

The Maryland Certificate of Public Convenience and Necessity (CPCN)

Process

April 12, 2017

Susan Gray

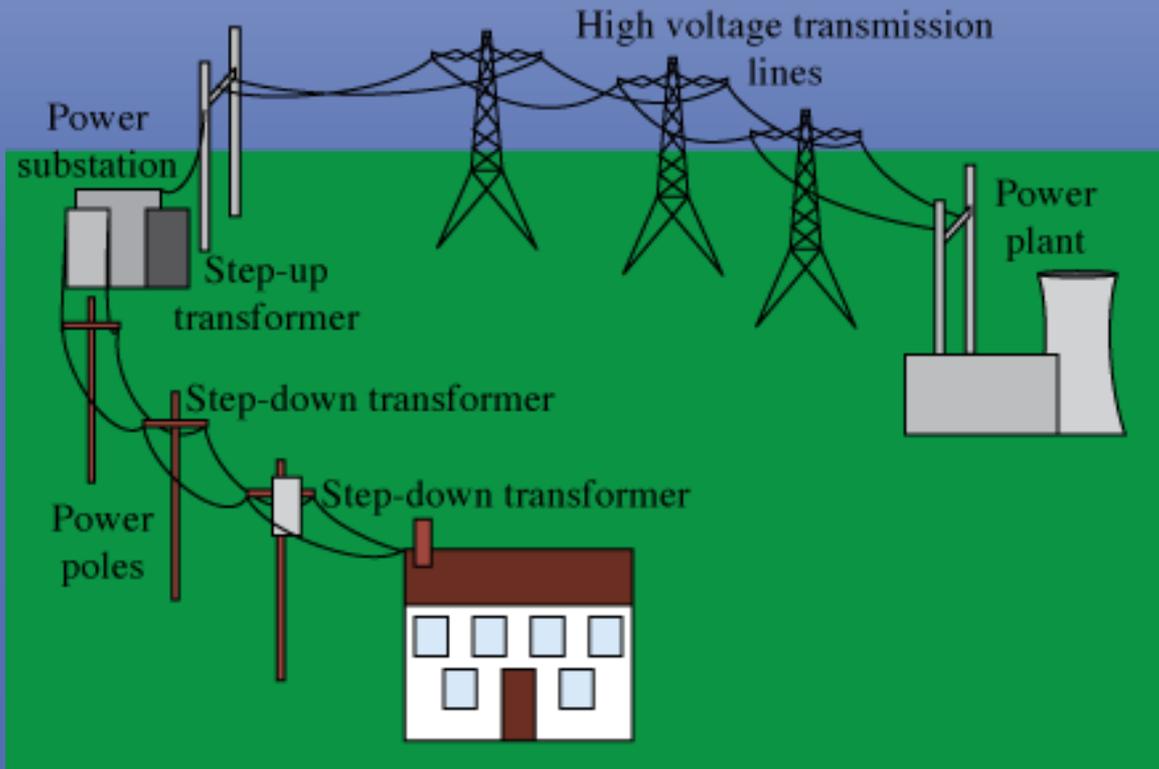
Maryland Department of Natural Resources

Power Plant Research Program

Presentation Purpose

- Set the stage - briefly provide facts on how Maryland gets its electricity
- Step through time – utility restructuring and how it shaped how power plants are sited and permitted today in Maryland
- Basic principles of how power plants are permitted in Maryland - the CPCN process

Electric Service



- Generation
- Transmission
- Distribution
- Behind the Meter

Maryland is a net importer of electricity.
We consume more than we generate.

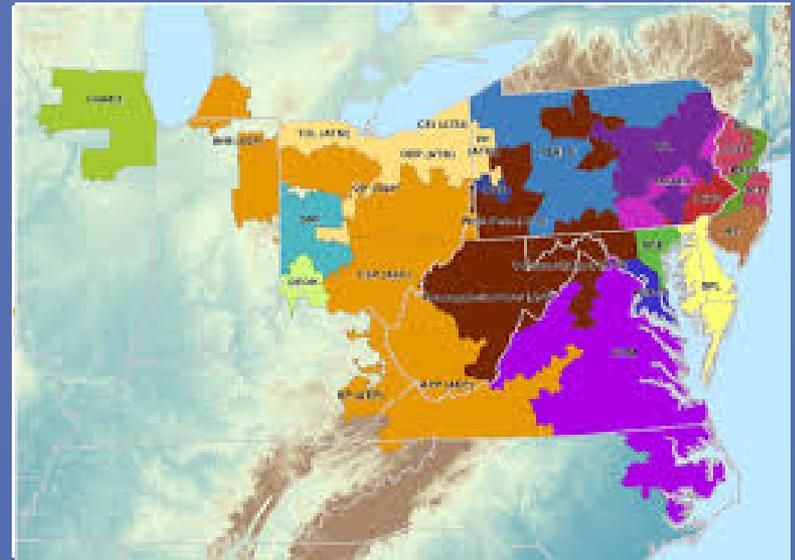
Maryland imports electricity from PJM.

