

HOUSE BILL 1046

C5

4lr2212
CF SB 1025

By: **Delegate Clippinger**

Introduced and read first time: February 7, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Distributed Generation Certificate of Public Convenience and**
3 **Necessity**

4 FOR the purpose of establishing a distributed generation certificate of public convenience
5 and necessity to authorize the construction and operation of a certain distributed
6 solar energy generating system; requiring the Power Plant Research Program to
7 develop and submit to the Public Service Commission proposed siting and design
8 requirements and licensing conditions; prohibiting a person from being required to
9 obtain a distributed generation certificate of public convenience and necessity until
10 certain regulations have been adopted; prohibiting a person from beginning
11 construction of a distributed solar energy generating system unless a distributed
12 generation certificate of public convenience and necessity is first obtained from the
13 Commission; requiring the Program to make a certain determination regarding a
14 proposed distributed solar energy generating system within a certain period of time;
15 establishing a process by which the Commission may grant a distributed generation
16 certificate of public convenience and necessity; providing the applications of certain
17 provisions; and generally relating to a distributed generation certificate of public
18 convenience and necessity.

19 BY repealing and reenacting, with amendments,
20 Article – Natural Resources
21 Section 3–306(a)(1)
22 Annotated Code of Maryland
23 (2023 Replacement Volume and 2023 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Public Utilities
26 Section 7–207(b)(1)(i) and (ii) and 7–207.1(c)(1)
27 Annotated Code of Maryland
28 (2020 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to
Article – Public Utilities
Section 7–207.3
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

Preamble

WHEREAS, The State has set aggressive minimum renewable energy requirements, recognizing that a shift towards sustainable energy sources is crucial for the health of our planet and the well-being of future generations; and

WHEREAS, The State has committed to reducing greenhouse gas emissions by 60% from 2006 levels, reflecting a proactive stance in the global effort to combat climate change; and

WHEREAS, Distributed solar generation is an essential component of meeting these aggressive policies, offering both economic opportunities and environmental benefits; and

WHEREAS, The General Assembly finds that an efficient permitting process for distributed solar energy generating stations with consistency across jurisdictions is necessary to meet the State's renewable energy and greenhouse gas reduction commitments and can be structured to preserve farmland and forests; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Natural Resources

3–306.

(a) (1) Notwithstanding anything to the contrary in this article or the Public Utilities Article, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction **IN ACCORDANCE WITH § 7–207 OF THE PUBLIC UTILITIES ARTICLE**, the Commission shall notify immediately the Department [of Natural Resources] and the Department of the Environment of the application.

Article – Public Utilities

7–207.

(b) (1) (i) [Unless] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNLESS** a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; or

2. a qualified generator lead line.

(ii) [If a person obtains Commission approval for construction under § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.] **A PERSON IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER THIS SECTION IF THE PERSON OBTAINS:**

1. **COMMISSION APPROVAL FOR CONSTRUCTION UNDER § 7-207.1 OF THIS SUBTITLE; OR**

2. **A DISTRIBUTED GENERATION CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7-207.3 OF THIS SUBTITLE.**

7-207.1.

(c) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity **UNDER § 7-207(B)(1)(II)1 OF THIS SUBTITLE** to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (b) of this section.

7-207.3.

(A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“DISTRIBUTED GENERATION CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY” OR “DGCPCN” MEANS A CERTIFICATE ISSUED BY THE COMMISSION UNDER THIS SECTION THAT AUTHORIZES THE CONSTRUCTION AND OPERATION OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM.**

(3) **“DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM” MEANS A COMMUNITY SOLAR ENERGY GENERATING SYSTEM, AS DEFINED IN § 7-306.2 OF THIS TITLE, THAT:**

