

SB0931-EEE_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 931

*Public Utilities - Certificate of Public Convenience and
Necessity - Solar Photovoltaic Systems*

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
Committee

Date: March 15, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 931. This bill simply seeks to put in statute already existing practice – that solar facilities producing under 2 megawatts (MW) of alternating current must follow local policy and are not required to receive a Certificate of Public Convenience and Necessity from the Public Service Commission (PSC).

Decades ago, the General Assembly chose to create a state-level process to authorize and site utility scale power generation facilities. Recent court decisions have confirmed that these laws, written long before the advent of widespread deployment of solar facilities, also apply to solar facilities if they are of a suitably large scale. Local authority is limited in the oversight of the location and approval of such facilities – primarily, facilities under 2MW must follow local policy while facilities above 2MW are the purview of the PSC, with limited local input.

SB 931 simply codifies current practice (i.e. the 2MW or below principle) into statute, removing ambiguity and providing predictability for all stakeholders. Local government and industry are united in wanting to preserve this already well-thought-out and existing practice. Without the clarity provided by SB 931, Maryland risks losing out on positive future development or complicating already successful ventures.

The predictability and clarity provided by SB 931 are important to Maryland’s continued safe and responsive deployment of community-scale solar facilities. Accordingly, MACo requests a **FAVORABLE** report on SB 931.

FAVORABLE_SB 931 Support CI Renewables.docx-2.pdf

Uploaded by: Josh Smith

Position: FAV



Testimony SB931:

Public Utilities – Certificate of Public Convenience and Necessity – Solar Photovoltaic Systems

Position: **SUPPORT**

March 14th, 2023

Dear Chair Feldman and The Education, Energy, and the Environment Committee,

On behalf of CI Renewables, I respectfully urge a favorable vote on SB 931. CI Renewables is a developer, owner, and operator of commercial and industrial scale solar power generation assets – predominantly serving hospitals, governments, and large energy users. Since 2010, we’ve developed and built complex renewable projects totaling over 200MWs spread throughout Maryland, New Jersey, California, and Virginia. In 2021, we moved our headquarters to Baltimore City so we could invest in Maryland’s economy and grow the commercial and industrial solar market. We’ve only just begun and have already delivered 30MWs of solar energy to Howard County Government as part of the largest Power Purchasing Agreement in the state. We are currently developing projects in Baltimore City, Baltimore County, Anne Arundel County and Howard County.

Clarity and transparency in the land use, zoning, permitting and regulatory process surrounding renewable energy development in the State is vital. It is one of the fundable pillars that creates a stable, investable market, and is therefore critical to reaching our RPS target. To begin the years’ long process of designing, developing, permitting, and constructing a solar energy facility in the State, it is absolutely critical that all stakeholders have clear visibility as to which permits are required and which of our many agencies or government authorities have jurisdiction over which parts of the process. It is also paramount that the renewable energy industry can trust the regulations and precedent set forth before them when they start into a new project development process.

This bill seeks to provide that clarity, transparency and security - simply by codifying the clear precedent set forth to date. We believe this precedent is equitable, leaving jurisdiction for projects under 2MWs, regardless of co-location, with the host Counties. This is particularly appropriate considering that projects like these can only serve and sell electricity to County and local governments, agricultural users, and non-profit customers, almost all of which will be part of that same local community.

We thank Sen. Hester for her leadership on this bill and commend her for her unrelenting commitment to her Howard County constituency!

Josh Smith
CI Renewables
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HB1188/SB931- Certainty in Solar Permitting

WHAT IT IS...

- Codifies Public Service Commission (PSC) precedent allowing local permitting for colocation of electrically-separate net metered projects without requiring permitting through the Certificate of Public Convenience and Necessity (CPCN) process.

WHAT DOES THIS BILL CHANGE ABOUT CURRENT LAW...

There's a requirement for a CPCN for anyone building a "generating station." HB1188/SB931 codifies two existing regulatory exceptions from the definition of "generation station":

- electric facilities producing not more than 2 MW AC; and
- co-located, separately metered facilities that individually produce not more than 2 MW AC, even if collectively they produce more than 2 MW.

