

ORDER NO. 89540

REQUEST OF THE MARYLAND-DC-
VIRGINIA SOLAR ENERGY INDUSTRIES
ASSOCIATION FOR AN EMERGENCY
ORDER DURING COVID-19 CRISIS

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

ML # 229225

Issue Date: April 6, 2020

ORDER DENYING REQUEST

1. On March 19, 2020, Maryland-DC-Virginia Solar Energy Industries Association (“SEIA”) filed with the Public Service Commission of Maryland an “Emergency Request for Relief,” (the “Request”) asking that for the next six months the Commission require utilities to give Level 1 solar systems permission to operate within two days of receipt of an interconnection application, provided that the interconnections have sign-off by a licensed electrician and otherwise comply with the regulatory requirements contained in the Code of Maryland Regulations (“COMAR”).¹ On March 20, 2020, the Commission issued a Notice of Opportunity to Comment with regard to SEIA’s Request.² Responsive filings were received from multiple parties, as discussed below. For the reasons outlined below, SEIA’s Request is denied.

1. Positions of the Parties

2. In its Request, SEIA states that as a result of the proliferation of COVID-19 there

¹ Maillog No. 229225.

² Maillog No. 229230.

has been significant operational disruption to the residential solar industry. In particular, SEIA states that it has observed a “drastic slowdown” in interconnection approvals. SEIA argues that an industry slowdown risks the loss of jobs and imperils the achievement of clean energy goals. SEIA proposes that expedited interconnection of residential solar systems could prevent a possible shutdown and permit the industry to continue with business as usual “to the greatest extent possible.”³ SEIA argues that this Commission should look to the 2017 decision by the former Governor Ricardo Rossello of Puerto Rico, who in response to the 2017 hurricane that struck Puerto Rico (“Hurricane Maria”) allowed companies to energize solar and storage systems without going through utility interconnection processes.⁴

3. On March 24, 2020, Solar United Neighbors of Maryland,⁵ Solar Energy World,⁶ and Trinity Solar⁷ filed letters in support of SEIA’s Request, arguing that granting SEIA’s Request was necessary to protect the solar installation industry and its employees, and also to mitigate risk of exposure to COVID-19 by local inspectors or utility personnel by allowing them to conduct inspections at a later date.

4. On March 27, 2020, the Electric League of Maryland (the “Electric League”) filed a letter in opposition to SEIA’s Request. In its letter, the Electric League states that it has been informed by “all local subdivisions that they are continuing to take requests for permits and are making inspections as necessary.”⁸ The Electric League further argues

³ Maillog No. 229225 at 2.

⁴ *Id.* at 2.

⁵ Maillog No. 229310.

⁶ Maillog No. 229305.

⁷ Maillog No. 229306.

⁸ Maillog No. 229230.

that granting the Request could be dangerous to the public safety and stresses the need for compliance with the National Electric Code.

5. On March 30, 2020, the Maryland Office of People’s Counsel (“OPC”) filed a response to SEIA’s Request in which it recommends that the Commission determine the “actual status of interconnection applications currently.”⁹ OPC also argues that SEIA’s reliance on Puerto Rico’s response to Hurricane Maria is misplaced because of the specific need during that tragedy for electric generation to support ordinary life activities as a result of significant damage to electricity distribution infrastructure, conditions that are not present in Maryland.

6. The Commission’s Technical Staff (“Staff”) also filed initial comments on March 30, 2020. In its initial comments, Staff took no position on the ultimate question. Staff filed supplemental comments on April 1, 2020, revising its position and recommending that the Commission deny SEIA’s Request. Staff states that it reviewed the Commission’s Solar Renewable Energy Credits reports, and notes that the monthly data on such applications does not suggest a drastic slowdown of Level 1 interconnection applications in March 2020.¹⁰ Staff also expresses concern over the possible safety risks that could arise under SEIA’s proposal and argues that even if a slowdown were to occur, bypassing regulations intended for safety should not be allowed unless some acceptable alternative exists to ensure safety. Staff argues that SEIA should work with local and municipal electric code officials to address any delays in inspections and with the utilities

⁹ Maillog No. 229421.

¹⁰ *Id.* at 4. A complete application by a small generation interconnection applicant is generally approved by the Commission within one to two days.

to determine how safety would be maintained before submitting any alternative proposal to the Commission in the future.

7. Potomac Electric Power Company, the Delmarva Power & Light Company, the Baltimore Gas and Electric Company, and the Potomac Edison Company (hereafter “the Utilities”) filed joint comments on March 30, 2020. In their comments, the Utilities request that the Commission deny SEIA’s Request. The Utilities argue that SEIA’s proposal unreasonably risks compromising the safety and reliability of the electric grid, noting that many installation errors are detected during the inspections at issue. The Utilities also state that they continue to process interconnections in a manner that complies with the timelines specified in COMAR and will maintain active communications with developers to address any issues related to the interconnection process. Lastly, the Utilities echo the criticisms raised by OPC regarding SEIA’s reliance on Puerto Rico’s response to Hurricane Maria, arguing that the damage to physical infrastructure that justified the departure from standard practice in that case is not present in Maryland at this time.

2. Applicable Law

8. COMAR 20.50.09.09B provides:

The utility in conducting a Level 1 interconnection review shall:

- (1) Within 5 days after the receipt of the interconnection request, inform the applicant that the request is (a) complete or (b) incomplete and what materials are missing; and
- (2) Within 15 business days after the utility notifies the applicant that the application is complete in §B(1) of this regulation, verify that the small generator facility equipment can be interconnected safely and reliably under §A of this regulation.

9. COMAR 20.50.09.09C provides that unless the utility determines and demonstrates that a small generator facility cannot be interconnected safely or reliably to its electric distribution system, the utility shall approve the interconnection request subject to the following conditions:

- (1) The small generator facility has been approved by local or municipal electric code officials with jurisdiction over the interconnection;
- (2) A certificate of completion has been issued by the utility
- (3) The witness test has been successfully completed or waived by the utility; and
- (4) The applicant has signed a standard small generator interconnection agreement.

10. COMAR 20.07.01.01-1 provides that the Commission may waive any of its own regulations for “good cause shown.” Section 2-113(a)(2) of the Public Utilities Article of the Maryland Annotated Code provides: “In supervising and regulating public service companies, the Commission shall consider the public safety, the economy of the State, the conservation of natural resources, and the preservation of environmental quality.”

3. Commission Decision

11. The Commission finds that SEIA has not met its burden of establishing good cause to justify the action requested. SEIA’s claim of a slowdown is contradicted by the data presented by Staff and the Utilities. Moreover, even assuming that COVID-19 has precipitated a slowdown in residential solar installations, SEIA has not established that the actions requested are well targeted to correct any temporary market failure or appropriate given the risks to public safety raised by other interested parties.

IT IS, THEREFORE, this 6th day of April, in the year Two Thousand Twenty by the Public Service Commission of Maryland,

ORDERED: That the March 19, 2020 request by SEIA for a temporary waiver of Commission regulations is DENIED.

By Direction of the Commission,

/s/ Andrew S. Johnston

Andrew S. Johnston
Executive Secretary