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BILL NO.: House Bill 0928– Certificates of Public Convenience and Necessity - Transmission Lines - Applicability and Waivers

COMMITTEE: Environment and Transportation

HEARING DATE: February 24, 2026 (ENT)

SPONSOR: Delegates Embry, Allen, Behler, Boyce, Charkoudian, Edelson, Guyton, A. Johnson, Lewis, Miller, Rose, Taveras, and Tomlinson

POSITION: Favorable

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The Office of People’s Counsel (OPC) respectfully offers the following comments in support of House Bill 0928, Certificates of Public Convenience and Necessity - Transmission Lines - Applicability and Waivers. HB 0928 seeks to amend the statute governing the Public Service Commission’s (PSC’s) review of proposed transmission infrastructure to remove an existing exemption for underground transmission lines and eliminate the mandatory waiver provision—provisions that have impeded the PSC’s oversight of significant, and costly, infrastructure projects to the detriment of Maryland ratepayers. HB 0928’s revisions expand the PSC’s ability to review proposed transmission projects, many of which are not currently subject to any comprehensive regulatory review.

Under Public Utilities Article (PUA) § 7-207, a utility seeking to build an electric transmission line—defined as a line with a carrying capacity of at least 69 kilovolts—must obtain a certificate of public convenience and necessity (CPCN) from the PSC before beginning construction.<sup>1</sup> These proceedings allow for a thorough and comprehensive review of the need for the proposed project, the routes considered, environmental impacts, and impacts on certain affected residents. Additionally, the

<sup>1</sup> PUA § 7-207(b)(3)(i).

CPCN proceeding is an opportunity for the PSC to obtain critical information about a project’s cost-effectiveness and alternative solutions the utility considered.

Under existing law, however, there are two large exceptions to the requirement to obtain a CPCN. First, with respect to transmission infrastructure, PUA § 7-207 only applies to “overhead transmission lines,” but not transmission lines that run underground or under water. Second, PUA § 7-207(b)(4)(i) *requires* the PSC to waive the requirement to obtain a CPCN for any project “related to an existing transmission line” if the construction does not (1) require a utility to obtain “new real property or additional rights-of-way through eminent domain” or (2) “require larger or higher structures to accommodate increased voltage or larger conductors.”

Taken together, these two exceptions—for underground transmission lines and for projects that do not require new property or rights-of-way or larger or higher structures—create significant regulatory gaps for transmission projects. Because recovery of the costs associated with transmission infrastructure is regulated at the federal level, the CPCN proceeding is oftentimes the PSC’s—and the State’s—sole opportunity to review the basis, justification, and impacts of proposed transmission infrastructure.

Moreover, “local” or “supplemental” transmission projects evade meaningful federal regulation of their costs or their cost-effectiveness relative to potential alternatives. These transmission projects are advanced by local utilities—such as Baltimore Gas and Electric—and are not projects that PJM has identified as necessary to mitigate reliability or market efficiency concerns. PJM subjects such projects to limited, cursory review under a “do no harm” assessment—a very low bar.<sup>2</sup> Billions of dollars are being spent on such local projects,<sup>3</sup> including over \$407 million in projects BGE is now developing on the Baltimore Peninsula despite the lack of progress in previously anticipated development in the area.<sup>4</sup> The costs of local transmission projects are collected in the customer rates of the local utility.

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<sup>2</sup> A “do no harm” assessment only evaluates whether a proposed supplemental project will “adversely impact the reliability of the transmission system.” PJM Interconnection, LLC, *PJM Manual 14B: PJM Regional Transmission Planning Process*, at 19 (July 1, 2021), <https://www.pjm.com/-/media/DotCom/documents/manuals/archive/m14b/m14bv50-pjm-regional-transmission-planning-process-07-01-2021.pdf>.

<sup>3</sup> In 2024, PJM evaluated over \$9 billion in supplemental projects. PJM Interconnection, LLC, *2024 Regional Transmission Expansion Plan [RTEP] Report*, at 75 (April 17, 2025), <https://www.pjm.com/-/media/DotCom/library/reports-notices/2024-rtep/2024-rtep-report.pdf>. For Maryland and DC, supplemental projects accounted for more than half of the \$400 million in transmission spending included in the 2024 RTEP. PJM Interconnection, LLC, *2024 Maryland and District of Columbia State Infrastructure Report*, at 18 (June 2025), <https://www.pjm.com/-/media/DotCom/library/reports-notices/state-specific-reports/2024/maryland-and-dc.pdf>.