PJM Interconnection operates the grid



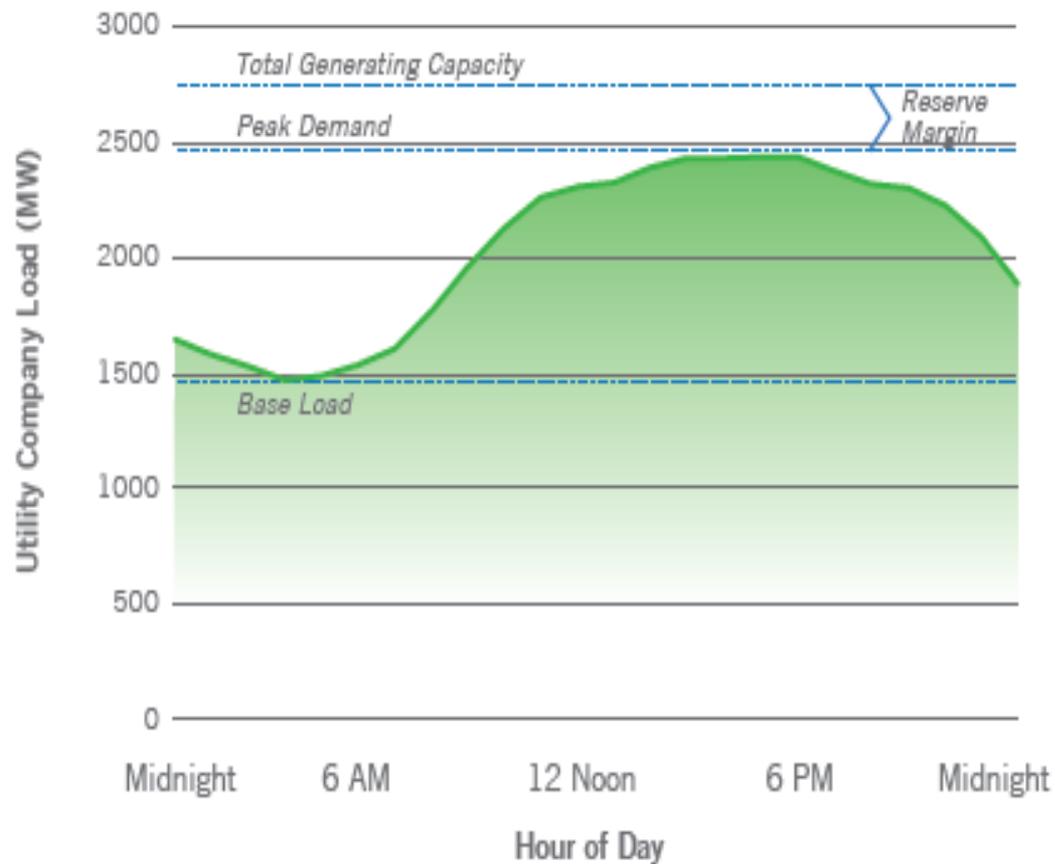
- Independent, federally regulated
- Balances supply & demand through reliable transmission
- Plans for new TLs and TL upgrades
- Does NOT direct construction of new generation
- For Maryland,
 - Merchant Generators build and operate generation;
 - Electric Utilities build and maintain Transmission & Distribution Lines

PJM is our RTO



Typical Load Profile

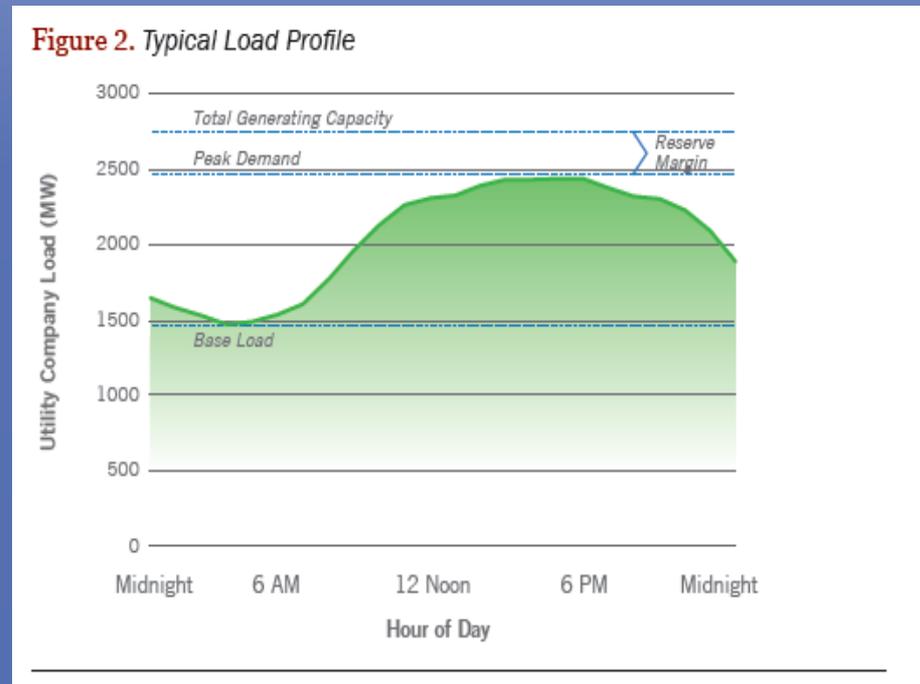
Figure 2. Typical Load Profile



PJM Power Plant Dispatch



- Plants least expensive to run operate almost continuously in order to meet minimum electric demand (base-load plants: coal, nuclear, some natural gas)
- Plants more expensive to run with the ability to quickly send electricity onto the grid to meet peak demand (natural gas, oil, hydro)
- PJM also uses Demand Response



Resource: PPRP Electricity Fact Book

PJM Interconnection

(Cont.)



- What must an Electric Generator Developer do to connect to the grid?
 - Submit Interconnection Request
 - Triggers a series of 3 studies among which PJM determines the specific transmission system upgrades (if any) required to meet reliability criteria
 - Puts the requested generator in the PJM Queue
 - Takes 12 to 24 months to complete the process
 - Without an Interconnection Agreement, Developer risks the possibility of a stranded asset.

Presentation Purpose

- Set the stage
- Step through time – utility restructuring and how it shaped how power plants are sited and permitted today in Maryland

1910: Creation of the Maryland PSC



- Established by the General Assembly
- Independent agency within State government
- Many responsibilities including approval of Maryland electric generating plants and transmission lines through a process called the CPCN – Certificate of Public Convenience and Necessity

Creation of PPRP



For the CPCN, PPRP:

- Conducts a comprehensive, objective assessments based on sound science of electrical generation and transmission lines
- Coordinates a consolidated State Agency review process

Reprinted

from

Laws of Maryland

1971

CHAPTER 31
(Senate Bill 540)

AN ACT to add new Sections 763 through 768, inclusive, to Article 66C of the Annotated Code of Maryland, title "Natural Resources," subtitle "In General," subheading "Department of Natural Resources," to follow immediately after Section 762 thereof, and to be under the new subtitle "Power Plant Siting," to establish an Environmental Trust Fund from a surcharge on generated kilowatts KILOWATT HOURS of electric energy to be used to underwrite a power plant environmental research and site evaluation program and to insure long-range and timely planning for power plant site selection and acquisition, to strengthen the State of Maryland's capability to define and manage a power plant environmental research program, to provide for the exercise of eminent domain and potential power plant site ownership by the Secretary of Natural Resources, and to exempt from local zoning certain sites; to add new Section 5A to Article 66C of the Annotated Code of Maryland, title "Natural Resources," subtitle "In General," subheading "Department of Natural Resources," to assign responsibility to the Secretary of Natural Resources on applications to the Public Service Commission for certificates of public convenience and necessity associated with power plant construction; to repeal and re-enact Section 706 of Article 43 of the Annotated Code of Maryland, title "Natural Resources," subtitle "In General," subheading "Department of Natural Resources," to assign responsibility to the Secretary of Natural Resources on applications to the Public Service Commission for certificates of public convenience and necessity associated with power plant construction; to repeal and re-enact Section 706 of Article 43 of the Annotated Code of Maryland, title "Natural Resources," subtitle "In General," subheading "Department of Natural Resources," to assign responsibility to the Secretary of Natural Resources on applications to the Public Service Commission for certificates of public convenience and necessity associated with power plant construction; to repeal and re-enact Section 706 of Article 43 of the Annotated Code of Maryland, title "Natural Resources," subtitle "In General," subheading "Department of Natural Resources," to assign responsibility to the Secretary of Natural Resources on applications to the Public Service Commission for certificates of public convenience and necessity associated with power plant construction.

