



7338 Baltimore Ave
Suite 102
College Park, MD 20740

Committee: Economic Matters
Testimony on: HB531 – “Utility Regulation - Consideration of Climate and Labor”
Position: Support
Hearing Date: February 27, 2020

The Maryland Sierra Club strongly supports this legislation, one of our priority bills for this session.

The bill would require the Public Service Commission (PSC) to include climate change as one of the several factors it considers in regulating Maryland electricity generation, and Maryland electricity and gas service companies. The PSC is interpreting its governing statute to not allow for consideration of climate change as an independent factor. Thus, the PSC is effectively ignoring the climate commitments enacted by the General Assembly in the Greenhouse Gas Reduction Act, notwithstanding that the PSC plays a major role in regulating the state’s greenhouse gas emissions. The General Assembly should amend the PSC’s governing statute to correct this significant gap in the state’s implementation of its climate change commitments.

What This Legislation Would Do

1. The bill would require the PSC to include climate change as a consideration in all its regulatory activities. The bill does this by clarifying current law which specifies that the PSC has an overall statutory duty to “consider . . . the preservation of environmental quality.” The bill adds that this duty includes “protection of the global climate from continued short-term and long-term warming.”
2. In particular, the PSC would be required to consider climate change in deciding whether to approve new electricity generating facilities and power lines (by granting a certificate of public convenience and necessity (CPCN)). The PSC would be required to both consider the impact of a new power plant on greenhouse gas emissions, and the impact of climate change on a proposed power plant or power line.
3. The bill would provide guidance and assistance to the PSC in two ways with regard to its consideration of climate change. Currently, the Department of the Environment (MDE) and the Department of Natural Resources (DNR) provide environmental analyses to the PSC when the PSC is ruling on CPCN applications; the bill accordingly provides that these analyses should address climate change insofar as that is relevant to the CPCN application at issue. Second, the bill specifies that the PSC’s consideration of climate change (and the input from MDE and DNR) should be guided by the state’s climate change commitments (set forth in the Greenhouse Gas Reduction Act), and should be “based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change [IPCC].”
4. The bill would require the PSC, as a general matter, to consider “the maintenance of fair and stable labor standards for affected workers” in its regulatory activities. This is similar to and augments the current requirement that the PSC consider “the economy of the State.”

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The Climate Crisis and the PSC's Role

Globally, nationwide, and in Maryland we are facing and must confront a growing climate crisis. The signs are everywhere: unprecedented fires raging across Australia; record superstorms hitting Great Britain; a new analysis showing that the Colorado River has lost over a billion tons of water; spring arriving a month early in Maryland; and many, many more.

In 2018, the IPCC – the world's leading scientific authority on climate disruption – cited the devastating impacts of global warming above 1.5 degrees Celsius. The IPCC addressed the emissions reduction pathway to limit warming to no more than 1.5 degrees Celsius, and explained that wealthy nations like the United States must reduce climate- disrupting pollution by 60% by 2030.

The PSC plays a major role in managing Maryland's greenhouse gas emissions:

- The PSC is responsible for approving all large electricity generating facilities,¹ and in-state electricity generation is one of our largest sources of greenhouse gas emissions.² Future PSC decisions, therefore, will have a substantial impact on greenhouse gas emissions in Maryland. It is crucial that the state move to 100% clean electricity, from sources like solar and wind.
- The PSC manages the state's energy efficiency program, EmPOWER Maryland.³ Increasing energy efficiency, and thus reducing energy demand, is an essential part of the state's climate mitigation efforts.
- The PSC also impacts Maryland's largest source of greenhouse gas emissions, the transportation sector.⁴ There is broad agreement that the transportation sector must be transitioned to rely on clean electricity. This underscores the importance of the PSC's future decisions regarding new electricity generating facilities. In addition, the PSC is playing a role in establishing the infrastructure needed to support a vast increase in plug-in electric vehicles (EVs); in 2019, it issued an order approving a five-year EV charging infrastructure pilot program proposed by four of the state's largest electric utilities.⁵

The PSC Does Not Currently Consider Climate Change as an Independent Factor in its Decisionmaking

The PSC's governing statute does not mention climate change, and last year, the PSC confirmed that it does not treat climate change as an independent factor in its decisionmaking. In a July 24, 2019 CPCN order,⁶ the PSC emphasized that its governing statute "does not specifically or generally require considerations regarding climate change," and, instead, "requires due consideration of 'air and water

¹ Pub. Util. Art. sec. 2-207. Certain smaller generating stations are exempted from the CPCN requirement (certain generating stations that have a capacity of 70 megawatts or less, and certain other generating stations that have a capacity of 25 megawatts or less). Pub. Util. Art. sec. 2-207.1.

