system serving the State or (2) serve the customer;
- protects residential retail electric customers from the financial risks associated with large load customers through specified means; and
- sufficiently ensures that the allocation of costs to large load customers under the schedule does not result in other customers unreasonably subsidizing the costs of large load customers.

PSC must adopt regulations to carry out the requirement by June 1, 2026.

Behind-the-meter Co-location

The Acts also specified that, for certain co-location arrangements between a commercial or industrial customer and a generating station, PSC may apply:

- any direct or indirect costs, fees, and obligations that are normally applied to retail electric customers in the service territory in which the commercial or industrial customer or generating station is located or interconnected, if PSC determines that they should be attributable to the customer and generating station; and
- any avoided wholesale costs that PSC determines have been or may be shifted inappropriately to other retail electric customers as a result of the provision of the direct supply of electricity through the co-location arrangement, including costs associated with transmission, energy, capacity, and ancillary services.

Generally, these provisions apply only to entities entering into a contract for the provision of electricity in a way that bypasses (1) interconnection of the load with the electric transmission and distribution systems or (2) the distribution services of an electric company. However, the provisions do not apply to the use of electricity from an on-site generating station that has been approved under the CPCN exemption process.

Chapter 537 of 2024 – Report on Co-Location Arrangements

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.

DLS 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.”

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. Notwithstanding this uncertainty, any new generating station and/or data center constructed in the State as a result of the bill, when it otherwise would not have been, increases State and local revenues through 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.

Additional Comments: As discussed above, the bill requires PSC to adopt regulations related to the construction of generating stations co-located with data centers that are not interconnected with the electric transmission or distribution system, including regulations exempting such facilities from certain State laws, electric distribution system fees, and RPS obligations. DLS notes that these requirements may conflict with authority granted to PSC under the Next Generation Energy Act of 2025, which authorizes PSC to apply specified costs and obligations to electricity suppliers or other owners of generating stations that enter into direct-supply arrangements that bypass interconnection to the electric grid.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 947 and HB 1219 of 2025.

Designated Cross File: None.

Information Source(s): Public Service Commission; Office of People’s Counsel; Department of Natural Resources; Maryland Energy Administration; Maryland Department of the Environment; Office of the Attorney General; 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 (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.