EXPLANATION: [Brackets] indicate matter stricken from resolution.
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
Strike out indicates matter stricken out of bill.

1999: Deregulation

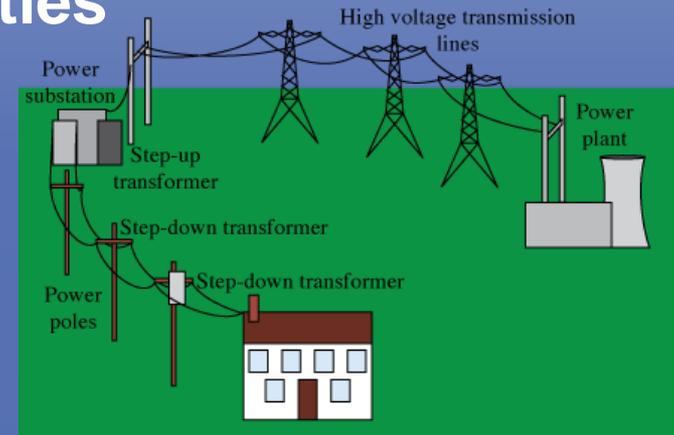


- Maryland General Assembly passed legislation – Electric Customer Choice and Competition Act of 1999
 - Many other (but not all) states deregulated.
- Goal:
 - provide consumers with the lowest possible prices for electricity
 - allow customers to choose their power supplier
 - provide incentives for the creation and development of innovative products and services.

Before 1999

- **Vertically integrated electric utilities**

- Regulated monopolies responsible for generation, transmission & distribution services
- Rates set by the PSC to recover reasonable costs and earn a fair return on investment
- Power plants were constructed to ensure reliability & minimize costs to ratepayers
- Utilities looked at alternative sites for generation and transmission as part of their integrated planning process.



- **Competitive firms** prohibited from marketing and selling generation service within the franchised service area of the utility

After 1999



- Divestiture of Maryland's utility power plants
- Relieved the utilities of their integrated planning function
 - The market determines the proposed type, size, and location of new generation
- Made retail generation competitive; so the PSC
 - Doesn't regulate the cost of electricity generated by plants located in Maryland
 - Is responsible for setting rates for electric distribution
 - Approves new/modified electric generating plants and transmission lines via the CPCN process

Back to 2017



What must a Generator do to construct and operate a Power Plant in MD?

- PJM - Interconnection Agreement
- Public Service Commission – CPCN
- County Permits
- Other State and Federal Permits

Resource: PPRP Cumulative Environmental Impact Report -18 Chapter 1 and Appendix A for a more complete listing. (<http://pprp.info/ceir18/HTML/Report-18-Chapter-1.html>)

Presentation Purpose

- Step through time
- Basic principles of the CPCN process

CEIR-18, Chapter 1, CPCN Process



Power Plant and Transmission Line Licensing

The PSC is the regulating entity whose jurisdiction includes licensing power generating facilities and overhead transmission lines greater than 69 kilovolts (kV) within the state. The PSC is an independent commission created by the State legislature with commissioners appointed by the Governor for set terms.

An electric company that is planning to construct or modify a generating facility or a transmission line must receive a permit, called a Certificate of Public Convenience and Necessity (CPCN) from the PSC prior to the start of construction. The approved CPCN constitutes permission to construct the facility and incorporates several, but not all, additional permits required prior to construction, such as air quality and water appropriation (see [Appendix A](#)).

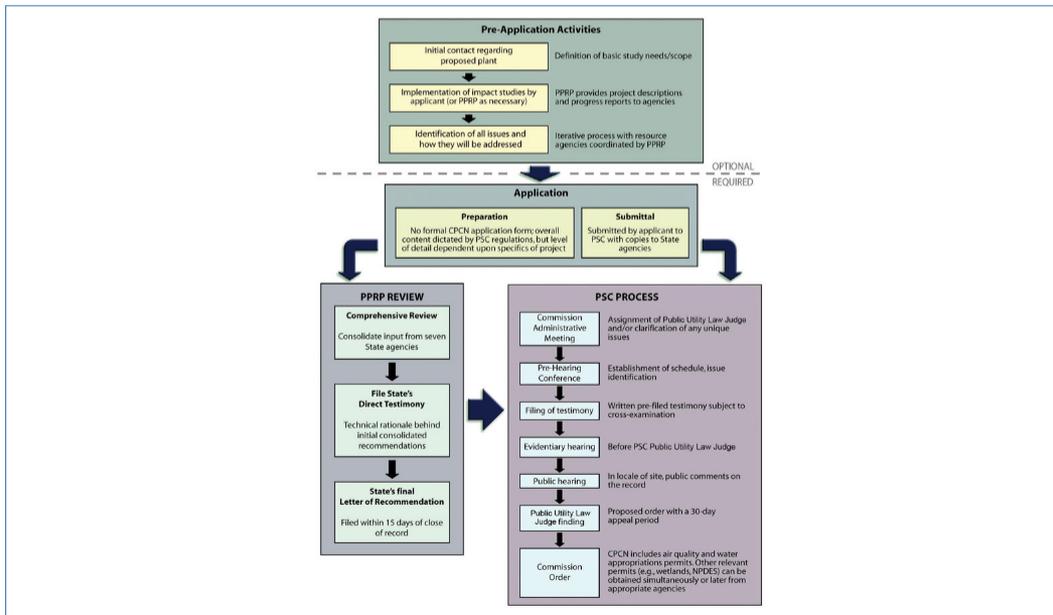
Applications for a CPCN are reviewed by the PSC, or a delegated Public Utility Law Judge, in a formal adjudicatory process that includes written and oral testimony; cross examination, and the opportunity for full public participation. Parties to a CPCN licensing case include the applicant, the PSC Staff, the Office of People's Counsel (acting on behalf of the Maryland ratepayers), and PPRP (acting on behalf of DNR and six other State agencies). Other groups, such as federal agencies and private environmental organizations, as well as individuals with a specified interest, also may have a right to participate as intervenors in these hearings. The broad authority of the PSC allows for the comprehensive review of all pertinent issues and was designed in 1971 to be a "one-stop shop" for power plant licensing.

