

SENATE BILL 931

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3lr3073
CF HB 1188

By: **Senator Hester**

Introduced and read first time: February 16, 2023

Assigned to: Rules

Re-referred to: Education, Energy, and the Environment, February 24, 2023

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Utilities – Certificate of Public Convenience and Necessity – ~~Solar~~**
3 **~~Photovoltaic Systems~~ and Meter Aggregation**

4 FOR the purpose of defining “generating station” as it relates to the requirement to obtain
5 a certificate of public convenience and necessity or approval from the Public Service
6 Commission for a person who constructs a generating station that has the capacity
7 to produce a certain amount of electricity from a solar photovoltaic system; requiring
8 an electric company to provide meter aggregation for certain eligible
9 customer-generators under certain circumstances; and generally relating to ~~the~~
10 ~~requirement to obtain a certificate~~ certificates of public convenience and necessity
11 and meter aggregation.

12 BY repealing and reenacting, with amendments,
13 Article – Public Utilities
14 Section 7–207(a), 7–207.1, and 7–207.2
15 Annotated Code of Maryland
16 (2020 Replacement Volume and 2022 Supplement)

17 BY adding to
18 Article – Public Utilities
19 Section 7–306.3
20 Annotated Code of Maryland
21 (2020 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – Public Utilities

7–207.

(a) (1) In this section the following words have the meanings indicated.

(2) “Brownfields site” means:

(i) a former industrial or commercial site identified by federal or
State laws or regulation as contaminated or polluted;

(ii) a closed landfill regulated by the Department of the
Environment; or

(iii) mined land.

(3) (i) “Construction” means:

1. any physical change at a site, including fabrication,
erection, installation, or demolition; or

2. the entry into a binding agreement or contractual
obligation to purchase equipment exclusively for use in construction in the State or to
undertake a program of actual construction in the State which cannot be canceled or
modified without substantial loss to the owner or operator of the proposed generating
station.

(ii) “Construction” does not include a change that is needed for the
temporary use of a site or route for nonutility purposes or for use in securing geological
data, including any boring that is necessary to ascertain foundation conditions.

(4) “GENERATING STATION” DOES NOT INCLUDE:

(I) A GENERATING UNIT OR FACILITY THAT:

1. IS USED FOR THE PRODUCTION OF ELECTRICITY;

**2. HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2
MEGAWATTS OF ALTERNATING CURRENT; AND**

**3. IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE
FLOW OF ELECTRICITY TO THE ELECTRIC GRID DURING TIME PERIODS WHEN THE
ELECTRIC GRID IS OUT OF SERVICE; OR**

(II) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT:

1. ARE USED FOR THE PRODUCTION OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM OR AN ELIGIBLE CUSTOMER-GENERATOR THAT IS SUBJECT TO THE PROVISIONS OF § 7-306 OF THIS TITLE;

2. ARE LOCATED ON THE SAME PROPERTY OR ADJACENT PROPERTIES;

3. HAVE THE CAPACITY TO PRODUCE, WHEN CALCULATED CUMULATIVELY FOR ALL GENERATING UNITS OR FACILITIES ON THE PROPERTY OR ADJACENT PROPERTY, MORE THAN 2 MEGAWATTS BUT NOT MORE THAN 14 MEGAWATTS OF ALTERNATING CURRENT; AND

4. FOR EACH INDIVIDUAL GENERATING UNIT OR FACILITY:

A. HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2 MEGAWATTS OF ALTERNATING CURRENT;

B. IS SEPARATELY METERED BY THE ELECTRIC COMPANY; AND

C. DOES NOT EXPORT ELECTRICITY FOR SALE ON THE WHOLESALE MARKET UNDER AN AGREEMENT WITH PJM INTERCONNECTION, LLC.

[(4)] (5) (i) "Mined land" means the surface or subsurface of an area in which surface mining operations will be, are being, or have been conducted.

(ii) "Mined land" includes:

1. private ways and roads used for mining appurtenant to any surface mining area;

2. land excavations;

3. workings; and

4. overburden.

[(5)] (6) "Qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an

out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

7-207.1.

