

CPCN PROCESS

Sections 7-207 and 7-208
Public Utilities Article

WHEN IS A CPCN REQUIRED?

In Maryland, a person may not begin construction of a generating station, a qualified lead line, an overhead transmission line designed to carry more than 69 kV, or a qualified submerged renewable energy line, or exercise a right of condemnation associated with the construction of a generating station or transmission line without approval of the MD PSC.

A generating station exempt from the CPCN requirement still requires MD PSC approval to begin construction.

EXEMPT FROM CONSTRUCTION APPROVAL AND CPCN REQUIREMENT

- Generation capacity less than or equal to 2 MW

CPCN EXEMPTION WITH APPROVAL

- On-site generation capacity of more than 2 MW (up to 25 MW) and at least 10% of generated electricity is consumed on site
- On-site generation capacity (not exceeding 70 MW) and at least 80% is consumed on site
- Land-based wind generation capacity (not exceeding 70 MW)

CPCN Procedure

- Applicant files application
 - The Commission does not have a form for a CPCN application
 - The regulations governing CPCN applications and the details of the filing requirement are set forth in COMAR 20.79
 - The filing fee for a CPCN application is \$10,000. Check is made payable to the “Maryland Public Service Commission”
- Applicant is required to provide notice of the filing of the application (and in certain instances a copy of the application) to:
 - certain State and federal agencies;
 - governing bodies of county or municipal corporation
 - (a) in which the project will be constructed or
 - (b) within 1 mile of the project location; and
 - General Assembly members representing any part of a county
 - (a) in which the project will be constructed or
 - (b) within 1 mile of the project location
 - each owner of land and each owner of adjacent land when the application requests a CPCN for an overhead transmission line
- The Commission posts notice of an application on its website and on its Facebook and Twitter accounts

CPCN Procedure, cont'd

- Commission initiates a proceeding to consider the application
 - The Commission may conduct the proceedings en banc or by a panel (3 Commissioners or 2 Commissioners and a Public Utility Law Judge)
 - The Commission may delegate to a Public Utility Law Judge to conduct the proceedings

CPCN Procedure, cont'd

- A Notice of Pre-hearing Conference is issued that has the date, time, and location of the conference as well as the date Petitions to Intervene are due
- Applicant is required to publish the Notice in a newspaper(s) of general circulation in the county and/or municipal corporation in which the facility is to be located
- The Notice is published on the Commission's website on date of issuance

CPCN Procedure, cont'd

- Statutory Parties to Proceeding
 - Power Plant Research Program (Dept. of Natural Resources) – coordinates the testimony and positions of all affected state agencies; considered expert witness for environmental, economic, and esthetic analysis
 - Maryland Office of People's Counsel, the residential ratepayer advocate
 - Technical Staff of MD PSC – primarily addresses reliability and stability of electric grid

CPCN Procedure, cont'd

- Pre-hearing conference
 - PPRP will indicate if application is complete
 - A procedural schedule is agreed upon, including setting the dates when pre-filed testimony is due from each party and a date(s) for an evidentiary hearing, and the number and timing of public comment hearing(s) is discussed
 - Notice of Procedural Schedule is issued

CPCN Procedure, cont'd

- Public Hearing for Comment
 - At least one hearing for public comment is held at a location in close proximity to the proposed location (if available).
 - Written comments also may be filed with the Commission.
 - The governing body of the county or municipal corporation in which the project is proposed to be located is invited to join the Commission or Public Utility Law Judge in conducting the public hearing.

CPCN Procedure, cont'd

- NOTIFICATIONS OF PUBLIC COMMENT HEARING

- Notice of Public Hearing with the dates, times, and locations is issued by the Commission.
- Applicant must publish the Notice in a newspaper(s) of general circulation and post on two types of social media in each of four successive weeks immediately before the hearing date
- The Notice also is posted on the MD PSC website as well as on the MD PSC Facebook and Twitter accounts
- MD PSC website has a list of all public hearings being held in each active CPCN matter with link to the electronic docket which has pleadings filed by the parties (www.psc.state.md.us/public-comment-hearings/)
- MD PSC coordinates with the governing body of the county or municipal corporation for an efficient and cost-effective means to provide notice to the public hearing through other types of media familiar to the residents in the county or municipal corporation
- On day of the hearing, the Applicant must post an informational sign about the hearing at or near each public entrance of the building in which the hearing will be held

CPCN Procedure, cont'd

- Conduct of a Public Hearing
 - Either the Commission or a Public Utility Law Judge presides at the hearing
 - A court reporter is present and a transcript of the hearing is prepared
 - Representatives of Applicant, OPC, and Staff are present in the event any member of the public has a substantive question about the project
 - The Commission or Public Utility Law Judge is present to listen to the comments. The Commission or Public Utility Law Judge do not respond to substantive questions about the project or proceeding because they must render an impartial decision after considering all the written or oral evidence presented at the evidentiary hearing
 - The Applicant may be given a limited amount of time to describe the project prior to public comments being taken
 - Each member of the public who wishes to make a comment will come to the microphone when called and present an oral statement. A time limitation may be placed on the length of the comment based on the number of persons wishing to comment
 - After all members of the public have had an opportunity to comment, the hearing is adjourned

CPCN Procedure, cont'd

- Evidentiary Hearing
 - Typically held at the Commission's Baltimore offices
 - Only parties of record participate, but public may attend and watch the proceedings
 - Witnesses are called and each party and the presiding officer are able to cross-examine the witnesses

CPCN Procedure, cont'd

- After the evidentiary hearing, a briefing schedule may be directed.
- If before a Public Utility Law Judge, the Judge issues a proposed order, which may be appealed to the Commission by a party for a review of an issue(s) – generally a 30-day appeal period. The Commission may, on its own motion, initiate a further proceeding or modify the proposed order.
 - If an appeal is taken of the proposed order, the Commission issues the final Order.
 - If no appeal is taken of a proposed order, it becomes a final Order of the Commission.
- If the matter is before the Commission, it issues a final Order
- Any party, other than the MD PSC Staff, or person in interest that is dissatisfied with the final Order may seek judicial review of the Order in the Circuit Court of Baltimore City or any county in which the applicant operates.



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