Thus, because these facilities are excluded from the definition of generating station, no CPCN is required and the permitting process stays at the local level. This is consistent with PSC precedent for the *Annapolis Solar Project* and *Blue Star*. Because the definition of generating station is otherwise unchanged, passage will not have unintended consequences.

WHY DOES THIS MATTER? For a narrow subset of projects, *i.e.*, aggregate virtual net metered projects developed for county/municipal governments, non-profits, and agricultural interests, this legislation would provide certainty and clarity in the process. It does not affect community solar, utility scale (>2MW AC) projects, and it does not allow utility scale projects to segment to avoid CPCN permitting.

WILL PROJECTS STILL HAVE REVIEW AND OVERSIGHT? Yes. Non-CPCN projects are subject to review substantially similar to that of the CPCN process via the applicable local land use process. In addition to zoning, site plan, stormwater, sediment and erosion control, building permits, etc. any applicable state or federal reviews (e.g., wetlands, forestry, FAA, habitat, historic, etc.) are performed by the same agencies and personnel participating in in the CPCN process. Likewise, interconnection with the grid is handled through the local utility subject to applicable safety regulations exactly as occurs for utility scale projects.

CONTACT INFORMATION

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Howard County OCS SB931.pdf

Uploaded by: Joshua Feldmark

Position: FAV



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SB931 – Public Utilities – Certificate of Public Convenience and Necessity – Solar
Photovoltaic Systems

Education, Energy, and the Environment Committee
March 15, 2023

Leah Miller, Howard County Energy Manager

Position: Support

Mr. Chairman and honorable members of the Committee:

Howard County writes to request the Committee's support on SB931, which codifies existing Public Service Commission (PSC) precedent for co-located aggregate net metered (ANEM) solar projects, clarifying that these smaller projects, though proximately located to one another, should be treated as separate 2MW projects, and thus exempt from the Certificate of Public Convenience and Necessity (CPCN).

As you may be aware, two years ago Howard County entered into Maryland's largest solar power purchase agreement. When completed, there will be 19 projects on 10 different sites. These 19 projects will supply Howard County Government with 44 million kilowatt hours per year, which is about two thirds of our total energy needs.

The County was able to accomplish this through a unique approach to the program. Nine of the 19 projects are ANEM projects co-located on three separate private properties in Howard County, each project generating 2MW. The design of these projects as ANEM allowed the County to build the other – significantly more expensive – projects on rooftops and parking lots on government-owned properties throughout the County. These lower-cost ANEM projects created capacity for the County to also invest significantly in electric vehicle (EV) infrastructure throughout the County.

The development of solar programs at this scale requires intricate financing strategies, which weigh the costs of generation against the value of the power generated. Without these co-located ANEM projects, Howard County's program would not be financially viable. Though the PSC has endorsed the exemption from the requirement for a CPCN for Howard County's co-located ANEM projects in two separate cases by correctly viewing these as three separate 2MW projects, significant threshold questions were raised in the evaluation of the most recent case. Had precedent been reversed, this reinterpretation of the law would have undercut Howard County's entire solar program.

SB931 simply codifies the PSC's existing precedence in the case of these co-located ANEM projects that are up to 2MW, making clear the State's intent to allow Howard County's example to stand as a model and eliminating any uncertainty in future cases before the PSC. The passage of this bill would give much-needed clarity and stability to Howard County as well as other governments, school systems, and public or nonprofit institutions so they may pursue similar solar projects – generating large amounts of solar energy with little or no additional investment from the government.

Howard County requests a favorable report on SB931.

Favorable_SB_931_Supp.pdf

Uploaded by: Kelsey Wood

Position: FAV



Greenbacker
RENEWABLE ENERGY COMPANY™

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Testimony SB 931:

Public Utilities - Certificate of Public Convenience and Necessity - Solar Photovoltaic Systems

Position: **SUPPORT**

March 14, 2023

Dear Chair Feldman and Education, Energy, and the Environment Committee,

On behalf of Greenbacker Renewable Energy Corporation, I respectfully urge a favorable vote on SB 931. Greenbacker Renewable Energy Company (GREC) is an independent power producer that generates power, invests in power generation technology, and sells power to public and private offtakers. We are currently operating 4 solar projects in the state of Maryland totaling 18.7 MW (ac) in capacity, with 2 others that are on the cusp of reaching commercial operation. Both of those projects could be negatively impacted if the PSC does not choose to follow precedent and approve our SREC applications due to being under 2MWs and co-located right next to one another.

