

Committee: House Economic Matters Committee
Testimony on: HB579: Critical Infrastructure Streamlining Act - Transportation and Climate Alignment Act of 2024
Submitting: Deborah A. Cohn, individual
Position: Support with Amendments
Hearing Date: February 22, 2024

HB579 waives the need for a certificate of public convenience and necessity (CPCN) for backup generators in certain situations.

In some situations, this waiver is reasonable since the primary use, such as under Public Utilities §7-207(b)(i) which concerns the construction of a generation station or qualified generator lead line, is subject to the CPCN process. Similarly, Section 7-208 applies to offshore wind electricity generating systems that require a CPCN.

In other situations, the generating station is exempt from the CPCN process. Section 7-207.2, for example, applies to smaller generating stations (under 2MW) and is limited to electricity from a solar photovoltaic system. The primary purpose of the generating station is to generate electricity from a non-fossil fuel energy source.

But §7-207.1, which waives the CPCN process for a generating system in favor of the less burdensome and rigorous PSC approval in a public proceeding, is much broader. §7-207.1(a)(2), to the construction of a generating station if the capacity does not exceed 25MW, the electricity that may be exported for sale to the electric system is sold only on the wholesale market under an agreement with the local electric company and at least 10% of the electricity generated annually is consumed on-site. The type of fuel used in this generating system is not specified and the purpose of use of the generated electricity is not specified. This section, thus, could be applied to a back-up diesel generating system where electricity generation is not the primary use of the facility.

Maryland has committed to reducing its greenhouse gas emissions to 60% of 2006 levels by 2031 and transitioning to a net-zero economy by 2045. State actions need to keep this goal in mind even as it considers other important state goals. The revisions to §7-207.1 proposed in HB579 do not keep this in mind. They could permit authorizing back-up emergency diesel powered generators in newly constructed commercial or industrial uses without requiring a CPCN, substituting PSC approval in a public proceeding. The Committee should amend out §7-207.1(a)(3).

A recent [Brookings Blog](#) makes clear that one of the more important changes needed to decarbonize an economy is completely removing fossil fuels from our electric grid. And even if electric generators produce electricity that will be used only for on-site back-up power for a particular industrial or commercial use, *any use of fossil fuels*, including diesel power typically used for back-up generators when the electric grid experiences a failure, undermines the goal of decarbonizing our economy. Thus, it makes no sense to authorize installation of diesel powered back-up generators if other forms of emergency power are reasonably available. Given the amount of energy demand of a data center, any newly constructed data center should be required

to install a geothermal system that can be used as a back-up electricity source to cool or heat the building and data processing and storage equipment during a failure of electricity supply from the transmission and distribution grid.

The Comptroller's [State of the Economy report](#) shows that despite many positive economic indicators in Maryland, "Maryland's economic growth effectively stalled in 2017 and...has been stagnant ever since. "From between the fourth quarter of 2016 to the first quarter of 2023, Maryland's Gross Domestic Product (GDP)...has grown 1.6%, compared with 13.9% for the entire U.S. during the same period." Maryland must do better.

While locating data centers in Maryland may provide economic benefits, Maryland should not attract this industry by undermining our state's decarbonization goals. Indeed, Maryland should take the opportunity to ensure that data centers utilize all economically reasonable measures to minimize their impact on Maryland's goal of ensuring a fossil-fuel free electricity supply.

In short, we need to grow Maryland's economy wisely, consistent with our other goals. Proposed §7-207.1(a)(3) in HB579 does not do this.

HB579 would result in exempting data center diesel backup generators and other potential impacts from being reviewed by the PSC for a CPCN. Maryland is investing heavily to accelerate the shift to clean energy to achieve its air quality, public health and climate goals, closing coal fired power plants and encouraging offshore wind and solar. Exempting data center backup generators from the CPCN process undermines those investments and the state's progress to improved air quality and public health. Indeed, when the PSC denied an exemption to a data center development last year, they did so based on its 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 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. **Accordingly, I respectfully request that Committee amend HB579 to delete §7-207.1(a)(3).**

Thank you.

Deborah A. Cohn