

Maryland Public Service Commission Certificate of Public Convenience and Necessity (CPCN)

Public Utilities Article
Sections 7-207 and 7-208

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
- Onsite emergency backup generation associated with critical infrastructure

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: Application

- **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 X (formerly Twitter) accounts**

CPCN Procedure: Initiation of Proceeding (Case)

- Commission initiates a proceeding to consider the application
 - The Commission may conduct the proceedings en banc or by a panel (three Commissioners, or two Commissioners and a Public Utility Law Judge)
- The Commission may delegate to a Public Utility Law Judge to conduct the proceedings
- The Power Plant Research Program (PPRP) has 45 days from the date the application is docketed as a case to determine whether an application is complete procedural schedule cannot be established until the application is complete
- 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, as well as on the applicant's website and at least two social media platforms
- The notice is published on the Commission's website on date of issuance.

CPCN Procedure: 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: Pre-hearing conference

- 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: Public Comment Hearing

- Public comment hearings are required and may be held in the area where the project will be constructed, or may be held virtually, or a combination of both. Written comments also may be filed with the Commission, by mail or electronically through the Commission’s website.
- 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.
- The hearing may be livestreamed; a recording of the hearing will be uploaded to the Commission’s [YouTube](#) channel (Maryland PSC) or the PULJ Division’s [YouTube](#) channel (MD PSC PULJs).

CPCN Procedure: Public Comment Hearing

- **Notifications of Public Comment Hearings**

- 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 on its website, as well as 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 X (formerly 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 (<https://www.psc.state.md.us/make-a-public-comment/>)
- 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 (if it is in-person), 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: Public Comment Hearing

- **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 the 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
- Typically, the applicant will be given time to briefly describe the project prior to public comments being taken. At the second public hearing, all parties provide recommendations on the project.
- 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 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: Evidentiary Hearing

- Typically held at the Commission's Baltimore offices (6 St. Paul Street)
- The hearing will be live-streamed on the Commission's [YouTube](#) channel (Maryland PSC) or the PULJ Division's [YouTube](#) channel (MD PSC PULJs).
- 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: Post-hearing Process and Decision

- After the evidentiary hearing, a briefing schedule may be established.
- If case is 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 for Baltimore City or the Circuit Court for any county in which the public service company that was a party in the proceeding provides service

Useful Links

- PSC: CPCN Information
 - <https://www.psc.state.md.us/electricity/cpcn-information/>
- PSC: Current CPCN Applications
 - <https://webpsc.psc.state.md.us/DMS/cpcnapplication>
- PSC: Make a Public Comment
 - <https://www.psc.state.md.us/make-a-public-comment/>
- PPRP: CPCN
 - <https://dnr.maryland.gov/pprp/Pages/CPCN.aspx>



www.psc.state.md.us