It is vital in renewable energy development to have clarity and transparency in the land use, zoning, permitting and regulatory process. It is essential to create a stable, investable market, which is critical for us if we are choosing to develop a project in the state of Maryland. Our stakeholders must have clear visibility as to which permits are required and which agency or government authorities have jurisdiction over each part of the process. It is also paramount that the renewable energy industry can trust the regulations and precedent set forth before them when they start the development process.

The bill at hand should provide the transparency and security we are seeking to alleviate some of our concerns about developing projects in the state of Maryland. Codifying the clear and obvious precedent previously set forth is equitable, as it leaves jurisdiction for projects under 2 MWs with the host counties, regardless of co-location. This is important, as these projects are often community solar and ANEM projects that benefit LMI residential customers, local governments, non-profits, and agricultural users that are all part of the communities where the projects are located.

We would like to thank Sen Hester for her leadership on this bill and commend her for her commitment to creating a clean energy future for the people of Howard County.

Greenbacker Renewable Energy Company

DocuSigned by:

Matt Murphy

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Matthew Murphy, Authorized Representative



SB0931(HB1188) - FWA - Public Utilities - Certific

Uploaded by: Landon Fahrig

Position: FWA



TO: Members, Senate Education, Energy, and the Environment Committee
FROM: Paul Pinsky Director, MEA
SUBJECT: SB 931 - Public Utilities - Certificate of Public Convenience and Necessity - Solar Photovoltaic Systems
DATE: March 15, 2023

MEA Position: [FWA](#)

Senate Bill 931 would limit the need to obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission (Commission) by eliminating colocated 2 MW systems from the full application process (a combination of multiple systems with individual nameplate capacity not exceeding 2 MW each, but with an indeterminate cumulative generation capacity measured in alternating current at the inverter). **The Maryland Energy Administration (MEA) is strongly supportive of efforts that will streamline the administrative side of renewable energy development**, and with its proposed bill amendments, will ease that regulatory process while still offering meaningful project review.

The CPCN process is not simply a hurdle to development. **The CPCN process, conducted by the Power Plant Research Project (PPRP) within the Maryland Department of Natural Resources (DNR) is a comprehensive, objective assessment based on sound science of electrical generation and transmission lines.** PPRP also coordinates a consolidated State Agency review process including review by the Maryland Department of the Environment (MDE).

Large solar installations should still undergo some level of scrutiny (e.g. glare and glint analysis) that are performed under a CPCN, and not necessarily completed under a county planning process alone. MEA believes that colocated projects on brownfields, landfills, parking lots and garages, rooftops, etc. should, however, benefit from a significantly expedited CPCN process. This is especially true if the project will offer subscriptions under a community solar regime. It is also possible that the CPCN application fee for these projects could be reduced or waived altogether, because their specific placement and general deployment align so closely with State goals.

In the spirit of further promoting community solar on brownfields, **MEA has partnered with the Maryland Environmental Service to study the potential of landfill and brownfield sites in the State suitable for hosting community solar projects.** This study will highlight the most feasible hosts sites for solar, evaluating nearly 2,000 landfill, rubble fill, brownfield, and superfund sites. In addition to the study, a geographic information system layer is being developed, outlining the data.

Recommended Amendments:

- Require that colocated projects must be sited on brownfields, landfills, parking lots and garages, rooftops, etc. to avoid the full CPCN process
- Eliminate the CPCN filing fee for colocated solar generation with gross capacity over 2 MW that will serve as community solar if located on brownfields, landfills, parking lots and garages, rooftops, etc.
- Create a limited CPCN process for these projects that allows for review of some of the factors that would normally be reviewed in the CPCN process, such as grid impacts and a glint/glare review.

The MEA amendments would create a more streamlined process for the most desirable placement of solar generation assets, while maintaining a reasonable level of oversight and State Agency involvement. MEA requests that the Committee humbly asks the Committee adopt the proposed amendments, and issue a **FAVORABLE AS AMENDED** report.

