**HB 1607**

# Department of Legislative Services

Maryland General Assembly
2026 Session

## FISCAL AND POLICY NOTE
**First Reader**

House Bill 1607 (Delegate Odom)
Environment and Transportation

**Community Solar Energy Generating Systems - Prohibited Locations - Adjacent Parcels**

This bill repeals the prohibition on locating a community solar energy generating system on an adjacent parcel of land to an existing or proposed system when the total installed capacity of the systems would exceed 5 megawatts. (The bill, however, does not modify the existing prohibition against locating a community solar energy generating system on the same parcel of land as an existing or proposed system when total installed capacity would exceed 5 megawatts). The bill also makes a conforming change.

## Fiscal Summary

**State Effect:** The Public Service Commission (PSC), the Office of People's Counsel, and the Department of Natural Resources can handle any increase in workload resulting from the bill with existing budgeted resources. Revenues are not directly affected.

**Local Effect:** The bill is not anticipated to have a direct, material effect on local government finances or operations.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:**

*Community Solar Energy Generating Systems – Aggregate Capacity Limits*

Chapter 652 of 2023 established a 5-megawatt aggregate capacity limit for all community solar energy generating systems located on the same or adjacent parcels of land. This

aggregate capacity limit, however, does not apply to projects constructed (1) on the rooftops of buildings; (2) in areas that are zoned for industrial use; (3) on brownfields and clean fill sites; (4) over parking lots or roadways; (5) on multilevel parking structures; (6) on or over transportation or public rights-of-way; (7) at airports; (8) on land that was previously zoned for industrial use or is ecologically compromised and is not for targeted for mitigation or restoration; or (9) in any location, under specified circumstances, if the combined capacity of all community solar energy generating systems on the same or adjacent parcel does not exceed 10 megawatts.

*Community Solar Energy Generating Systems – Generally*

A community solar energy generating system is a system that, in addition to other requirements:

- has a generating capacity that does not exceed 5 megawatts as measured by the alternating current rating of the system's inverter;
- has at least two subscribers, but no limit to the maximum number of subscribers;
- serves at least 40% of its energy output to "LMI subscribers" unless the system is wholly owned by the subscribers to the system; and
- credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering.

Subscribers must be in the same electric service territory as the system. Investor-owned electric companies must participate in the program; large electric cooperatives and municipal utilities may choose to participate.

An "LMI subscriber" is one that is low-income, moderate-income, or resides in a census tract that is an overburdened and underserved community, as those terms are further defined.

Community solar is a form of net metering, which is subject to an overall statewide cap of 3,000 megawatts. For a general overview of net metering and other notable State incentives for solar, see the **Appendix – Incentives for Solar Energy Generating Systems**.

*Certificate of Public Convenience and Necessity Process*

Generally, a person may not begin construction in the State of a generating station, overhead transmission line, or a qualified generator lead line unless a Certificate of Public Convenience and Necessity (CPCN) is first obtained from PSC. The application process involves notifying specified stakeholders, public hearings, the consideration of recommendations by State and local government entities, and the project's effect on various aspects of the State infrastructure, economy, and environment. PSC must take final

action on a CPCN application only after due consideration of the recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located and the effect of the project on various aspects of the State infrastructure, economy, and environment.

Subject to specified requirements, a person seeking to construct a community solar energy generating station may apply for a Distributed Generation Certificate of Public Convenience and Necessity (DGCPCN) instead of a CPCN. However, until PSC begins accepting applications for DGCPCNs (likely in 2027), a CPCN is still required to construct a community solar project.

For additional information on the CPCN and DGCPCN processes, please see the **Appendix – Certificate of Public Convenience and Necessity**.

**Small Business Effect:** To the extent that the bill results in additional community solar projects being developed, small businesses that provide construction or consulting services for such projects benefit from an increase in the demand for their services.

**Additional Comments:** To the extent that the bill results in additional community solar projects being developed, such projects may be eligible for existing tax credits and other incentives that may apply to such projects. This analysis does not address any tax-related impacts that may result from an increase in community solar projects.

## Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 265 (Senator Brooks) - Education, Energy, and the Environment.

**Information Source(s):** Anne Arundel, Baltimore, and Montgomery counties; Maryland Municipal League; Maryland Department of the Environment; Department of Natural Resources; Office of People's Counsel; Public Service Commission; Department of Legislative Services

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# Appendix – Incentives for Solar Energy Generating Systems

State law establishes multiple incentives for solar energy generating systems of different types, sizes, and locations. The following is an overview of notable State incentives, which may be combined, depending on the specifics of a particular solar energy generating system.

*Production Incentives*

*Net Metering*

Under § 7-306 of the Public Utilities Article, the Public Service Commission (PSC) must require electric companies to develop and make net metering tariffs available to eligible customer-generators. Net metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by the customer and fed back to the grid over the customer's billing period. Under net metering, the customer pays only for energy used, netted against energy generated, plus the fixed monthly customer charge. In the event that more energy is generated than used, the electric company must pay the customer the value of the difference, subject to specified requirements. Generally, net excess generation payments are made annually, although certain customers may instead choose to accrue net excess generation indefinitely.

Generally, the generating capacity of an eligible customer-generator for net metering may be up to 2 megawatts, although there are exceptions allowing for larger capacities, including for community solar. Community solar systems are those that meet specified requirements, have multiple subscribers, and engage in virtual net metering.

There are multiple eligible energy sources for net metering, although most of the installed capacity is solar. The statewide capacity limit is 3,000 megawatts.

*Renewable Energy Portfolio Standard*

Under Title 7, Subtitle 7 of the Public Utilities Article, which establishes the State Renewable Energy Portfolio Standard (RPS), utilities and other competitive energy suppliers must submit renewable energy credits (RECs) equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Generally, a REC is a tradable commodity equal to 1 megawatt-hour of electricity generated or obtained from a renewable energy generation source. In program compliance year 2026, RPS percentage requirements include

8.0% from solar, which must be connected to the electric distribution grid serving Maryland.

Under § 7-709.1 of the Public Utilities Article, PSC must establish a Small Solar Energy Generating System Incentive Program and begin determining eligibility by January 1, 2025. Under the program, a solar energy generating system that meets specified requirements and is certified by PSC generates certified solar RECs, which have an RPS compliance value of 150%, for 15 years. In addition to other requirements, an eligible system must be placed in service between July 1, 2024, and January 1, 2028, inclusive.

*Grant and Loan Incentives*

Under § 9-20B-05 of the State Government Article, the Maryland Energy Administration (MEA) must administer the Strategic Energy Investment Fund (SEIF). Among other revenue sources, SEIF receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative (RGGI) and ACP revenues through the State RPS. RGGI-sourced funding is allocated through a statutory formula that provides significant annual funding for clean energy programs and initiatives, in addition to other purposes. In practice, MEA offers a variety of residential and commercial grants and rebates for different types of solar installations. Generally, solar ACP revenues must be used to support new solar development, although there are additional requirements in certain years.

*Tax Incentives*

*Solar Energy Property Generally Not Subject to State or Local Real Property Tax*

Under § 7-242 of the Tax-Property Article, solar energy property is generally not subject to State or local real property tax. "Solar energy property" means equipment that is installed to use solar energy or solar thermal electric energy to generate electricity to be used in a structure or supplied to the electric grid or provide hot water for use in a structure.

*Specified Nonresidential Solar Systems Exempt from Valuation or State or Local Property Taxes*

Under § 7-249 of the Tax-Property Article, specified nonresidential solar energy generating systems that are constructed on the rooftops of buildings or on parking facility canopies are not subject to valuation or to State or local property taxes. The exemption applies only to a system approved by PSC for a Certificate of Public Convenience and Necessity (CPCN) or CPCN exemption on or after July 1, 2024.