The CPCN licensing process provides an opportunity for the State to examine all of the significant aspects and impacts of a proposed power facility or transmission line, including the cumulative effects of interrelations between various impacts. This is a unique process within the State's regulatory framework. The CPCN mechanism recognizes that electricity is a vital public need, but its generation and transport can result in impacts to the state's natural, social, and cultural resources. A distinguishing feature of PPRP's role in the CPCN process is the high degree of interagency coordination involved. PPRP coordinates the project review and consolidates comments from the Departments of Natural Resources, Environment, Agriculture, Commerce, Planning, and Transportation, and the Maryland Energy Administration. PPRP then develops a consolidated set of scientifically supported recommended license conditions, unique to each facility's CPCN, and submits these recommendations to the PSC on behalf of the State agencies. In many instances, conditions go beyond regulatory requirements to incorporate creative measures for mitigating potential facility impacts, often as stipulations agreed to by the applicant and other parties to the case prior to the conclusion of the adjudicatory process.

In the case of multiple facilities proposed in close proximity to each other or to existing plants, or for transmission lines that span multiple regions and resource areas, PPRP includes cumulative impacts within the consolidated review process. In such a case, impacts to air, water, terrestrial, socioeconomic, and other resources are evaluated and compared to any identified thresholds of acceptability. Additionally, the cumulative analysis identifies any licensing conditions needed to address cumulative impacts.

Figure 1-1 illustrates the elements of the CPCN licensing process. The primary steps in the CPCN licensing process are described below:

Figure 1-1 The CPCN Licensing Process



CPCN Exemptions



- Generation capacity less than or equal to 2MW
- On-site generation capacity (up to 25 MW) and at least 10% is consumed on site
- On-site generation capacity (up to 70 MW) and at least 80% is consumed on site
- Land-based wind generation capacity (up to 70 MW)

What is the CPCN Process?



Adjudicatory Process Parties to the Proceeding

PPRP

OPC

PSC
Staff

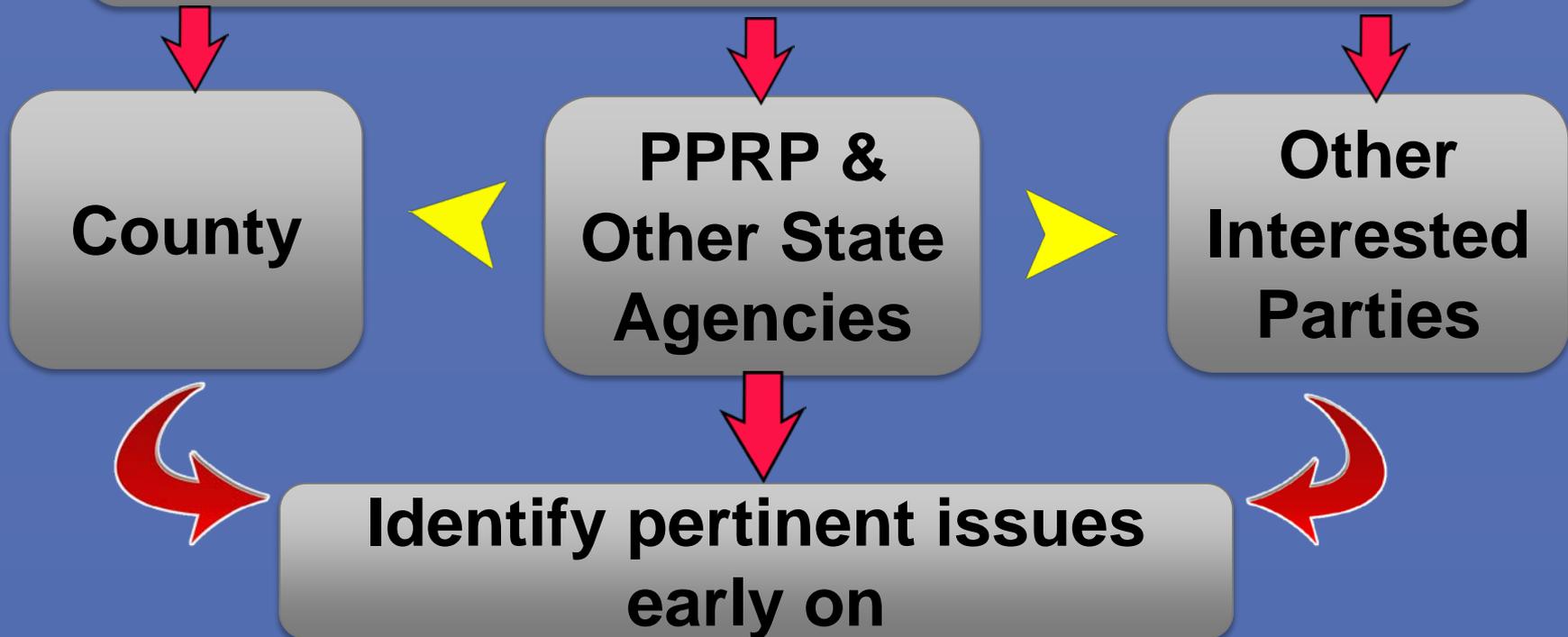
Other Intervenors
(e.g. Counties, Federal
Gov., Members of the
Public, Envr. Groups)

