



Montgomery County, MD
Agricultural Advisory Committee (AAC)
Regular Meeting Agenda
November 18, 2025

1. Introductions
2. Approval of the October 21, 2025, AAC minutes
3. Transferable Development Rights (TDRs) and Building Lot Termination (BLT) Programs
No update since October 2025
4. Proposed solar projects in the Agricultural Reserve Chaberton Sugarloaf – Proposed Order
5. [SB0931/HB1036](#), Public Utilities – Generating Stations – Generation and Siting
No update since September 2025
6. County Council work session on agritourism

On November 12, the Council’s Economic Development Committee and Parks, Housing, and Planning Committee held a joint work session on agritourism. The purpose of the work session was for Maryland Department of Agriculture (MDA) to present its recently released statewide guidance and analysis document on agritourism and value-added agriculture.

7. Farm-to-Table Symposium

On November 10, the office of Councilmember Laurie-Anne Sayles held a symposium on farm-to-table sourcing at the BlackRock Center for the Arts. The purpose of the symposium was to connect county food producers to local restaurants and caterers, as well to discuss how the County and other partners can strengthen the local food system.

8. MD AG Commission – definition of agriculture request
9. Agritourism Position Paper - discussion

The next meeting of the AAC will be held on December 16, 2025, at 7:00 pm via Microsoft Teams.



Upcoming meetings and events:

Thanksgiving Day (office closed): November 27, 2025

Montgomery County Farm Bureau Board of Directors meeting: December 2, 2025

Agricultural Preservation Advisory Board meeting: December 9, 2025

Montgomery Soil Conservation District Board meeting: December 12, 2025

Centering Agriculture in Agritourism A Joint Position Statement on Agritourism

11/3/2025

Montgomery County Farm Bureau, Montgomery Agricultural Producers
Montgomery Countryside Alliance and Sugarloaf Citizens Association

In 1980, Montgomery County enacted a visionary solution to stem the loss of farms and farmland. It created the Agricultural Reserve, which has been lauded as the nation's most innovative and successful farmland protection effort. Montgomery County has reaped the benefits of this initiative every day. The Ag Reserve has preserved farms and farming opportunities; it enables local food and grain production; it protects water and air quality for the region; and it provides an array of outdoor recreational opportunities for the entire County. The farms of the Ag Reserve contribute \$281 million annually and support over 10,000 jobs in the County.

Maryland lost an average of 2,400 acres of farmland each year between 2017 and 2022. Montgomery County's land use policies have helped stem the loss of producing farms here, but maintaining thriving farms requires care.

The Ag Reserve remains one of the County's best ideas – an achievement many other jurisdictions envy. The fundamental purpose of the Reserve—to protect thriving farms—will be strengthened through enhanced connections between producing farms and residents in the County's urban and suburban areas.

Agricultural tourism is thriving in the Ag Reserve. Many farmers are enhancing revenue by building new markets for their farm products. For decades, thousands of visitors have flocked to Ag Reserve farms to shop at farm stores, for “pick your own” produce, harvest festivals, wineries, breweries, cideries, corn mazes, educational farm tours, animal visits, farm-to-table dinners, and equestrian events. Agritourism connects consumers with local farms not only for purchasing local products but also to build greater understanding about how food is produced and why it is important to support a strong local food system.

A Fragile Balance

Why then is the subject of agritourism becoming somewhat controversial? It's simple: Some landowners (or land speculators) seek to profit from land planned and zoned as protected farmland by introducing commercial activities that are not associated with farming. Land in the Reserve has been zoned to ensure that it will remain reasonably affordable for farmers to lease or purchase. Business investors who are not farmers, if allowed to divert land from the primary use of farming, will attract other land investors with non-farming ideas. Providing for non-agricultural commercial uses of the Reserve is already driving up the cost of land for bona fide farmers, including, importantly, next

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generation producers. Promoting competition for land from distinctly non-agricultural commercial uses does not support the Ag Reserve and the local agricultural economy. Rather, it undermines it.

Ag Centered Agritourism

Our position is based on a single, solid principle: **Farming must come first in the Ag Reserve.** Non-farm uses of the land must directly support agriculture (i.e., be “accessory” to agriculture in regulatory language). Ag-centered agritourism directly supports farming, by bringing visitors to working, commercial farms, and helps farmers diversify and expand their revenue. Ag centered agritourism will not inflate farmland prices by providing incentive for non-farmers to buy up farmland.

Unfortunately, there are plenty of examples of “agritourism” ideas that do not enhance farming operations but might create revenue for a landowner. In a domino effect, every time a landowner starts a non-farming business in the AR zone, the door is opened wider to more non-farming business. Allowing land speculators to create non-farming businesses with thinly veiled “ag-lite” activities will take land out of farming and drive land costs up.

