



March 6, 2024

Chair Brian J. Feldman
Members of the Senate Education, Energy, and the Environment Committee

Re: Earthjustice support for SB 861:
Public Utilities – High-Energy-Use Facilities –
Greenhouse Gas Emissions Reductions

Earthjustice¹ supports the passage of SB 861. This legislation would require high-energy-use facilities (as defined in the bill) to gradually reduce the greenhouse gas emissions associated with the electricity use of the facility over a period of years.

Under the 2022 Climate Solutions Now Act, Maryland is required to reduce greenhouse gas emissions by 60 percent from 2006 levels by 2031 and achieve net-zero emissions by 2045. The explosive growth of high-energy-use facilities represents a major challenge to achieving the clean energy future mandated by Maryland law. These facilities consume quantities of electricity so vast that they have begun to tax entire energy grids and could exacerbate the climate crisis. Increasingly, Maryland residents will be asked to compromise on Maryland’s clean energy goals in order to meet the massive electricity demand caused by a few private industries. SB 861 simply holds high-energy-use facilities responsible for their contribution to the increase in greenhouse gas emissions in Maryland.

These problems are illustrated by the current situation in Virginia. Data center development in Northern Virginia has been accelerating for years. As of late 2022, data centers accounted for 21% of Dominion Energy’s electricity sales in Virginia. Disturbingly, Dominion’s Integrated Resource Plan filed in 2023 uses this anticipated load growth from data centers as the rationale for leaving in place existing fossil-fuel generation (which would have been retired) and as a justification for the construction of a new 1000 MW gas-fired generating station.

A very serious concern is the impact of the use of polluting diesel back-up generators by the high-energy-use facilities. Data center campuses are expected to use thousands of diesel backup generators if the construction of all the planned facilities is completed. For example, Aligned Data Center recently requested an exemption from the Maryland Public Service Commission for 168 diesel emergency engine-generators—rated at 3 megawatts (“MW”) each—for the *first phase* of its five-phase construction plan. Thus, it is reasonable to assume that this one facility will contain approximately 840 diesel generators.

¹ Earthjustice is a non-profit public interest environmental law organization that represents other non-profits free of charge.

Importantly, while these generators are labelled “emergency,” the generators are not limited to operating only during emergencies. Each generator must be operated for an hour once a month for testing and maintenance. Thus, for the proposed Aligned Data Center alone, twenty-eight diesel generators will be operated for an hour every day. Of course, this high-energy-use facility is just one of several expected to be constructed in Maryland in the coming decade. This incredible and potentially disastrous increase in greenhouse gas emissions needs to be addressed if Maryland is going to achieve the mandates set forth in the Climate Solutions Now Act.

Assuming 1000 3 MW generators, each operating 1 hour a month, these diesel generators would be operating 12,000 hours a year and producing 36,000 MW. The national average carbon dioxide output rate for electricity generated in 2021 was 852.3 lbs CO₂ per megawatt-hour (EPA 2023a), which translates to about 919.1 lbs CO₂ per megawatt-hour for delivered electricity, assuming transmission and distribution losses of 7.3% (EIA 2022b; EPA 2023b). So over 33 million pounds of CO₂ would be emitted by 1000 3 MW generators each year. This increased level of CO₂ emissions must be viewed as significant.

Currently, there is no incentive for high-energy-use facilities to lessen their greenhouse gas emissions. Given the impact of diesel generator use on air quality, the increased reliance on these polluting backup generators and high-energy-use facilities massive use of electricity in general, the General Assembly must put in place a mechanism to counteract the substantial increase in greenhouse gas emissions that will occur.

Maryland will potentially undergo a massive economic, technological, and environmental upheaval, all centered around the activities of a few high energy using facilities. The explosive growth of these facilities represents a major challenge to achieving the climate mandates set forth in Maryland law. SB 861 represents an important tool to address the consequences of the growth in high-energy-use facilities while not impeding that growth.

Finally, Earthjustice thanks Senators Lewis Young and Watson for their leadership on this important issue.

Earthjustice strongly urges a favorable report for SB 861.

Thank you in advance for your support. Should you have any questions, please contact me at smiller@earthjustice.org.

Respectfully submitted,



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Earthjustice