Applicant

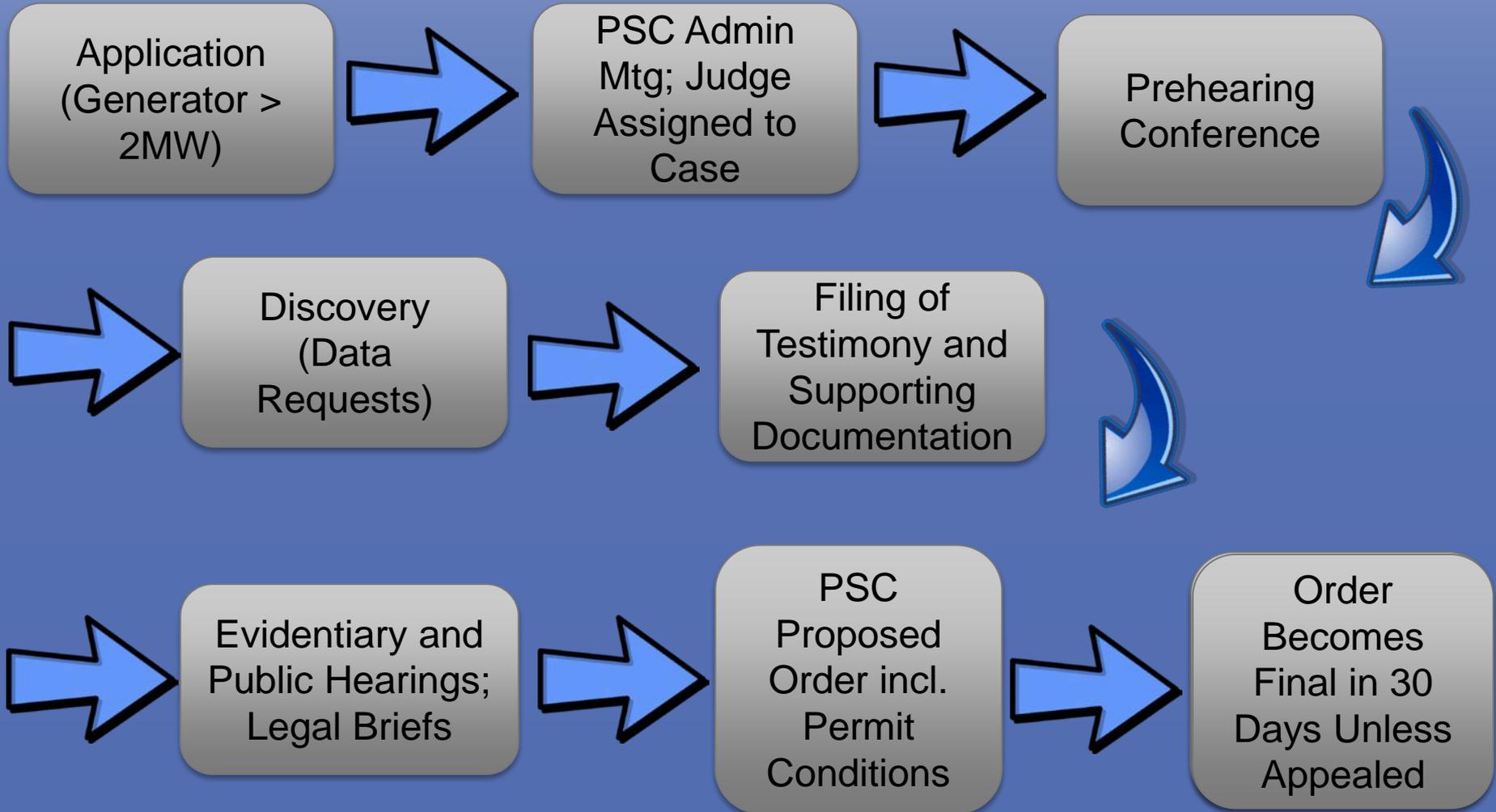
Before a CPCN Application is Filed



**Pre-application “Smart’s”
Applicant initial contact with:**



CPCN Process



CPCN Appeals



Any party to the Proceeding Can Appeal

1. Utility Law Judge Proposed Order can be appealed to the full 5-Member PSC Commission
2. 5-Member Commission order can be appealed to the Circuit Court
3. Circuit Court Order can be appealed to the Court of Special Appeals

Timeframe for Appeals: 6 to 24 months

(Note: Without certain, additional legal actions, Developer can construct at its own risk once PSC issues its Final Order)

Due Consideration

Reference: PUC §7-207



- **PSC can take final action on a CPCN application only after due consideration of:**
 - (1) the recommendation of the governing body of the county or municipal corporation
 - (2) the effect of the generating station on:
 - stability & reliability of the grid
 - environmental impacts
 - economics/socioeconomics
 - safety (e.g., aviation safety)
 - (3) 2017 General Assembly Amendments

PUC § 7-207



About Statutes

This page accesses the **Code of Maryland (Statutes)** and the **Maryland Municipal Charters and Resolutions** as compiled and maintained by the Department of Legislative Services.

The **Code** is arranged by and organized into "**Articles**" (e.g. Transportation Article), which are further subdivided into "titles", "subtitles", "**sections**", "subsections", "paragraphs", "subparagraphs", etc.

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[Constitution of the United States](#)

[Changes in the Public Local Laws of Maryland 2017](#)

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Statute Text

Article - Public Utilities

[\[Previous\]](#)[\[Next\]](#)

§7-207.

(a) (1) (i) In this section and § 7-208 of this subtitle, "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.

(2) In this section, "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.

(b) (1) (i) 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.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and
2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

Notice

Reference: PUC §7-208



On receipt of an CPCN application, the Commission provides notice to:

- the governing body of each county or municipal corporation of the generating station's location;
- the governing body of each county or municipal corporation within 1 mile of the of the generating station's location;
- each member of the General Assembly representing the affected County(ies)
- 2017 General Assembly Amendments

PUC § 7-208



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Statute Text

Article - Public Utilities

[Previous][Next]

§7-208.

- (a) (1) In this section the following words have the meanings indicated.
 - (2) "Qualified offshore wind project" has the meaning stated in § 7-701 of this title.
 - (3) "Qualified submerged renewable energy line" means:
 - (i) a line carrying electricity supply and connecting a qualified offshore wind project to the transmission system; and
 - (ii) a line in which the portions of the line crossing any submerged lands or any part of a beach erosion control district are buried or submerged.
- (b) This section applies to any person:
 - (1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts;
 - (2) exercising the right of condemnation in connection with the construction; or
 - (3) constructing a qualified submerged renewable energy line.
- (c) (1) To obtain the certificate of public convenience and necessity required under § 7-207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.
 - (2) The Commission may waive the 2-year requirement on a showing of good cause.
- (d) The applicant shall:
 - (1) include in an application under this section the information that the Commission requests initially; and
 - (2) furnish any additional information that the Commission requests subsequently.
- (e) (1) On the receipt of an application under this section, together with any additional information requested under subsection (d)(2) of this section, the Commission shall provide notice to:
 - (i) all interested persons;
 - (ii) the Department of Agriculture;

State Agency Contact-PPRP Interactions During a CPCN



- Background:
 - State Agency Contact is identified by the Agency
 - PPRP maintains State Agency Contact List
 - State Agency Contacts are members or participants of PPRAC
 - PPRP can meet with new SACs to show them the ropes and
 - As a new procedure, conducts periodic SAC training/informational webinars/meetings

State Agency Contact-PPRP Interactions During a CPCN



- Interactions from Initiation of CPCN through Final Order.
PPRP:
 - Sends out briefing email and link to company's CPCN application when CPCN is submitted, requesting any preliminary feedback which could affect the CPCN procedural schedule
 - Communicates the CPCN's procedural schedule and how that translates into a SAC review timeframe, including the estimated timeframe for final RSA review of the Secretaries' Letter and Initial Recommended Conditions and PPRP's Environmental Review Document.

