



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary

February 18, 2021

The Honorable Derick E. Davis
Chair, Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401

Re: Letter of Information – House Bill 777 – Environment – Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations

Dear Chair, Vice Chair, and Committee Members,

The Maryland Department of Natural Resources provides the following information on House Bill 777. This bill rushes the timeline under which the department's Power Plant Research Program (PPRP) must provide environmental review and mitigation recommendations for all Certificate of Public Convenience and Necessity (CPCN) applications.

CPCNs are required for the construction or modification of all high-voltage transmission lines or electric generating stations like solar, hydroelectric, natural gas, nuclear, or wind. Currently, PPRP coordinates the statewide review of CPCNs to mitigate projects' environmental impacts to rare, threatened or endangered species, streams, wetlands, birds, water quality, and among many others. Other considerations for mitigation include sea level rise and climate change. PPRP is the State's ***only*** intervenor in CPCN cases that analyzes environmental impacts and that has standing to move recommended mitigation conditions to the Public Service Commission (PSC).

Existing statute reflects a time before utility deregulation where the State bought land and held it in reserve for the construction of new generating capacity as needed to meet electricity demand. The 60-day review stricken in the bill is linked to PPRP having pre-screened and pre-approved sites for designated power plants. Following deregulation, PPRP review timelines are based on PSC's procedural schedule.

In general, the department supports HB 777 bringing the statute in line with the PSC's current practice of PPRP completing its portion of the CPCN review for ***solar generating station*** cases within six months. Most solar CPCNs applications have PPRP review completed and PSC approval within just slightly over six months. There are always outliers, however, and the department believes that the pending establishment of a new pre-application process by the PSC in its recently opened rulemaking (RM 72) will allow the new timeline to be met consistently. Historically, PPRP's reviews have been stymied by a lack of information and transparency provided by solar developers in their initial applications.

As noted above, HB 777 is presently drafted to encompass all CPCN cases, including hydroelectric, natural gas, nuclear, transmission and wind energy cases. The complexity of these cases and the agency coordination is extensive, and requires a much longer review window than six months in order for PPRP to adequately meet its energy and environmental mission.

Although HB 777 attempts to provide an exemption of CPCN cases from the six-month timeline based on evidence of “undue hardship,” the PSC has indicated to the department that any such “release-valve” provision would not allow the six-month deadline to be waived routinely as would be the case with many non-solar CPCN applications. Therefore, should the provisions of HB 777 continue to apply to non-solar projects, the General Assembly would mandate rushed and incomplete environmental mitigation of all major energy projects in Maryland to the detriment of our citizens and our vulnerable communities.

Thank you for allowing the department to provide the above information on HB 777 for the committee’s thoughtful consideration.

Respectfully submitted,

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Director, Legislative and Constituent Services