*Community Solar Personal Property Tax Exemption*

Under § 7-237 of the Tax-Property Article, a community solar energy generating system with up to 5 megawatts of capacity that meets specified requirements is exempt from the county and municipal personal property tax through the life cycle of the system. To be eligible, a system must (1) be placed in service after June 30, 2022, and be approved by PSC by December 31, 2030; (2) provide at least 50% of the energy produced to low- to moderate-income customers at reduced prices, as specified; and (3) be used for agrivoltaics or be installed on a rooftop, brownfield, parking facility canopy, landfill, or clean fill.

*Community Solar Real Property Tax Credit*

Under § 9-111 of the Tax-Property Article, the State and local governments must grant a 50% property tax credit for a brownfield, landfill, or clean fill on which a specified community solar energy generating system is installed. To be eligible, a system must be placed in service after June 30, 2022, and have been approved by PSC by December 31, 2025.

*Optional Local Property Tax Credit for Solar Energy Devices*

Under § 9-203 of the Tax-Property Article, counties and municipalities are authorized to grant tax credits against county or municipal property taxes for the use of a solar energy, geothermal energy, or qualifying energy conservation device in a structure for the purposes of heating and cooling, electricity generation, or the provision of hot water. Local governments may establish related definitions in determining eligibility for the credit.

*Optional Local Real Property Assessment Reduction for Certain Parking Canopies*

Under § 7-250 of the Tax-Property Article, the governing body of a county or municipality may reduce or eliminate, by law, the percentage of the assessment of any real property that is subject to the county or municipal property tax if the real property includes a parking facility on which a solar energy generating system has been constructed on its canopy. These provisions apply only to real property that includes a parking facility on which a system has been approved by PSC for a CPCN or CPCN exemption on or after July 1, 2024. The provision terminates June 30, 2027.

*Sales and Use Tax Exemptions*

Under § 11-230 of the Tax-General Article, the sales and use tax does not apply to the sale of solar energy equipment, which is defined as equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or supplied to the electric grid, or provide hot water for use in a structure.

Under § 11-207 of the Tax-General Article, the sales and use tax does not apply to the sale of electricity generated by solar energy equipment for use in residential property owned by an eligible customer-generator under the State's net metering law.

# Appendix – Certificate of Public Convenience and Necessity

*General Overview*

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCNs). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment. Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, qualified generator lead line, overhead transmission line designed to carry more than 69,000 volts, or certain energy storage devices unless a CPCN is first obtained from PSC.

State law provides that a "generating station" excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other requirements).

The CPCN process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project's effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

*Notification Process*

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly who requests a copy.

*Public Hearing and Comment*

PSC must provide an opportunity for public comment and hold a public hearing on a CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality and must provide weekly notice during the four weeks prior to the hearing, both in a newspaper and online, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

*Public Service Commission Considerations*

PSC must take final action on a CPCN application only after due consideration of (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide greenhouse gas emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

*Exemptions Under § 7-207.1 of the Public Utilities Article*

Section 7-207.1 of the Public Utilities Article specifies three conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to a specified agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to a specified agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.

*Exemptions Under § 7-207.4 of the Public Utilities Article*

The Renewable Energy Certainty Act of 2025 (Chapters 623 and 624) establishes the Distributed Generation Certificate of Public Convenience and Necessity (DGCPCN), a certificate that PSC may issue – in lieu of a CPCN – to a person seeking to construct and operate community solar projects that have a generating capacity of 2 megawatts to 5 megawatts and meet other specified requirements. A DGCPCN carries the same force and effect as a CPCN while offering applicants a streamlined review process; however, until PSC begins accepting applications for DGCPCNs (likely in 2027), a CPCN will still be required to construct a community solar project.

As with the CPCN process, PSC must provide an opportunity for public comment and hold a public hearing on a DGCPCN application in each county where any portion of the project is proposed to be located.

*Additional Information*

For a more thorough discussion of the above topics, along with legislative history and recent data trends, see *The Maryland Certificate of Public Convenience and Necessity* on the Department of Legislative Services' website.