(I) **HAS A CAPACITY TO PRODUCE MORE THAN 2 MEGAWATTS BUT NOT MORE THAN 5 MEGAWATTS OF ALTERNATING CURRENT; AND**

(II) **IS NOT LOCATED WITHIN A MUNICIPAL CORPORATION.**

(4) **“POWER PLANT RESEARCH PROGRAM” MEANS THE PROGRAM**

1 **WITHIN THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 3, SUBTITLE 3**
2 **OF THE NATURAL RESOURCES ARTICLE.**

3 **(B) (1) ON OR BEFORE JANUARY 1, 2025, THE POWER PLANT RESEARCH**
4 **PROGRAM, AFTER GIVING NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT,**
5 **SHALL DEVELOP AND SUBMIT TO THE COMMISSION PROPOSED STANDARD SITING**
6 **AND DESIGN REQUIREMENTS AND PROPOSED STANDARD LICENSING CONDITIONS**
7 **FOR THE ISSUANCE OF A DGCPCN.**

8 **(2) IN DEVELOPING THE PROPOSED STANDARD SITING AND DESIGN**
9 **REQUIREMENTS AND THE PROPOSED STANDARD LICENSING CONDITIONS, THE**
10 **POWER PLANT RESEARCH PROGRAM SHALL CONSIDER:**

11 **(I) ACHIEVEMENT OF THE STATE'S CLIMATE AND RENEWABLE**
12 **ENERGY COMMITMENTS;**

13 **(II) REASONABLE SETBACKS AND LANDSCAPE SCREENING**
14 **REQUIREMENTS;**

15 **(III) ENVIRONMENTAL PRESERVATION, INCLUDING FOREST**
16 **CONSERVATION EXCEPT WHERE NECESSARY TO:**

17 **1. REDUCE SOLAR PANEL SHADING;**

18 **2. FACILITATE INTERCONNECTION INFRASTRUCTURE;**

19 **AND**

20 **3. ENSURE ADEQUATE SITE ACCESS;**

21 **(IV) STORMWATER MANAGEMENT, EROSION AND SEDIMENT**
22 **CONTROL, AND SITE STABILIZATION;**

23 **(V) MINIMIZATION AND MITIGATION OF EFFECTS ON HISTORIC**
24 **SITES;**

25 **(VI) PUBLIC SAFETY;**

26 **(VII) INDUSTRY BEST PRACTICES; AND**

27 **(VIII) LICENSING CONDITIONS PREVIOUSLY ADOPTED BY THE**
28 **COMMISSION FOR SOLAR ENERGY GENERATING SYSTEMS.**

29 **(C) (1) ON OR BEFORE JULY 1, 2025, THE COMMISSION SHALL ADOPT**

1 REGULATIONS TO:

2 (I) IMPLEMENT STANDARD SITING AND DESIGN
3 REQUIREMENTS AND STANDARD LICENSING CONDITIONS FOR A DGCPCN;

4 (II) SPECIFY THE FORM OF THE APPLICATION FOR A
5 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM TO RECEIVE A DGCPCN; AND

6 (III) SPECIFY THE COMMISSION'S PROCEDURE FOR PROCESSING
7 AN APPLICATION FOR A DGCPCN, WHICH MAY INCLUDE AN EXPEDITED HEARING
8 BEFORE A PUBLIC UTILITY LAW JUDGE.

9 (2) THE COMMISSION SHALL CONSIDER THE PROPOSED STANDARD
10 SITING AND DESIGN REQUIREMENTS AND THE PROPOSED STANDARD LICENSING
11 CONDITIONS DEVELOPED BY THE POWER PLANT RESEARCH PROGRAM IN
12 ADOPTING THE REGULATIONS UNDER THIS SUBSECTION.

13 (D) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, A PERSON MAY
14 NOT BE REQUIRED TO OBTAIN A DGCPCN UNDER THIS SECTION UNTIL THE
15 COMMISSION ADOPTS THE REGULATIONS REQUIRED UNDER SUBSECTION (C) OF
16 THIS SECTION.

17 (E) (1) UNLESS A DGCPCN IS FIRST OBTAINED FROM THE COMMISSION
18 IN ACCORDANCE WITH THIS SECTION, A PERSON MAY NOT BEGIN CONSTRUCTION IN
19 THE STATE OF A DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM.

