

SENATE BILL 474

C5

4lr4580
CF HB 579

By: **The President (By Request – Administration) and Senators Augustine, Bailey, Beidle, Brooks, Carozza, Charles, Corderman, Ferguson, Folden, Gallion, Hershey, Hettleman, Lam, McKay, Ready, Rosapepe, Waldstreicher, and West**

Introduced and read first time: January 22, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2024

CHAPTER _____

1 AN ACT concerning

2 **Certificate of Public Convenience and Necessity and Related Approvals –**
3 **Definition of Generating Station**
4 **(Critical Infrastructure Streamlining Act of 2024)**

5 FOR the purpose of altering and establishing the definition of “generating station” for the
6 purpose of exempting the construction of certain generating facilities used to produce
7 electricity for the purpose of onsite emergency backup and certain test and
8 maintenance operations from the requirement to obtain a certificate of public
9 convenience and necessity or certain other related approvals under certain
10 circumstances; and generally relating to generating stations.

11 BY repealing and reenacting, without amendments,
12 Article – Public Utilities
13 Section 1–101(a) and 7–207(a)(1)
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2023 Supplement)

16 BY adding to
17 Article – Public Utilities
18 Section 1–101(h–1) and 7–207.3
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
 2 Article – Public Utilities
 3 Section 1–101(h–1), 7–207(a)(4), 7–207.1(a), 7–207.2(a), and 7–208(a)
 4 Annotated Code of Maryland
 5 (2020 Replacement Volume and 2023 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 7 That the Laws of Maryland read as follows:

8 **Article – Public Utilities**

9 1–101.

10 (a) In this division the following words have the meanings indicated.

11 **(H–1) (1) “CRITICAL INFRASTRUCTURE” MEANS ASSETS, SYSTEMS, AND**
 12 **NETWORKS, WHETHER PHYSICAL OR VIRTUAL, CONSIDERED BY THE U.S.**
 13 **DEPARTMENT OF HOMELAND SECURITY TO BE SO VITAL TO THE UNITED STATES**
 14 **THAT THEIR INCAPACITATION OR DESTRUCTION WOULD HAVE A DEBILITATING**
 15 **EFFECT ON ONE OR MORE OF THE FOLLOWING:**

16 **(I) SECURITY;**

17 **(II) NATIONAL ECONOMIC SECURITY;**

18 **(III) NATIONAL PUBLIC HEALTH; OR**

19 **(IV) SAFETY.**

20 **(2) “CRITICAL INFRASTRUCTURE” INCLUDES:**

21 **(I) A HOSPITAL OR HEALTH CARE FACILITY; AND**

22 **(II) A DATA CENTER AS DEFINED IN § 11–239 OF THE TAX –**
 23 **GENERAL ARTICLE.**

24 **[(h–1)] (H–2) “Cybersecurity” has the meaning stated in § 3.5–301 of the State**
 25 **Finance and Procurement Article.**

26 7–207.

27 (a) (1) In this section the following words have the meanings indicated.

28 (4) “Generating station” does not include:

- 1 (i) a generating unit or facility that:
- 2 1. is used for the production of electricity;
- 3 2. has the capacity to produce not more than 2 megawatts of
4 alternating current; and
- 5 3. is installed with equipment that prevents the flow of
6 electricity to the electric grid during time periods when the electric grid is out of service;
7 [or]

- 8 (ii) a combination of two or more generating units or facilities that:
- 9 1. are used for the production of electricity from a solar
10 photovoltaic system or an eligible customer-generator that is subject to the provisions of §
11 7-306 of this title;
- 12 2. are located on the same property or adjacent properties;
- 13 3. have the capacity to produce, when calculated
14 cumulatively for all generating units or facilities on the property or adjacent property, more
15 than 2 megawatts but not more than 14 megawatts of alternating current; and
- 16 4. for each individual generating unit or facility:
- 17 A. has the capacity to produce not more than 2 megawatts of
18 alternating current;
- 19 B. is separately metered by the electric company; and
- 20 C. does not export electricity for sale on the wholesale market
21 under an agreement with PJM Interconnection, LLC;

22 (III) A GENERATING UNIT OR FACILITY THAT:

- 23 1. IS USED FOR THE PRODUCTION OF ELECTRICITY FOR
24 THE PURPOSE OF:
- 25 A. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN
26 SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC
27 DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT
28 FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND
- 29 B. TEST AND MAINTENANCE OPERATIONS NECESSARY
30 TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT
31 OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC

1 DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT
 2 FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

3 2. IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE
 4 FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

5 3. IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY
 6 THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

7 4. IS INSTALLED AT A FACILITY THAT IS PART OF
 8 CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE
 9 REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

10 (IV) A COMBINATION OF TWO OR MORE GENERATING UNITS OR
 11 FACILITIES THAT SATISFY ITEM (III) OF THIS PARAGRAPH.