State Agency Contact-PPRP Interactions During a CPCN



- Interactions from Initiation of CPCN through Final Order. PPRP (cont.):
 - Contacts specific SACs throughout its review, identifying issues that have arisen that affect their State Agency (e.g., MDOT/SHA for transportation issues, MDE for air and water permit issues, MHT for historical/archaeological issues, etc.) Interacts with that individual SAC to resolve the issue, including drafting one or more recommended licensing conditions.
 - Note that if technical issues arise that are not within the purview of a particular agency, then PPRP takes the lead on these issues.
 - Facilitates interaction between the Applicant and the State Agency, as needed, to expedite resolution of issues.

State Agency Contact-PPRP Interactions During a CPCN



- Interactions from Initiation of CPCN through Final Order. PPRP (cont.):
 - If issues cannot be resolved, PPRP requests the RSA to provide an individual from the RSA to provide written testimony to the PSC on the issue. (This individual will need to attend the evidentiary hearing and will be subject to cross examination by the Applicant and other intervenors in the case.)
 - Sends out via email the Secretaries' Letter and Initial Recommended Conditions and PPRP's Environmental Review Document for final review and comment

State Agency Contact-PPRP Interactions During a CPCN



- Interactions from Initiation of CPCN through Final Order. PPRP (cont.):
 - Resolves any SAC comments and sends our final documents for his/her Secretary's signoff.
 - Note: the Secretary's signature on the Secretaries' Letter is the Secretary's endorsement of those conditions for which his Agency has responsibility.
 - The Signoff Folder consists of the Letter, Recommended Conditions, ERD, and PPRP Briefing Memo. The PPRP PM contacts the SAC for a time to have the Secretary signoff, and personally takes the Folder to the Secretary so that he/she may ask any questions.

State Agency Contact-PPRP Interactions During a CPCN



- Interactions from Initiation of CPCN through Final Order.
PPRP (cont.):
 - If during the evidentiary hearing and/or public hearing, new information is acquired which may affect a RSA condition, PPRP contacts the affected Agency immediately and seeks clarification on technical or policy positions to be taken.
 - Note PPRP does not make policy. It conducts power plant and transmission line reviews based on sound science and presents the RSA's positions within the CPCN framework.
 - Following the hearings, PPRP sends out a summary of what went on at the evidentiary and public hearings.

State Agency Contact-PPRP Interactions During a CPCN



- Recent Improvements in Communication and Tools to Review CPCNs:
 - Expanded SAC contact list to include other interested programs w/in a RSA (e.g., MHA w/in MDP)
 - SAC training and semiannual group “here’s what could be coming down the road” briefs
 - SmartDG+ update to include additional data layers: Heritage Areas, Scenic Byways, Prime Farmland
 - PPRP website update to include PJM Queue info and “Here’s what’s currently in the CPCN pipeline” info

PSC Website



*A National Leader
in Regulatory Excellence*



- Electricity
- Telecommunications
- Gas
- Water
- Transportation

- About Us +
- Newsroom+
- Agendas & Calendars +
- Online Services +
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Case Search Maillog Search

- Case/Docket No. (e.g. xxxx)
- Rulemaking No. (e.g. rmx)
- Public Conference (e.g. pcxx)
- Search All (by Keyword)

More Search Tools »

Case Search Results
Case Jacket [Sortable View](#) [Printer Friendly](#)
Case Number: 9387
Date Filed: 07/10/2015

IN THE MATTER OF THE APPLICATION OF ONEENERGY BLUE STAR SOLAR, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A 6.0 MW SOLAR PHOTOVOLTAIC GENERATING FACILITY IN KENT COUNTY, MARYLAND

- | | | |
|---|---|------------|
| 1 | OneEnergy Blue Star Solar, LLC - an Application for a Certificate of Public Convenience and Necessity authorizing the construction of the Blue Star Solar Farm in Kent County, Maryland. Case No. 9387. (ML 170984) See more. | 07/10/2015 |
| 2 | The Commission - a letter noting that the Commission hereby docket the matter, set it for hearing and delegates the matter to the Public Utility Law Judge Division to conduct the proceedings. Case No. 9387. (ML 171158) | 07/15/2015 |
| 3 | Public Utility Law Judge - Public Utility Law Judge's Notice of Pre-Hearing Conference. Case 9387 (ML 171249) | 07/15/2015 |
| 4 | Public Utility Law Judge Division - Preliminary Service List. Case No. 9387 (ML 171250) | 07/15/2015 |
| 5 | Office of Staff Counsel - Entry of Appearance. Case No. 9387 (ML 171424) | 07/21/2015 |
| 6 | One Energy Blue Star - its Verification Notice for the original Application filed on July 17, 2015. Case No. 9387. (ML 171571) | 07/22/2015 |
| 7 | Public Utility Law Judge Division - Preliminary Service List. Case No. 9387. (ML 171538) | 07/22/2015 |

New & Ongoing Projects



New & Ongoing CPCN Cases

- Massey Solar - 5 MW - Kent Co.
- LeGore Bridge Solar - 20 MW - Frederick Co.
- Egypt Road Solar - 45.9 MW - Dorchester Co.
- Dan's Mountain Wind – 30-41 MW – Allegany Co.
- Big Spring Solar – 3.5 MW – Washington Co.
- Perennial Solar - 8 MW – Washington Co.
- Mason-Dixon Solar – 18.4 MW – Washington Co.
- Jones Farm Lane Solar – 56.7 MW – Queen Anne's Co.
- Pinesburg Solar – 7 MW – Washington Co.
- Keys Energy Center (Natural Gas) (Modification) – 735 MW – Prince Georges Co.