² State of Maryland 2017 Greenhouse Gas Emission Inventory Documentation, at 3-8, *available at* <https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2019GGRAPlan/Appendices/Appendix%20D%20-%202017%20Greenhouse%20Gas%20Emission%20Inventory%20Documentation.pdf>.

³ Pub. Util. Art. sec. 7-211.

⁴ State of Maryland 2017 Greenhouse Gas Emission Inventory Documentation, at 3-8.

⁵ Order No. 88997, Case No. 9478.

⁶ Order No. 89211, Case No. 9482 (granting a CPCN to the former CP Crane coal plant to repower as a gas plant).

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pollution’ issues ‘when applicable.’”⁷ The PSC further noted that, according to the PSC staff, the PSC “has never required any consideration of climate change in a Proposed Order or CPCN proceeding.”⁸ The PSC concluded, therefore, that the CPCN opponents were not correct when they asserted that “[c]limate change and its impacts” must be “‘front and center’ in all CPCN and other permitting decisions.”⁹

The PSC did suggest that climate change may be considered insofar as it relates to a proposed facility’s impact on “air quality and water pollution.” But that is not a review of a facility’s impact on the climate.

The PSC’s Current Approach Cannot Be Reconciled with the State’s Climate Change Commitments

Maryland is committed to significantly reducing its greenhouse gas emissions. The Greenhouse Gas Reduction Act (GGRA) declares, unequivocally, that “[t]he State shall reduce statewide greenhouse gas emissions by 40% from 2006 levels by 2030.”¹⁰

The GGRA places responsibility for achieving this goal on the entire state government: “The State shall develop plans, adopt regulations, and implement programs that reduce statewide greenhouse gas emissions in accordance with this subtitle.”¹¹ MDE is responsible for developing the necessary plan.¹²

Given the key role that the PSC plays in managing the state’s greenhouse gas emissions, it is imperative that the PSC factor into its decisionmaking the state’s climate change commitments. Indeed, this necessity is implicit in current law, since it is the “State” as a whole that has the duty to “reduce statewide greenhouse gas emissions.”

Requiring the PSC to consider climate change also is fully in accord with current statutory provisions requiring the PSC to consider environmental impacts. The PSC’s overall obligations include “the preservation of environmental quality,”¹³ which clearly must embrace mitigating climate change. Though current law identifies “air quality and water pollution” as CPCN factors but not climate change, this aspect of the PSC’s governing statute was adopted more than 20 years ago, prior to the state adopting climate commitments, and it is plainly nonsensical to require that the PSC consider certain environmental impacts but not consider climate change.

For these reasons, we urge a favorable report on this legislation.

Mark Posner, Legislative Chair
Mark.Posner@MDSierra.org

Josh Tulkin, Chapter Director
Josh.Tulkin@MDSierra.org

⁷ Order at 13-14.

⁸ Order at 6-7.

⁹ Order at 14 n.55.

¹⁰ Envir. Art. sec. 2-1204. Legislation introduced this session (SB926; HB1425) would update this target to 60% by 2030, to reflect recent analyses by the IPCC, and would further specify that the state shall achieve net-zero statewide emissions by 2045. The Maryland Sierra Club supports these changes. Current law also states that the state should seek to achieve the “greenhouse gas emissions reductions needed by 2050 in order to avoid dangerous anthropogenic changes to the Earth’s climate system.” Envir. Art. sec. 2-1211.

¹¹ Envir. Art. sec. 2-1205(a).

¹² Envir. Art. sec. 2-1204(c).

¹³ Pub. Util. Art. sec. 2-113.

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