(A) IN THIS SECTION, “GENERATING STATION” DOES NOT INCLUDE:

(1) A GENERATING UNIT OR FACILITY THAT:

(I) IS USED FOR THE PRODUCTION OF ELECTRICITY;

(II) HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2 MEGAWATTS OF ALTERNATING CURRENT; AND

(III) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID DURING TIME PERIODS WHEN THE ELECTRIC GRID IS OUT OF SERVICE; OR

(2) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT:

(I) ARE USED FOR THE PRODUCTION OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM OR AN ELIGIBLE CUSTOMER-GENERATOR THAT IS SUBJECT TO THE PROVISIONS OF § 7-306 OF THIS TITLE;

(II) ARE LOCATED ON THE SAME PROPERTY OR ADJACENT PROPERTIES;

(III) HAVE THE CAPACITY TO PRODUCE, WHEN CALCULATED CUMULATIVELY FOR ALL GENERATING UNITS OR FACILITIES ON THE PROPERTY OR ADJACENT PROPERTY, MORE THAN 2 MEGAWATTS BUT NOT MORE THAN 14 MEGAWATTS OF ALTERNATING CURRENT; AND

(IV) FOR EACH INDIVIDUAL GENERATING UNIT OR FACILITY:

1. HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2 MEGAWATTS OF ALTERNATING CURRENT;

2. IS SEPARATELY METERED BY THE ELECTRIC COMPANY; AND

3. DOES NOT EXPORT ELECTRICITY FOR SALE ON THE WHOLESALE MARKET UNDER AN AGREEMENT WITH PJM INTERCONNECTION, LLC.

[(a)] (B) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on-site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land-based;

2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection [(f)] (G) of this section; and

5. the generating station's wind turbines are not located within a distance from the Patuxent River Naval Air Station that is determined by regulations adopted by the Commission in coordination with the Commander, Naval Air Warfare Center Aircraft Division, provided that the distance requirement under the regulation is:

A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;

B. not greater than 46 miles, measured from location 38.29667N, 76.37668W; and

C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on-site.

[(b)] (C) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection **[(a)] (B)** of this section.

(2) An application for approval under this section shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of compliance with all applicable requirements of the independent system operator; and

2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.

[(c)] (D) On receipt of an application for approval under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(1) the governing body of each county or municipal corporation in which any portion of the generating station is proposed to be constructed;

(2) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station;

(3) each member of the General Assembly representing any part of a county in which any portion of the generating station is proposed to be constructed; and

(4) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station.

1 **[(d)] (E)** When reviewing an application for approval under this section, the
2 Commission shall:

3 (1) ensure the safety and reliability of the electric system;

4 (2) require the person constructing the generating station to notify the
5 Commission 2 weeks before the first export of electricity from a generating station approved
6 under this section; and

7 (3) conduct its review and approval in an expeditious manner.

8 **[(e)] (F)** Except for the notice required under subsection **[(c)] (D)** of this section,
9 the Commission may waive an element of the approval process under this section if the
10 Commission determines that the waiver is in the public interest.

11 **[(f)] (G)** (1) The Commission shall provide an opportunity for public
12 comment and hold a public hearing as provided under this subsection on an application for
13 approval made under subsection **[(a)(1)(ii)] (B)(1)(II)** of this section in each county and
14 municipal corporation in which any portion of the construction of a generating station is
15 proposed to be located.

16 (2) Upon the request of the governing body of a county or municipal
17 corporation in which any portion of the construction of a generating station is proposed to
18 be located, the Commission shall hold the public hearing jointly with the governing body.

19 (3) Once in each of 2 successive weeks immediately before the hearing date,
20 the Commission, at the expense of the applicant, shall provide weekly notice of the public
21 hearing and opportunity for public comment by advertisement in a newspaper of general
22 circulation in the county or municipal corporation affected by the application.

23 7-207.2.

24 **(A) IN THIS SECTION, “GENERATING STATION” DOES NOT INCLUDE:**

25 **(1) A GENERATING UNIT OR FACILITY THAT:**

26 **(I) IS USED FOR THE PRODUCTION OF ELECTRICITY;**

27 **(II) HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2**
28 **MEGAWATTS OF ALTERNATING CURRENT; AND**

29 **(III) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW**
30 **OF ELECTRICITY TO THE ELECTRIC GRID DURING TIME PERIODS WHEN THE**
31 **ELECTRIC GRID IS OUT OF SERVICE; OR**

(2) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT:

(I) ARE USED FOR THE PRODUCTION OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM OR AN ELIGIBLE CUSTOMER-GENERATOR THAT IS SUBJECT TO THE PROVISIONS OF § 7-306 OF THIS TITLE;