We suggest the following to facilitate an agritourism permitting and oversight process that best serves farmers, rural residents, and the region:

(1) Follow the current regulatory framework for allowing agritourism operations

The AR zone and its development standards ensure that agritourism complements and supports, rather than supplants, the primary agricultural use of the land.

- **Purpose of the Ag Reserve:** The AR zone intent is to ["promote agriculture as the primary land use"](#).
Agricultural priority: Agricultural operations are given priority and "cannot be restricted on the grounds that it interferes with other uses permitted in the zone."
- **Agritourism as accessory:** Agritourism activities are considered accessory uses to the main farming operation and must be conducted as part of the farm's regular business.

(2) Further clarify/define agritourism (in a farmer-driven process)

We recommend that the Department of Permitting Services work with the Office of Agriculture and the Soil Conservation District staff to clarify any requirements that may cause confusion for farms. Making existing zoning regulations clear to potential agritourism operations at the outset helps applicants and the wider community. Publications and discussions need to very clearly state what is currently allowed and what is prohibited in [The County's Zoning Code](#) – along with any other ordinances that might impact a potential operation (noise, forest cover, wells, impervious surface, need for permits,

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etc.). The OAG has a good start on this effort with the [Regulatory Guidelines for Farmland Operations](#). DPS' recently formed "navigator" service is also a positive step.

In addition, "agritourism" does not have a stand-alone definition in the County Codes. An explicit definition should be developed for clarity. That definition should be created in collaboration with the farming community, especially those who have conducted agritourism activities successfully within the current Codes.

1. Give agritourism a specific home in County regulation

As agritourism is different from other types of tourism in the county – and, as stated, needs to be in service of agriculture – it makes sense that it would have a different home and oversight in regulation and county government. We propose that the Office of Agriculture is the best jurisdictional "home" to facilitate these operations, and to keep farm protection the priority of County regulation. For promotion – a cross-sector approach would work well to bring residents out to the Reserve's farms.

2. State level initiatives need to be balanced with the unique Ag Reserve

The balance of allowable land uses that keep farms protected in Montgomery County is fragile. Statewide initiatives to bolster certain activities on farms must be examined for accordance with the Ag Reserve's master planned goals. Montgomery County must not surrender its locally focused land use planning and regulation to State control, which itself has to meet the needs of all Counties, including all those who do not have an Ag Reserve to protect.

Moving forward, we must:

- Ensure that agriculture is at the center of all commercial activity on farms in the Ag Reserve,
- Craft a clear, explicit definition of agritourism in collaboration with broad representation of the farming community, and
- Make sure that Montgomery County maintains independent authority over its ability to regulate agriculture and "accessory" activities.

The Ag Reserve has survived and prospered for 45 years. If agritourism keeps farming front and center, then agritourism can contribute to the success of the next 45 years and beyond.

Toward Collaboration,

Doug Lechlider, President
Montgomery County Farm Bureau
Bob Cissel, Executive Director
Montgomery Agricultural Producers



CHABERTON SOLAR SUGARLOAF I, LLC'S
APPLICATION FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO
CONSTRUCT A 4.0 MW SOLAR PHOTO-
VOLTAIC GENERATING FACILITY IN
MONTGOMERY COUNTY, MARYLAND

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9726

PROPOSED ORDER OF PUBLIC UTILITY LAW JUDGE

Before: Jennifer J. Grace
Public Utility Law Judge

Issued: November 12, 2025

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Appearances

Marc Machlin, Esquire, Andrew Flavin, Esquire, and Viktoriia De Las Casas, Esquire, on behalf of Chaberton Solar Sugarloaf I, LLC

Steven M. Talson and Sondra S. McLemore, Assistant Attorneys General, on behalf of the Department of Natural Resources, Power Plant Research Program

Harrison Scherr and Kenneth M. Albert, Assistant Staff Counsel, on behalf of the Technical Staff of the Public Service Commission of Maryland

Diane Kilcoyne, Assistant County Attorney, on behalf of Montgomery County, Maryland

Matthew T. Mills, Senior Counsel, on behalf of The Maryland-National Capital Park and Planning Commission

William F. Sheehan, Esquire, on behalf of the Montgomery Countryside Alliance, the Sugarloaf Citizens Association, the Montgomery County Farm Bureau, and the Montgomery Agricultural Producers

I. Procedural History

On March 4, 2024, Chaberton Solar Sugarloaf I, LLC (“Chaberton” or the “Applicant”) filed an Application¹ (“Application”) for a Certificate of Public Convenience and Necessity (CPCN) to construct a 4.0 megawatt (MW) alternating current (AC) solar photovoltaic (PV) community solar energy generating facility in Montgomery County, Maryland (the “Project”) pursuant to Md. Public Utilities Article (“PUA”) § 7-207.

