



P.O. Box 278
Riverdale, MD 20738

Committee: Education, Energy, and the Environment

Testimony on: SB489 “Public Service Commission – Certificates of Public Convenience and Necessity – Local Permits”

Position: Support

Hearing Date: February 21, 2023

The Maryland Chapter of the Sierra Club urges a favorable report on SB489. This bill will help ensure that the process established by state law for approval of large electricity generation projects – i.e., approval by the Public Service Commission (PSC) following an intensive study of a proposed project – proceeds at a reasonable pace through the additional steps local governments need to take following PSC approval to enable projects to be constructed.

Ensuring that county and municipal approvals proceed at a reasonable pace for new electricity generation projects is especially critical because of the need for the development of new solar energy projects in Maryland. The General Assembly has established as a target that solar energy should constitute 14.5% of the State’s energy consumption by 2030. The PSC estimates that the 14.5% amount represents about 6,200 megawatts (MW) of solar. This is the minimum needed to meet Maryland’s greenhouse gas reduction goal of a 60% reduction (compared to 2006 levels) by 2031, a goal set last year by the Climate Solutions Now Act.

For a variety of reasons, however, Maryland is not meeting its year-by-year interim targets for increasing its solar capacity to the 14.5% figure. The Solar Energy Industries Association estimates that Maryland had about 1,600 MW of solar at the end of 2022; this means that Maryland will need to develop 4,600 MW of solar from 2023 to 2030 to achieve the 14.5% target. This would require Maryland to more than double its current rate of solar development.

State law grants sole authority to the PSC to approve electricity generation projects larger than two megawatts, which the PSC does by granting what is known as a Certificate of Public Convenience and Necessity (“CPCN”). In recent years, concerns arose – and were addressed by the General Assembly – regarding the manner in which this state level review takes into account local issues and perspectives relating to proposed projects.

The resolution is a requirement that CPCN applicants seek input from local governments and the public prior to submitting their applications, and provisions that allow local governments to participate in PSC CPCN proceedings to provide their input directly to the decisionmaker. Further, when CPCNs are granted, the PSC specifies the ministerial or technical local permits that need to be obtained for construction to begin (such as a plan for managing stormwater). In this process, local governments may not require any permits not identified in the CPCN nor may

Founded in 1892, the Sierra Club is America’s oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

they use these follow-up permit proceedings to question the decision to site the facility, since that decision belongs exclusively to the PSC.

Despite this well ordered and clear system, some localities now are contending that they lack the authority to implement the permits set forth in a CPCN. This interposition of a lack of authority is at odds with the approved CPCN and the process that resulted in the PSC including the permit requirements in the CPCN. It can put a halt to energy generation projects approved by the PSC, which itself is contrary to the state policy that decisions on whether to proceed with particular projects are made at the state level by the PSC, not by local governments.

This bill will address this unexpected problem by making it clear that local governments have the authority to issue the permits identified in a CPCN, and must process these permits in a reasonable amount of time. It is our understanding that a sponsor amendment will be offered to clarify the language in the bill as introduced.

For these reasons, we urge a favorable report on this bill.

Mark Posner
Clean Energy Team Lead
mposner5719@gmail.com

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org