(II) ARE LOCATED ON THE SAME PROPERTY OR ADJACENT PROPERTIES;

(III) HAVE THE CAPACITY TO PRODUCE, WHEN CALCULATED CUMULATIVELY FOR ALL GENERATING UNITS OR FACILITIES ON THE PROPERTY OR ADJACENT PROPERTY, MORE THAN 2 MEGAWATTS BUT NOT MORE THAN 14 MEGAWATTS OF ALTERNATING CURRENT; AND

(IV) FOR EACH INDIVIDUAL GENERATING UNIT OR FACILITY:

1. HAS THE CAPACITY TO PRODUCE NOT MORE THAN 2 MEGAWATTS OF ALTERNATING CURRENT;

2. IS SEPARATELY METERED BY THE ELECTRIC COMPANY; AND

3. DOES NOT EXPORT ELECTRICITY FOR SALE ON THE WHOLESALE MARKET UNDER AN AGREEMENT WITH PJM INTERCONNECTION, LLC.

[(a)] (B) This section applies to a person who constructs a generating station that:

(1) has the capacity to produce [at least] MORE THAN 2 megawatts of electricity, AS MEASURED BY THE ALTERNATING CURRENT RATING OF THE SYSTEM'S INVERTER, from a solar photovoltaic system; and

(2) is exempted under § 7-207.1 of this subtitle from the requirement to obtain a certificate of public convenience and necessity.

[(b)] (C) (1) A person shall file an application for approval to construct a generating station under § 7-207.1 of this subtitle at least 6 months before construction commences.

(2) The Commission shall require a person who files an application for approval to construct a generating station to pay a deposit of 1% of total installed costs.

[(c)] (D) (1) The Commission shall place any deposits collected under subsection **[(b)] (C)** of this section into an escrow account.

(2) If a person demonstrates to the Commission that the person is fully authorized to commence construction within 18 months after filing an application for approval, the Commission shall refund the deposit, less reasonable administrative costs.

(3) (i) Subject to subparagraph (ii) of this paragraph, if a person does not commence construction within 18 months after filing an application for approval, the money held in the escrow account shall be:

1. deemed to be abandoned; and

2. transferred to the Maryland Strategic Energy Investment Fund under § 9–20B–05 of the State Government Article, less reasonable administrative costs.

(ii) 1. A person may request an extension for a project that does not commence construction within 18 months after the filing of an application for approval.

2. The Commission may grant the request based on factors the Commission considers compelling, including the occurrence of events outside the person's control.

7–306.3.

(A) IN THIS SECTION, “ELIGIBLE CUSTOMER–GENERATOR” HAS THE MEANING STATED IN § 7–306 OF THIS SUBTITLE.

(B) AN ELECTRIC COMPANY SHALL PROVIDE METER AGGREGATION FOR AN ELIGIBLE CUSTOMER–GENERATOR THAT:

(1) SUBMITS A REQUEST, IN WRITING, TO THE ELECTRIC COMPANY FOR THE PROVISION OF METER AGGREGATION; AND

(2) (I) USES ELECTRICAL SERVICE FOR AGRICULTURE;

(II) IS A NONPROFIT ORGANIZATION;

(III) IS A MUNICIPAL OR COUNTY GOVERNMENT, OR AN ORGANIZATION AFFILIATED WITH THE MUNICIPAL OR COUNTY GOVERNMENT;

(IV) IS A UNIT OF STATE GOVERNMENT; OR

(V) IS A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE.

1 (C) AN ELECTRIC COMPANY SHALL REQUIRE AN ELIGIBLE
2 CUSTOMER-GENERATOR THAT REQUESTS METER AGGREGATION UNDER THIS
3 SECTION TO PROVIDE WRITTEN ALLOCATION INSTRUCTIONS DESCRIBING HOW TO
4 DISTRIBUTE THE ELIGIBLE CUSTOMER-GENERATOR'S EXCESS GENERATION
5 CREDITS TO EACH ACCOUNT BEFORE THE COMMENCEMENT OF ANY METER
6 AGGREGATION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
8 Assembly that this Act apply only to solar energy generating facilities and eligible
9 customer-generators authorized by an electric company to engage in net energy metering
10 under § 7-306 of the Public Utilities Article and COMAR 20.50.10.07.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.