20 (2) WHEN A PERSON SUBMITS AN APPLICATION FOR A DGCPCN TO
21 THE COMMISSION, THE PERSON SHALL SUBMIT A COPY OF THE APPLICATION TO:

22 (I) THE POWER PLANT RESEARCH PROGRAM; AND

23 (II) THE GOVERNING BODY OF THE COUNTY WHERE THE
24 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM IS PROPOSED TO BE LOCATED.

25 (F) (1) THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC
26 COMMENT AND HOLD A PUBLIC HEARING ON AN APPLICATION FOR A DGCPCN IN
27 EACH COUNTY IN WHICH ANY PORTION OF THE CONSTRUCTION OF THE
28 DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM IS PROPOSED TO BE LOCATED.

29 (2) THE COMMISSION MAY HOLD THE PUBLIC HEARING VIRTUALLY
30 RATHER THAN IN PERSON IF THE COMMISSION PROVIDES A COMPARABLE
31 OPPORTUNITY FOR PUBLIC COMMENT AND PARTICIPATION IN THE HEARING.

(G) (1) WITHIN 90 DAYS AFTER THE DATE AN APPLICATION FOR A DGPCPN IS FILED WITH THE COMMISSION, THE POWER PLANT RESEARCH PROGRAM SHALL:

(I) DETERMINE WHETHER THE DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS AND STANDARD LICENSING CONDITIONS FOR THE DGPCPN; AND

(II) NOTIFY THE COMMISSION IN WRITING AS TO THE DETERMINATION MADE UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING HOW AN APPLICATION THAT IS DETERMINED NOT TO SATISFY THE STANDARD SITING AND DESIGN REQUIREMENTS AND STANDARD LICENSING CONDITIONS CAN CURE THE DEFICIENCY.

(2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE POWER PLANT RESEARCH PROGRAM SHALL CONSIDER PUBLIC COMMENTS RECEIVED BY THE COMMISSION.

(H) (1) WITHIN 45 DAYS AFTER THE POWER PLANT RESEARCH PROGRAM MAKES ITS DETERMINATION UNDER SUBSECTION (G)(1) OF THIS SECTION, THE COMMISSION SHALL SCHEDULE AN ADMINISTRATIVE MEETING OR AN EXPEDITED HEARING BEFORE A PUBLIC UTILITY LAW JUDGE TO CONSIDER THE APPLICATION FOR A DGPCPN.

(2) AT THE ADMINISTRATIVE MEETING OR EXPEDITED HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION OR PUBLIC UTILITY LAW JUDGE SHALL DETERMINE WHETHER THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS AND:

(I) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM SATISFIES THE STANDARD SITING AND DESIGN REQUIREMENTS, THE COMMISSION SHALL GRANT A DGPCPN TO THE APPLICANT TO CONSTRUCT THE PROPOSED DISTRIBUTED SOLAR GENERATING STATION SUBJECT TO THE STANDARD LICENSING CONDITIONS; OR

(II) IF THE COMMISSION OR PUBLIC UTILITY LAW JUDGE DETERMINES THE PROPOSED DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM DOES NOT SATISFY THE STANDARD SITING AND DESIGN REQUIREMENTS, THE COMMISSION SHALL GIVE THE APPLICANT A WRITTEN EXPLANATION OF WHY THE DISTRIBUTED SOLAR ENERGY GENERATING SYSTEM DOES NOT SATISFY THE STANDARD SITING AND DESIGN REQUIREMENTS AND HOW THE APPLICANT CAN

1 **CURE THE DEFICIENCY.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be applied
3 or interpreted to have any effect on or application to the construction or modification of any
4 solar energy generating system for which a certificate of public convenience and necessity
5 or other required approval was obtained before the effective date of the regulations adopted
6 by the Public Service Commission under § 7–207.3(c) of the Public Utilities Article, as
7 enacted by Section 1 of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2024.