New & Ongoing Projects



New & Ongoing CPCN Cases

- St. Charles Natural Gas (Modification) – 725 MW – Charles Co.
- Mattawoman Natural Gas (Reclaimed Water Pipeline) (Modification) – 9.3 mile – Prince Georges Co.
- Morgnec Road Solar – 57 MW – Kent Co.
- Biggs Ford Solar – 15 MW – Frederick Co.

Other Projects Before the PSC

- US Wind & Skipjack Offshore Wind Project – 248 MW – MD Wind Energy Area (East of Ocean City)

Follow-Up

- Great Bay Solar (Condition violation during construction) – Somerset Co.

Federal Projects

- Conowingo Dam - Relicensing – Cecil & Harford Co.

New & Ongoing Projects



Anticipated Projects

- BGE Baltimore Harbor/Keys Bridge Crossing Transmission Line – Baltimore City
- TransSource Interstate Transmission Line – PA into MD
- Rock Springs Natural Gas Plant (Modification) – Cecil Co.
- Catoctin Solar – Frederick Co.
- Phoenix Solar – Prince Georges Co.
- Roberts Station Solar – Queen Anne's Co.
- Brick Kiln Road Solar – Wicomico Co.

PPRP Website

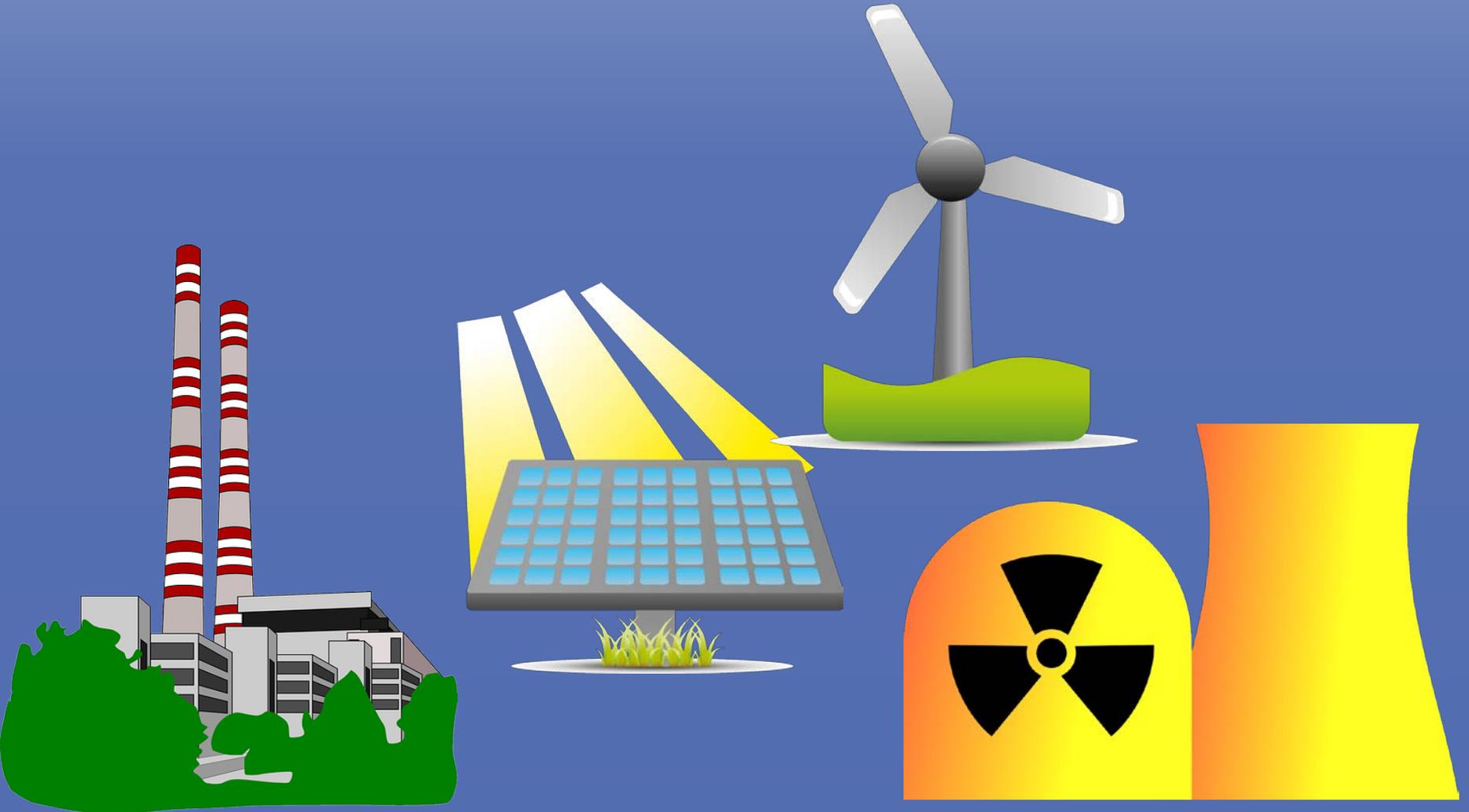


Under
Development:
PSC CPCN
Cases Under
Review

Potential
Power Plants
and T-Line
Reviews

- [Maryland Power Plants and the Environment \(CEIR-18\)](#) **New!**
 - [Summary Document](#) (5.5Mb pdf)
 - [CEIR-18 Webpages](#)
- [Long-term Electricity Report for Maryland - December 2016](#) **New!**
- [SmartDG+ Online Mapping Tool](#)
- [Electricity in Maryland - Fact Book 2014](#)
- [Smart Siting Online Mapping](#)
- [Power Plant Licensing in Maryland](#)
- [Windpower Technical Advisory Group](#)
- [Power Plant Research Advisory Committee](#)
- [Power Plants in Maryland](#)
- [Featured Projects](#)
 - [Transmission Line Projects in Maryland – an Overview](#)
 - [Atmospheric Deposition Measurement and Analysis Information Resource](#)
 - [Mercury in Maryland: Past, Current and Future Plans - April 2006 Workshop](#)
 - [Potomac Flowby Studies](#)
 - [Clean Water Act Section 316 Regulations](#)

