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HB 579 - Certificate of Public Convenience and Necessity and Related Approvals – Definition of Generating Station (Critical Infrastructure Streamlining Act of 2024)

House Economic Matters Committee

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SUPPORT

Donna S. Edwards

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Chairman and members of the Committee, thank you for the opportunity to provide testimony in support of HB 579. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 300,000 union members in the state of Maryland, I offer the following comments.

HB 579 exempts onsite energy generation units from the Certificate of Public Convenience and Necessity (CPCN) process if they are primarily used for emergency backup or testing and maintenance operations. HB 579 does not allow these generating units to be connected to the grid and still requires that they obtain permits from the Maryland Department of Environment. These changes to Maryland's public utilities law creates exemptions for critical infrastructure like hospitals and data centers, which are typically connected to the grid, but need emergency generators to ensure 24/7 reliability.

Emergency or backup energy generation systems need to be reliable and work in all weather conditions. Not all energy sources provide this type of reliability. Solar and wind generation are weather dependent and are not optimal for use during the types of conditions where grid-provided electricity is not available. Diesel energy generators are the industry standard for large scale emergency power generation. The technology for reliable alternatives is simply not there. The engineering consulting firm Black & Veatch found that natural gas, battery storage, and hydrogen fuel cells represented the best potential future sources.¹

California's Air Resource Board, a state renowned for its strong air quality standards, recognizes the need for diesel generators as emergency sources of power, granting blanket exemptions to its Airborne Toxic Control Measure during public safety power shutoffs.² In 2020, Google Vice President of Global Data Centers estimated that there are more than 20 GigaWatts of backup diesel generators powering the data center industry.

¹ Phil Fischer. "Decarbonizing Data Centers: 3 Replacements for Diesel Generators." Black & Veatch

² California Air Resources Board. "Emergency Backup Generators." California Environmental Protection Agency.

Without HB 579, large critical infrastructure projects are subject to the Public Service Commission's (PSC) decision (Order No. 90830) that emergency backup generation with an aggregate size above 70 MW are subject to the lengthy CPCN process. This process would also condition CPCN approval to the PSC's responsibility to supervise and regulate: *"the preservation of environmental quality, including protection of the global climate from continued short-term and long-term warming based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; (vi) the achievement of the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article."*³ This requires the PSC, without regard for viability or reliability of the energy source as an emergency backup, apply the state's emission reduction goals and deny CPCN exemptions or approvals from critical infrastructure projects unless they use energy sources that are not appropriate for emergency use.

We were disheartened to see the decision of the PSC regarding the Aligned Data Center in Frederick County. Data centers are an important source of high quality family sustaining jobs. Many of the contractors that work on projects like these employ union workers, making data center projects an engine of Maryland's middle class. Regulatory certainty is necessary for the stability of this emerging industry. The state has made it clear through its own tax exemptions that it hopes to see more data centers. By rejecting Aligned Data Center's request to use industry standard backup diesel generators it created new uncertainty for all data center projects in the state. Maryland already lost one opportunity for good jobs. Sensible and commonsense energy policies can prevent us from losing out on future opportunities.

We urge a favorable report on HB 579.

³ Maryland Code. Public Utility Article § 2-113(a)(2)