



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

February 25, 2020

The Honorable Delores G. Kelley, Chair  
Finance Committee  
Miller Senate Office Building, 3E  
Annapolis, MD 21401

### **Re: Senate Bill 741 Certificate of Public Convenience and Necessity - Electric Facilities - Study and Procedures**

Dear Chair Kelley and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed *SB 741 - Certificate of Public Convenience and Necessity - Electric Facilities - Study and Procedures* and would like to provide some information on this bill.

The bill changes § 3-306 of the Natural Resources Article involving the review process for an application to the Public Service Commission (PSC) for a certificate of public convenience and necessity (CPCN) associated with power plant construction “involving, but not limited to, use or diversion of the waters of the State, or private wetlands.” The bill seems to add specificity on the type of report required by the Department of Natural Resources (DNR). As MDE understands it, however, an independent environmental and socioeconomic project assessment report consistent with the added specificity language is already being provided under the general language of the current law, albeit not within a 60-day window.

MDE contributes to the report that is currently required under § 3-306. For a CPCN application for a fossil fuel-fired power plant, which is the type of application most affected by the 60-day time frame, MDE and DNR currently adhere to the procedural schedule set by the PSC. The agencies follow this schedule as it is well recognized that a 60-day timeline would be too short for completion of the project assessment report and other necessary documents. For fossil fueled plants, it is typical for CPCN applications to be incomplete when they are submitted to the PSC. As such, it can take weeks (and sometimes months) before the statutory threshold of a complete application is met. Due to this fact, the current study that is required under §3-306 is typically provided in the last stages of the process and is included as part of the State’s letter of recommendation and pre-filed testimony in accordance with a procedural schedule established by the PSC Utility Law Judge. The PSC schedule is typically 6-12 months depending on the complexity of the project. As such, if the 60-day time frame were to be enforced for fossil fuel-fired power plants, it would not allow adequate time for a thorough review of the impacts from such plants, which would not serve the public well.

Thank you for your consideration. We will continue to monitor *SB 741 - Certificate of Public Convenience and Necessity - Electric Facilities - Study and Procedures* during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

Tyler Abbott  
cc: George “Tad” Aburn, Director, Air and Radiation Administration