



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

February 10, 2021

The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee
2 West Senate Office Building
Annapolis, MD 21401

The Honorable Cheryl C. Kagan
Vice Chair, Education, Health, and Environmental Affairs Committee
2 West Senate Office Building
Annapolis, MD 21401

Re: Support with Amendments – Senate Bill 417 – 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 supports Senate Bill 417 with amendments. This bill alters the circumstances under which the Public Service Commission (PSC) must notify the department and the Maryland Department of the Environment about an application for a Certificate of Public Convenience and Necessity (CPCN) associated with large-scale energy infrastructure.

The department's Power Plant Research Program (PPRP) coordinates the statewide review of CPCNs to minimize environmental impacts to rare, threatened or endangered species, streams, wetlands, birds, water quality, and other critical natural resource considerations. PPRP is the state's only intervenor in CPCN cases that analyzes potential environmental impacts and moves forward conditions that mitigate and remediate them.

In general, the department supports bringing the statute in line with the PSC's current practice of PPRP completing its portion of the CPCN review for solar generation cases within six months. In fact, 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, reviews have been stymied by a lack of information and transparency provided by developers in their initial applications.)

That said, there are two amendments that the department has previously discussed with the bill's proponents. First, SB 417 is directed in spirit at solar cases, but is presently drafted to encompass all 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 in order for PPRP to adequately meet its energy and environmental

mission. Second, the exemption of cases from the six-month timeline via “undue hardship” is ambiguous and perhaps not a legally-adequate application. Balancing the fact that there may be rare instances where six months may not be adequate to complete review, the department would recommend amending the bill to allow the PSC to modify the procedural schedule and exempt the six-month review deadline “for good cause” instead.

For the above reasons, the department respectfully requests the committee to grant SB 417 a favorable report provided it is thoughtfully amended.

Respectfully submitted,

James W. McKitrick
Director, Legislative and Constituent Services