

1.21 Energy Facility Permitting Information: CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (PUBLIC SERVICE COMMISSION)

- ❑ *Question: Am I building a facility that generates electricity and connects with the electric grid?*

Why do I need this approval?

Anyone constructing an electric generating station, including emergency back-up power, must apply for and obtain one of the following:

For larger power generation projects, a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission (PSC); or

For smaller power generation projects which meet certain applicability thresholds established by the PSC, a CPCN waiver from the Public Service Commission. In addition to the waiver, an applicant must also apply for and receive an air quality permit to construct prior to constructing or operating the generator.

The Public Service Commission is required, pursuant to the Public Utility Companies (“PUC”) Article of the Annotated Code of Maryland to grant its approval prior to the construction of a generating station in Maryland.

Large generating stations routinely require a Certificate of Public Convenience and Necessity (CPCN) under PUC Article §§ 7-207 and 7-208. However, PUC Article §7-207.1 provides that certain power generation projects may be exempted from the CPCN process. In order to qualify for this exemption, applicants proposing to install these smaller electric generators must fill out a CPCN exemption application and obtain a waiver from the PSC.

What laws or regulations give MDE the legal authority to issue this approval?

MDE does not issue the CPCN. Rather, the Public Service Commission (under the authority of Public Utility Companies Article, §§2-121 and 7-205 - 7-208 of the Annotated Code of Maryland) issues a CPCN. The CPCN incorporates Maryland’s pre-construction air permitting requirements, including non-attainment 1.03 New Source Review, 1.04 Prevention of Significant Deterioration (PSD) and other air quality regulations, as applicable. Once a facility is constructed, any additional permits such as a 1.05 State Permit to Operate or a federal 1.06 Part 70 Operating Permit are issued by MDE. The CPCN may also replace the 3.15 Water Appropriation and Use Permit.

What is the process to get this approval?

(1) CPCN- Applicant must submit an application to the Public Service Commission which summarizes the proposed project and its impacts. Cases before the PSC are structured as administrative law proceedings before a Hearing Examiner with lawyers representing the various parties involved. Parties to a case include

the applicant, the Power Plant Research Program of the Department of Natural Resources (acting on behalf various State agencies), the PSC staff and the Office of People’s Counsel (acting on behalf of the Maryland ratepayers). Phasing of construction, various waivers, and specific scheduling requests are generally addressed in a pre-hearing conference or at various points along the process. The PSC’s Hearing Examiner takes into consideration the license conditions recommended by the state, and the testimony and briefs filed by the applicant and all other parties, and issues a decision in the form of a proposed order on whether the CPCN should be granted and under what conditions. After a prescribed appeal period, a final order is released.

(2) CPCN waiver- Applicant must submit an application to the Public Service Commission to obtain a waiver. These applications are available on the PSC’s website. Per the PSC’s website, the first step in obtaining a waiver is to contact the local power distribution company where the unit will be installed. The local power distribution company will provide a letter to you indicating that an inter-connection, maintenance and operation agreement is not necessary for the proposed project. Alternatively, the power distribution company will provide information that will allow you to complete such an agreement. The PSC also has requirements for who is eligible to sign the waiver application. Specifically, consultants or contractors assisting an applicant cannot sign the application on behalf of the owner/operator of the proposed generating unit.

Are there any other requirements?

(1) CPCN- For further information on power plant licensing, contact the Public Service Commission or the Power Plant Research Program (PPRP) at the Maryland Department of Natural Resources (DNR) or visit the following website:

<http://esm.versar.com/pprp/licensing/licensing.html>

(2) CPCN waiver- For further information on the CPCN waiver, contact the Public Service Commission or visit the following website:

http://www.psc.state.md.us/psc/electric/CPCNExemptions_FAQ.htm.

How long should I expect it to take to get this approval once I submit a complete application?

(1) CPCN- See PSC’s website

(2) CPCN waiver- The PSC's website indicated that it can take up to two months for an installation that does not involve any interconnection issues.

Once I get this approval, how long will it last?

- (1) CPCN- the timeframe is as specified in the CPCN
- (2) CPCN waiver- No timeframe

How much will this approval cost?

- (1) CPCN- see PSC's website
- (2) CPCN waiver- \$500 filing fee (waived for Federal and State agencies)

Do I need to know any additional information?

- (1) CPCN- see PSC's website
- (2) CPCN waiver- see PSC's website

Who do I contact with additional questions?

- (1) Energy and Resources and Markets Division of the PSC
410-767-8059
- (2) Air Quality Permits Program, MDE
410-537-3230
- (3) Power Plant Research Program, DNR
410-260-8660