<sup>4</sup> Giacomo Bologna, *Baltimore Peninsula’s future is uncertain. BGE tearing up nearby roads isn’t*. (“Feb. 3 Article”), *Balt. Banner* (Feb. 3, 2026), <https://www.thebanner.com/economy/bge-roadwork-baltimore-peninsula-3MFUOHEXEZH2JFF7U6QXSTKCKY/>.

Federal review is also limited because the costs of all transmission projects accepted by PJM are subject to a rebuttable presumption of prudence.<sup>5</sup> Thus, new utility infrastructure is rarely reviewed by the Federal Energy Regulatory Commission and is exceedingly difficult for stakeholders to evaluate and challenge.

In short, any transmission infrastructure exempted from the CPCN requirement is generally subject to little or no comprehensive review by *any* regulatory authority. Underground transmission lines are usually significantly more expensive than overhead lines. The decision to underground a line is impactful to ratepayers and the environment, but that decision is subject to little—if any—formal regulatory review. For example, the transmission projects BGE is developing on the Baltimore Peninsula are underground and thus evade meaningful review for environmental and community impacts, as well as cost-effectiveness. Similarly, in-kind rebuilds of existing utility infrastructure, or new infrastructure constructed on existing utility rights of way—including infrastructure intended to serve data center developments—may also fall outside of the CPCN requirement to the extent the project qualifies for a mandatory waiver.<sup>6</sup> Even if the PSC would otherwise review a project, the CPCN statute expressly *requires* the PSC to waive its only opportunity for review.

HB 0928 proposes to fill the regulatory gaps in Maryland’s CPCN statute for underground transmission lines and mandatory-waiver projects. The bill eliminates relevant references to an “overhead” transmission line, thereby expanding the applicability of the CPCN requirement to *any* “transmission line that is designed to carry a voltage in excess of 69,000 volts”—whether overhead, underground, or even under water. The bill would also eliminate in its entirety the mandatory waiver provision currently codified in section PUA § 7-207(b)(4)(i). The bill further amends the “good cause” waiver provision by requiring the PSC to consider environmental and ratepayer impacts when determining whether to waive the CPCN requirement, thereby establishing a legal framework for the PSC’s decision making that ensures customer interests are duly considered.

As a result of these changes, HB 0928 would significantly expand the PSC’s oversight of transmission development in the State, while retaining the necessary regulatory flexibility required to address emergent needs. The bill does not impact the existing CPCN exemption for projects addressing emergency situations. For small

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<sup>5</sup> See *Indus. Energy Consumers of Am. V. FERC*, 125 F.4th 1156, 1159 (D.C. Cir. 2025).

<sup>6</sup> For instance, on January 29, 2026, the PSC approved a CPCN waiver for Potomac Edison (“PE”) for a project to reconfigure existing transmission lines to supply power to a data center company in Frederick County. Md. Pub. Serv. Comm’n, *Letter Order* (Jan. 29, 2026). PE estimated that Maryland customers would be allocated approximately \$13.7 million of the \$64.4 million project cost. See *Comments of the Engineer Division*, ML # E59427, ML # 324043 (Jan. 20, 2026). PSC filings are available by searching by MailLog number (ML #) at <https://webpsexb.pscmaryland.com/DMS/maillogsearch>.

projects for which a comprehensive review may not be required—i.e., minor modifications to existing infrastructure on utility-owned property—the PSC retains the discretion to waive the CPCN requirement upon request.

At a time when energy affordability is such a critical concern, the PSC requires every opportunity to ensure that the infrastructure Maryland customers are asked to pay for is necessary, designed to maximize benefits and minimize costs, and are as minimally impactful as possible. HB 0928 expands the tools available to the PSC to do just that.

**Recommendation:** OPC requests a favorable Committee report on HB 0928.