



Committee: Economic Matters
Testimony on: HB0579 - Critical Infrastructure Streamlining Act
Organization: Maryland Legislative Coalition Climate Justice Wing
Submitting: Dave Arndt, Co-Chair
Position: Unfavorable
Hearing Date: February 22, 2024

Dear Chair and Committee Members:

We submit our testimony today in opposition to HB0579. The Maryland Legislative Coalition Climate Justice Wing, a statewide coalition of nearly 30 grassroots and professional organizations, urges you to vote **unfavorably** on HB0579.

HB0579 would result in exempting diesel and other fossil fuel backup generators and other potential greenhouse gas impacts from being reviewed by the Maryland Public Service Commission (PSC) for a Certificate of Public Convenience and Necessity (CPCN). As Maryland shifts to clean energy to achieve its urgent climate goals, it would be a major step in the wrong direction.

Broad Concerns of the Act

This bill is a direct response to the PSC's recent decision to deny a CPCN exemption for a data center development last year. They did so based on the project's climate implications and air pollution from over 160 3-megawatt diesel generators required to run continuously, should there be loss of power due to weather or other events. The PSC did not pull the plug on the Aligned Data Centers. Aligned Data Centers refused to present a solution to meet Maryland's greenhouse gas emission reduction targets. Aligned Data Centers asserted that diesel generators were the only option to provide backup power. A simple search of the internet shows many alternatives including battery storage and power generator systems using methane. They chose their profits over the needs of Maryland.

Greenhouse Gas Emission Impacts

This bill prevents the consideration of greenhouse gas emissions during periods of peak energy use. Generally, summertime usage is when pollution loads are highest already. CPCN is an important management tool in considering this condition. Furthermore, HB0579 has no provisions to incentivize new energy generation technologies that don't rely on fossil fuels in order to help MD reach its GHG emissions goals. In addition, the bill includes a broad range of

high-energy consumption facilities such as crypto currency operations and cannabis farms, which increase the negative impacts of the CPCN exemption.

Health Impacts

With the scale of data centers, even running diesel generators for only maintenance hours would cause significant pollution. Diesel generators emit a large quantity of PM2.5, which the EPA has clearly stated that this level of PM2.5 is not safe to breathe. In fact, recent research has shown a link between tiny airborne particulate matter (i.e., PM2.5) that acts as an irritant and causes inflammation and lung cancers among non-smokers.

Cumulative Impacts

MDE doesn't look holistically at complexes, but at individual generator systems, one at a time. Aligned's plans for their site included four large data centers, not just the one they proposed and have now refused to build. Passing enforcement to MDE would only allow for individual project review and not a review of the cumulative impacts of multiple data centers in a complex, since current MDE regulations do not include analysis of cumulative effects.

Community Engagement

The CPCN is a well-established process that allows for appropriate public engagement and can ensure that siting decisions do not disproportionately impact the environment of certain communities, particularly historically impacted communities due to race, color, national origin, or income status. Eliminating the CPCN process would curtail community engagement and notification. Also, the CPCN process allows for an evidentiary process to determine alternatives.

While we opposed passage of HB0579, we offer the following amendments, which would mitigate some of the impacts of the bill should it pass.

Proposed areas of amendments:

1. Limit use of back-up generators to ONLY maintenance (1 hour every month) and power outage from the grid. Current law allows for backup generators to be used for as many as 50 hours of non-emergency use. The bill does not specify what an outage is, and the operator could use generators if they don't like the price of grid electricity
2. Require annual reporting of diesel generator usage by all high-energy facilities.
3. Require a delayed implementation of legislation, pending study by PSC of likely impact of the legislation, including mitigation recommendations – study due by July 1, 2025. The study should include:
 - a. impact of high-energy use facilities more broadly, not just impact of legislation on
 - i. Energy consumption
 - ii. Water consumption
 - iii. Environmental Justice Review
 - iv. Land use and siting considerations

- v. Noise
 - vi. Who is paying for the increased energy costs
 - vii. Impacts on climate goals
 - viii. Grid Capacity
 - ix. Recommendations for best practices (other clean backup options and power generation)
 - x. Storage of diesel fuel
 - xi. Recommendations for guardrails to be put in statute before implementation
4. Include a sunset for legislation to recognize technological advances – 2029.
 5. Narrow the definition of ‘critical infrastructure’ included in the bill to only apply to critical data centers.
 6. Require critical infrastructure facilities to give notice to the surrounding community that it will be seeking air permits from MDE with information on how they can participate (1 mile away except for rural areas which would be 3 miles away).
 7. Require the facilities to retire two times the equivalent of solar wind or geothermal RECS of emissions created by back-up generators if using fossil fuels.
 8. Exempt only non-fossil fuel back-up generators.
 9. Restrict construction of data center within ½ mile of a National Park, state park, school or site of special historic significance.

The CPCN process is a well-established and clear process that allows for appropriate public involvement in projects of the size proposed by the data centers and should be retained for this new industry. We respectfully and strongly request an **UNFAVORABLE** report from this Committee on HB0579.

350MoCo

Adat Shalom Climate Action

Cedar Lane Unitarian Universalist Church Environmental Justice Ministry

Chesapeake Earth Holders

Chesapeake Physicians for Social Responsibility

Climate Parents of Prince George's

Climate Reality Project

ClimateXChange – Rebuild Maryland Coalition

Coming Clean Network, Union of Concerned Scientists

DoTheMostGood Montgomery County

Echotopia

Elders Climate Action

Fix Maryland Rail

Glen Echo Heights Mobilization

Greenbelt Climate Action Network

HoCoClimateAction

IndivisibleHoCoMD

Maryland Legislative Coalition

Mobilize Frederick
Montgomery County Faith Alliance for Climate Solutions
Montgomery Countryside Alliance
Mountain Maryland Movement
Nuclear Information & Resource Service
Progressive Maryland
Safe & Healthy Playing Fields
Takoma Park Mobilization Environment Committee
The Climate Mobilization MoCo Chapter
Unitarian Universalist Legislative Ministry of Maryland
WISE