SB931_Information_Stanek.pdf

Uploaded by: Jason Stanek

Position: INFO

STATE OF MARYLAND



OFFICE OF THE CHAIRMAN

JASON M. STANEK

PUBLIC SERVICE COMMISSION

March 14, 2023

Chair Brian Feldman
Education, Energy and Environment Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 931 – INFORMATION with Amendments – Certificate of Public Convenience and Necessity – Solar Photovoltaic Systems

Dear Chair Feldman and Committee Members:

I write today to provide information regarding SB 931, which will define the term “generating station” as it relates to the Commission’s Certificate of Public Convenience and Necessity (CPCN) requirement for a developer that seeks to construct a solar photovoltaic (PV) system with the power output or “capacity” to produce a certain amount of electricity. SB 931 addresses an unresolved question of state policy involving the co-localization of smaller-scale solar PV systems and the need to undergo a comprehensive CPCN review for a grouping of such systems. While SB 931, as drafted, would advance the State’s solar policies, it raises several potential concerns, which are discussed below.

By statute and regulation, the Commission requires a CPCN or CPCN exemption for any generating station exceeding 2 MW. The CPCN process constitutes permission to construct the facility and requires the developer to mitigate adverse impacts from the proposed project. There is no statutory definition for “generating station” in the *Public Utilities Article*. Rather, the 2 MW threshold is established by COMAR 20.79.01.02. Since 2011, the Commission has processed CPCN requests for solar PV projects in the range of 2 to 150 MWs. As part of every CPCN review process, the Department of Natural Resources’ Power Plant Research Program (PPRP) reviews the potential impacts of a proposed generation project and recommends conditions designed to mitigate those impacts, such as storm water management, project decommissioning, and remediation of the project site upon termination of operations. Before the CPCN process is formally initiated, a CPCN applicant is required to coordinate with PRPP to discuss the project and identify the regulatory issues and any necessary studies. As part of the CPCN application process, the applicant is required to include specific project information, including an environmental review document and, for solar PV projects, a study of glare impacts.

Currently, a single, small-scale solar PV system that is less than 2 MW would not be subject to the CPCN requirement because it is not considered a generating station under COMAR 20.79.01.02. SB 931 would allow a developer to construct an undefined number of 2 MW generating systems collocated on the same property or adjacent properties, as long as each generating unit or facility is separately metered and does not export electricity for sale on the wholesale market. Such an arrangement of multiple systems would be excluded from the definition of “generating station” under the Bill and bypass the CPCN process. As a result, the existing CPCN provisions that normally serve important public purposes, in addition to local permitting, would be replaced by the local jurisdiction’s sole oversight. While this implicates a broader question of state policy, there is a concern that local counties and municipalities may not have the resources or expertise to conduct the same or comparable impact analyses as PPRP. As a solar PV project expands in size and capacity—whether it is a single generating facility or a collective of multiple, collocated systems—the potential impacts from the project’s total capacity become more significant and, thus, warrant a comprehensive review. The Commission is concerned that multiple, collocated solar PV systems could be collectively large enough and occupy the same footprint as a single, utility-scale solar facility, with the same types of impacts.

Earlier this month, the Commission considered a matter involving the issuance of solar certification credits (SRECs) for a solar PV project in Howard County that comprised three separately-metered facilities collocated on the same property, each with a capacity rating under 2 MW. The Commission decided in favor of the developer regarding the SRECs, allowing the company to receive the credits without completing the CPCN process. While the Commission noted that Howard County had conducted an extensive review of the project, there was a concern that shifting project approvals to the local jurisdictions lacks the benefit of consistency in evaluating project impacts. The Commission did not rule on the CPCN requirement issue but observed that the issue could be decided separately through Commission processes such as a rulemaking.

Lastly, the provisions in SB 931 are agnostic to the type of generator energy source, which could include natural gas or other greenhouse gas-emitting fuels. The uncodified portion of SB 931 states that the General Assembly’s intent is for the Bill to apply to “solar energy generating facilities and eligible customer-generators” for net metering. To align the Bill language with the stated intent, the Commission recommends amending SB 931 to clarify in the definition for “generating station” and in the uncodified portion that the legislation only applies to solar PV facilities and net metering-eligible customer-generators.

I appreciate the opportunity to provide information on SB 931. Please contact Lisa Smith, Director of Legislative Affairs, at (410) 336-6288 if you have any questions.

Sincerely,



Jason M. Stanek
Chairman