12 7–207.1.

13 (a) In this section, “generating station” does not include:

14 (1) a generating unit or facility that:

15 (i) is used for the production of electricity;

16 (ii) has the capacity to produce not more than 2 megawatts of
 17 alternating current; and

18 (iii) is installed with equipment that prevents the flow of electricity
 19 to the electric grid during time periods when the electric grid is out of service; [or]

20 (2) a combination of two or more generating units or facilities that:

21 (i) are used for the production of electricity from a solar photovoltaic
 22 system or an eligible customer–generator that is subject to the provisions of § 7–306 of this
 23 title;

24 (ii) are located on the same property or adjacent properties;

25 (iii) have the capacity to produce, when calculated cumulatively for
 26 all generating units or facilities on the property or adjacent property, more than 2
 27 megawatts but not more than 14 megawatts of alternating current; and

28 (iv) for each individual generating unit or facility:

29 1. has the capacity to produce not more than 2 megawatts of
 30 alternating current;

2. is separately metered by the electric company; and

3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) A GENERATING UNIT OR FACILITY THAT:

(I) IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:

1. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

2. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

(II) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

(III) IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

(IV) IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

(4) A COMBINATION OF TWO OR MORE GENERATING UNITS OR FACILITIES THAT SATISFY ITEM (3) OF THIS SUBSECTION.

7-207.2.

(a) In this section, "generating station" does not include:

(1) a generating unit or facility that:

(i) is used for the production of electricity;

(ii) has the capacity to produce not more than 2 megawatts of alternating current; and

(iii) is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the electric grid is out of service; [or]

(2) a combination of two or more generating units or facilities that:

(i) are used for the production of electricity from a solar photovoltaic system or an eligible customer-generator that is subject to the provisions of § 7-306 of this title;

(ii) are located on the same property or adjacent properties;

(iii) have the capacity to produce, when calculated cumulatively for all generating units or facilities on the property or adjacent property, more than 2 megawatts but not more than 14 megawatts of alternating current; and

(iv) for each individual generating unit or facility:

1. has the capacity to produce not more than 2 megawatts of alternating current;

2. is separately metered by the electric company; and

3. does not export electricity for sale on the wholesale market under an agreement with PJM Interconnection, LLC;

(3) A GENERATING UNIT OR FACILITY THAT:

(I) IS USED FOR THE PRODUCTION OF ELECTRICITY FOR THE PURPOSE OF:

1. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND

2. TEST AND MAINTENANCE OPERATIONS NECESSARY TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT OF A SERVICE INTERRUPTION FROM THE ELECTRIC COMPANY DUE TO ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;

(II) IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~

1 (III) IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY THE
2 DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND

3 (IV) IS INSTALLED AT A FACILITY THAT IS PART OF CRITICAL
4 INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE
5 REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR

6 (4) A COMBINATION OF TWO OR MORE GENERATING UNITS OR
7 FACILITIES THAT SATISFY ITEM (3) OF THIS SUBSECTION.

8 7-207.3.

9 (A) (1) ON OR BEFORE DECEMBER 1, 2025, AND EACH DECEMBER 1
10 THEREAFTER, THE OWNER OR OPERATOR OF A GENERATING UNIT OR FACILITY
11 SPECIFIED UNDER § 7-207(A)(4)(III) OF THIS SUBTITLE SHALL SUBMIT TO THE
12 DEPARTMENT OF THE ENVIRONMENT A REPORT THAT INCLUDES:

13 (I) DATES ON WHICH THE GENERATING UNIT OR FACILITY WAS
14 USED FOR THE PREVIOUS 12 MONTHS;

15 (II) THE LENGTH OF TIME THE GENERATING UNIT OR FACILITY
16 WAS OPERATED FOR THE PREVIOUS 12 MONTHS; AND

17 (III) FOR EACH INSTANCE THAT THE GENERATING UNIT OR
18 FACILITY WAS OPERATED OVER THE PREVIOUS 12 MONTHS, THE REASON THE
19 GENERATING UNIT OR FACILITY WAS OPERATED.

