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PUBLIC SERVICE COMMISSION

Chair C.T. Wilson
Economic Matters Committee
230 House Office Building
Annapolis, MD 21401

RE: HB1036 – Favorable with Amendments – Generating Stations - Generation and Siting (Renewable Energy Certainty Act)

Dear Chair Wilson and Committee Members:

The Public Service Commission (the Commission) requests a favorable report for House Bill 1036 (HB 1036) with the amendments detailed in this testimony.

HB 1036 makes changes to various processes and procedures that the Commission either oversees or interacts with closely, including but not limited to: Certificates of Public Convenience and Necessity (CPCN) and siting requirements for solar energy generating stations and energy storage devices, restrictions on local jurisdictions' oversight on solar energy generating stations and energy storage devices, the banking of unsubscribed community solar bill credits, the creation of a local jurisdiction community solar automatic-enrollment program, and the development of technical and safety standards for residential solar energy generating systems. This legislation has the potential to increase the rate of deployment for solar energy systems and energy storage devices while reducing existing barriers that hinder the deployment of these technologies within the State. For this reason, the Commission is supportive of the proposed legislation. The following are areas of focus to provide highlights for the legislature's consideration.

Solar Siting and Technical Considerations:

Section 7-207(e)(5) of the bill, as proposed, requires the Commission, when approving a CPCN for certain solar energy generating stations to ensure that the applicant complies with siting requirements proposed under § 7-218(f). These explicit siting requirements may alleviate project delays through the standardization of project designs and by preempting any conflicting requirements that exist in local ordinances, as § 7-218 (h)(2) states that a local jurisdiction may not deny approval of a solar system that complies with these requirements. The Commission has concerns that codification of these requirements in statute, as opposed to case-by-case adjudication or multi-stakeholder rulemaking, may result in rigid and inflexible outcomes for unique siting issues that might arise before the Commission. It may be advantageous to rely on the expertise of the Power Plant Research Program (PPRP) to develop these requirements within a multi-stakeholder group and propose them to the Commission for adoption as regulations. This process would provide for greater public and community involvement with the development of these requirements, as well as the ability to consider additional requirements that may not have been envisioned within this bill.

Section 7-218(g) of the bill requires an owner of a solar energy generating station to post a surety bond with the Commission, up to 100 percent of the cost of decommissioning the solar energy generating station and its related infrastructure, less any salvage value. The Commission currently requires CPCN applicants to post a

surety bond that includes 100 percent of the *future* estimated cost of decommissioning and for the financial mechanism to be developed by a third-party consultant. The Commission recommends that § 7-218(g) be amended to align with current CPCN surety bond requirements to take into account future costs and changes in costs.

Finally, §7-320 requires the Commission and the Maryland Energy Administration to develop technical safety standards and minimum installer qualifications for the installation and maintenance of residential rooftop solar systems. The Commission notes that crafting manufacturing and safety standards for solar systems is not in the Commission's area of expertise. The current regulations recognize IEEE, NEC, NESC and UL standards for solar equipment, as these national organizations have the experience to establish appropriate safety and reliability standards. Additionally, the jurisdiction of local electrical codes governs electrical installations.

Energy Storage Siting and Technical Considerations:

§ 7-218(b) of the bill stipulates that a person may not begin construction of an energy storage device unless the construction has been approved by the Commission. Since the bill does not require adherence to § 7-207(e) CPCN requirements, the Commission interprets the bill to require a Commission approval process, but not to require a certificate of public convenience and necessity process for an energy storage device, except for the 7-207(d) CPCN public comment and public hearing requirements as specified in § 7-218(d) of the bill.

The legislature may want to consider an amendment to give the Commission the ability to waive requirements in § 7-219 for good cause. Waivers may be warranted in situations where developers are installing small energy storage projects at commercial sites zoned for commercial or industrial purposes or where developers are installing energy storage systems of different technologies that do not present similar safety concerns to lithium-ion based energy storage systems.

As a general comment, the Commission has approved regulations for energy storage stakeholder engagement and participation and Commission review in the RM85 rulemaking process that overlap and conflict with HB 1036 requirements. These regulations are scheduled to take effect July 1, 2025, to implement the Maryland Energy Storage Program required by § 7-216.1. This RM85 process includes stakeholder engagement and participation and safety requirements for all front-of-the meter energy storage devices, unless a waiver is granted by the Commission. In addition, the RM85 regulations require a detailed state agency review coordinated by the PPRP that applies to energy storage projects 20 MWh or greater, unless exempted by the Commission. As this process has already been vetted through a stakeholder process, the Commission suggests it may be more expedient to adopt the RM85 standards.

Finally, the 7-207(d) CPCN notification and hearing requirements apply to certain energy storage devices greater than 100 kW. However, the size of an energy storage device is typically based on the energy stored in kilowatt-hours, not the capacity in kilowatts. Therefore, the Commission requests clarification if this criteria should be in kilowatt-hours, as opposed to kilowatts.

Community Solar:

§ 7-316.2 (o) of the bill provides that a local government can establish a community solar automatic enrollment program by submitting to the Commission a local law, contract, or administrative approval that creates the program. A prospective community solar automatic enrollment program will automatically enroll residents within the local government's jurisdiction as subscribers in a community solar project that is operated by or operated in close coordination with the local government.

The Commission notes that the creation of automatic enrollment programs by local jurisdictions may increase customer participation in the Maryland community solar program while increasing the development of solar

projects within the state. The Commission does have concerns related to the implementation of these types of programs and customer protections. The bill allows for a local government to establish an automatic enrollment program by submitting a local law to the Commission. However, the Commission will likely require regulations to be adopted outlining additional requirements for automatic enrollment programs, and the Commission should be the ultimate entity approving whether a program is allowed to be established. The bill requires that electric companies provide local government data including but not limited to individual customer participation in energy assistance programs, and historic billing usage of individual customers. Individual customers may not want to share this information with other entities, and there is no requirement for the consent of the customer to be given to share this information. Furthermore, the bill allows for an automatic enrollment program to not be subject to COMAR 20.62.05 on consumer protection, which will greatly reduce the protections that customers are typically afforded under traditional community solar projects, especially if a local government uses a designee to oversee subscriptions. Customer education is also a major concern for the Commission, because under traditional “opt-in” community solar projects, projects have an incentive to strongly educate their subscribers on community solar as much as possible to receive subscribers. The approach of automatic enrollment may also prevent price competition among community solar projects seeking customers by offering better discounts.

§ 7-306.2(d) is amended within the bill to allow for the banking of unsubscribed bill credits generated by a community solar energy generating system which may then be allocated, within 1 year, to one or more subscribers by the subscriber organization or subscription coordinator. The Commission has concerns regarding the timeliness of cost recovery associated with this mechanism because utilities will have the ability to apply solar credits to customer accounts up to a year after the credit is generated. Furthermore, this provision removes the financial incentive for community solar systems to market subscriptions in a timely manner because a community solar system may time the allocation of unsubscribed bill credits in an attempt to increase their revenue depending on the current dynamic in the energy market.

The Public Service Commission appreciates the opportunity to provide testimony for your consideration for bill HB 1036. We request a favorable report with support for the amendments detailed above. Please contact Christina Ochoa, Director of Legislative Affairs at christina.ochoa1@maryland.gov if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Frederick H. Hoover". The signature is written in a cursive style with a clear, legible font.

Frederick H. Hoover, Chair
Maryland Public Service Commission