Power Plants in MD

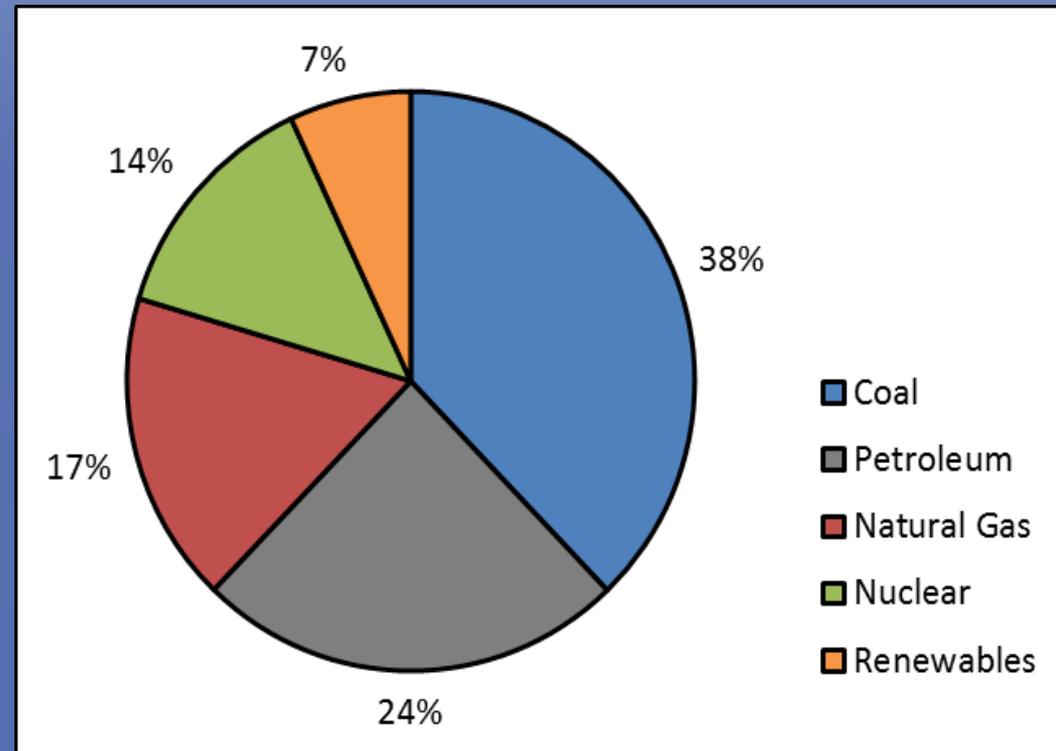


Power Plant Capacity in Maryland



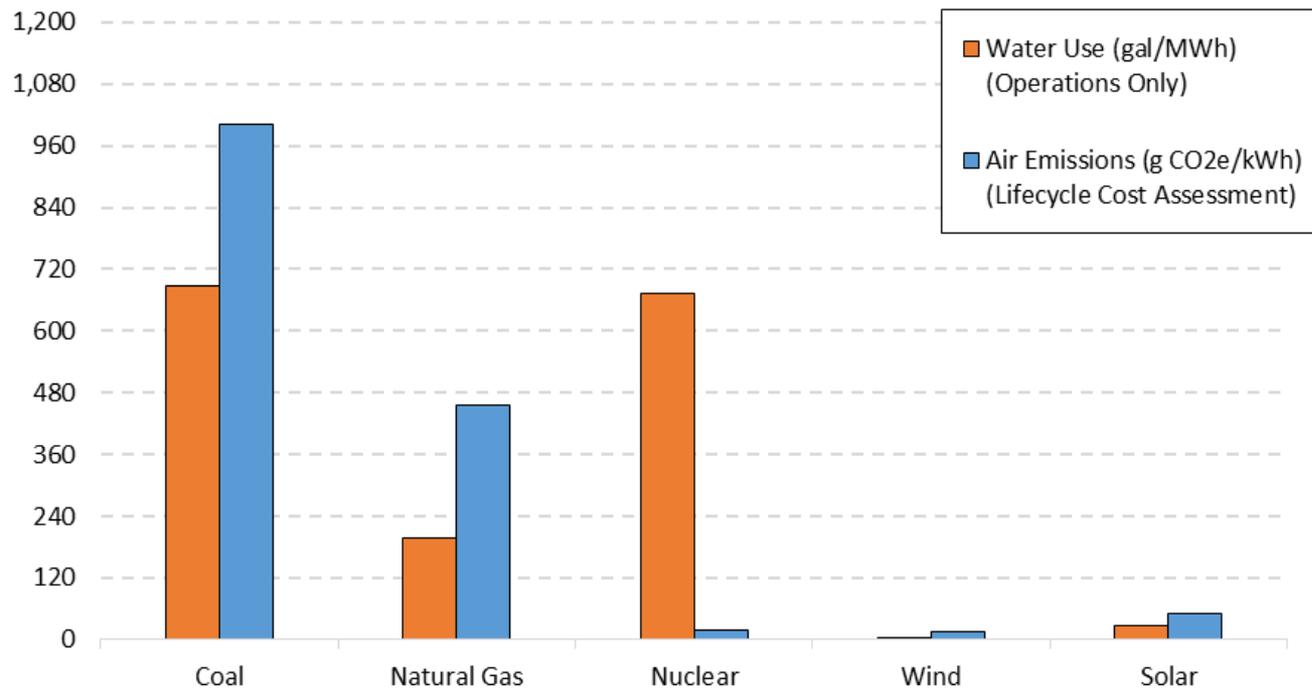
Total In State Generation Capacity ~ 13,500 MW

- Fossil Fuel ~ 10,800 MW
 - Coal ~ 5,100 MW
 - Petroleum ~ 3,300 MW
 - Natural Gas ~ 2,400 MW
- Nuclear ~ 1,800 MW
- Renewables ~ 900 MW



Rule of Thumb: 1MW of electricity will supply ~ 1000 homes
... Caution: capacity doesn't equal output to the grid.

Generation Air & Water Use Comparisons



Generation Land Use Comparisons



0.6 Acres/MW
13,140
MWh/Acre



2 Acres/MW
2,190 MWh/Acre



5 Acres/MW
263 MWh/Acre

<0.5
Acre/MW



1 Acre/MW
7,446 MWh/Acre



5 Acres/MW
(minimum)
526 MWh/Acre



PPRP Website Resources



Under Development:
PSC CPCN
Cases Under
Review

Potential
Power Plants
and T-Line
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Resources

PPRP Contact and Website Info



pprp.dnr@maryland.gov

Phone: 410-260-8660

www.pprp.info

Thank You!



Questions?