20 (2) UNLESS THE DEPARTMENT OF THE ENVIRONMENT DETERMINES
21 THAT THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION POSES
22 A RISK TO CYBERSECURITY, NATIONAL SECURITY, OR THE SECURITY OF THE STATE,
23 THE REPORT:

24 (I) SHALL BE MADE PUBLICLY AVAILABLE; AND

25 (II) MAY NOT BE REDACTED.

26 (B) ON OR BEFORE DECEMBER 1, 2025, AND EVERY 2 YEARS THEREAFTER,
27 THE MARYLAND ENERGY ADMINISTRATION, IN CONSULTATION WITH THE
28 DEPARTMENT OF COMMERCE AND INDUSTRY REPRESENTATIVES SELECTED BY THE
29 DEPARTMENT OF COMMERCE, SHALL, IN ACCORDANCE WITH § 2-1257 OF THE
30 STATE GOVERNMENT ARTICLE, SUBMIT A REPORT TO THE GENERAL ASSEMBLY
31 DETAILING:

32 (1) ADVANCEMENTS IN BACKUP GENERATION TECHNOLOGIES;

1 **(2) THE COMMERCIAL AVAILABILITY OF NEW BACKUP GENERATION**
 2 **TECHNOLOGIES THAT CAN BE PROCURED; AND**

3 **(3) THE AFFORDABILITY OF ADOPTING NEW BACKUP GENERATION**
 4 **TECHNOLOGIES.**

5 7–208.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) “Construction” has the meaning stated in § 7–207 of this subtitle.

8 **(3) “GENERATING STATION” DOES NOT INCLUDE:**

9 **(I) A GENERATING UNIT OR FACILITY THAT:**

10 **1. IS USED FOR THE PRODUCTION OF ELECTRICITY FOR**
 11 **THE PURPOSE OF:**

12 **A. ONSITE EMERGENCY BACKUP AT A FACILITY WHEN**
 13 **SERVICE FROM THE ELECTRIC COMPANY IS INTERRUPTED DUE TO ELECTRIC**
 14 **DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS EQUIPMENT**
 15 **FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED; AND**

16 **B. TEST AND MAINTENANCE OPERATIONS NECESSARY**
 17 **TO ENSURE FUNCTIONALITY OF THE GENERATING UNIT OR FACILITY IN THE EVENT**
 18 **OF AN INTERRUPTION OF SERVICE FROM THE ELECTRIC COMPANY DUE TO**
 19 **ELECTRIC DISTRIBUTION OR TRANSMISSION SYSTEM FAILURE OR WHEN THERE IS**
 20 **EQUIPMENT FAILURE AT A SITE WHERE CRITICAL INFRASTRUCTURE IS LOCATED;**

21 **2. IS INSTALLED WITH EQUIPMENT THAT PREVENTS THE**
 22 **FLOW OF ELECTRICITY TO THE ELECTRIC GRID; ~~AND~~**

23 **3. IS SUBJECT TO A PERMIT TO CONSTRUCT ISSUED BY**
 24 **THE DEPARTMENT OF THE ENVIRONMENT; ~~OR~~ AND**

25 **4. IS INSTALLED AT A FACILITY THAT IS PART OF**
 26 **CRITICAL INFRASTRUCTURE IF THE FACILITY COMPLIES WITH ALL APPLICABLE**
 27 **REGULATIONS REGARDING NOISE LEVEL AND TESTING HOURS; OR**

28 **(II) A COMBINATION OF TWO OR MORE GENERATING UNITS OR**
 29 **FACILITIES THAT SATISFY ITEM (I) OF THIS PARAGRAPH.**

1 ~~[(3)]~~ (4) “Qualified offshore wind project” has the meaning stated in §
2 7–701 of this title.

3 ~~[(4)]~~ (5) “Qualified submerged renewable energy line” means:

4 (i) a line carrying electricity supply and connecting a qualified
5 offshore wind project to the transmission system; and

6 (ii) a line in which the portions of the line crossing any submerged
7 lands or any part of a beach erosion control district are buried or submerged.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.