On March 5, 2024, the Public Service Commission of Maryland (the “Commission”) docketed the Application as Case No. 9726 and delegated it to the Public Utility Law Judge Division.²

On March 20, 2024, the Applicant filed comments from the Maryland Historical Trust (“MHT”).³

On March 25, 2024, the Applicant filed a Revised Application.⁴

The Application was deemed administratively complete pursuant to the Code of Maryland Regulations (“COMAR”) 20.79.01.10A on April 8, 2024.⁵

On May 16, 2024, the Applicant filed Updated ERD Appendices M through R⁶ and Updated and Redacted ERD Appendix S.⁷

¹ The Application, Environmental Review Document (ERD), and associated Appendixes, filed under Maillog No. 307988, were entered as Applicant Exhibit (Ex.) 3 through 7.

² Maillog No. 307999.

³ Maillog No. 308341.

⁴ Maillog No. 308397.

⁵ Maillog No. 308832.

⁶ Maillog No. 309701.

⁷ Maillog No. 309702.

On June 19, 2024, the Applicant filed Direct Testimony in support of the Application,⁸ along with a Decommissioning Plan.⁹

An initial public hearing was held virtually on July 10, 2024.

On August 28, 2024, the Applicant filed the Supplemental Direct Testimony of Ryan Boswell.¹⁰

On January 13, 2025, the Applicant filed a Revised Site Plan.¹¹

On January 15, 2025, the Applicant filed an Updated Decommissioning Plan.¹²

On January 24, 2025, the Maryland Department of Natural Resources (DNR), Power Plant Research Program (PPRP) filed the following under Maillog No. 315111: Direct Testimony of Supida Piwkhaw;¹³ DNR/Maryland Department of the Environment (MDE) Secretarial letter;¹⁴ Initial Recommended License Conditions;¹⁵ Project Assessment Report (PAR);¹⁶ PAR Appendix A (data requests);¹⁷ PAR Appendix B (glare analysis);¹⁸ PAR Appendix C (EJ screen);¹⁹ and PAR Appendix D (PPRP website excerpts).²⁰

On January 24, 2025, the Technical Staff of the Commission (“Staff”) filed Direct Testimony of Christopher Lo, which included recommendations/conditions.²¹

⁸ Maillog No. 310125. The Direct Testimony of Ryan Boswell was entered as App. Ex. 22. The Direct Testimony of Andrew Reese was entered as App. Ex. 23. The Direct Testimony of Charlotte Boucher was entered as App. Ex. 24. The Direct Testimony of Douglas H. Boucher was entered as App. Ex. 25.

⁹ Appendix B to Direct Testimony of Andrew Reese.

¹⁰ The Supplemental Direct Testimony of Ryan Boswell, filed under Maillog No. 311975, was entered as App. Ex. 26.

¹¹ Maillog No. 314835, App Ex. 17.

¹² Maillog No. 314937, App. Ex.18.

¹³ Direct Testimony of Supida Piwkhaw (Piwkhaw Direct) was entered as PPRP Ex. 1.

¹⁴ PPRP Ex. 2.

¹⁵ PPRP Ex. 3.

¹⁶ PPRP Ex. 4.

¹⁷ PPRP Ex. 5.

¹⁸ PPRP Ex. 6.

¹⁹ PPRP Ex. 7.

²⁰ PPRP Ex. 8.

²¹ Maillog No. 315134, Staff Ex. 1

On January 24, 2025, The Maryland-National Capital Park and Planning Commission (“M-NCPPC” or “Park and Planning”), filed a letter with attachments which included a recommendation and conditions.²²

On January 24, 2025, the Sugarloaf Citizens Association (“SCA”), the Montgomery Countryside Alliance (“MCA”), the Montgomery County Farm Bureau (“MCFB”), and the Montgomery Agricultural Producers (“MAP”) (together, the “Joint Intervenors”), filed the Direct Testimony of Caroline Taylor²³ and the Direct Testimony of Doug Lechliden.²⁴

On January 24, 2025, Montgomery County, Maryland (the “County”), filed Written Comments of Montgomery County Council and County Executive Marc Elrich; Montgomery County Zoning Ordinance Section 3.7.2 Solar Collection System; and Impact Report of Montgomery County Solar Collection Systems in the AR Zone.²⁵

On February 4, 2025, a second public hearing was held at the Upper Montgomery County Volunteer Fire Department, 19801 Beallsville Road, Beallsville, MD 20839.

On February 7, 2025, the Applicant filed a settlement status update in which the Applicant indicated that while no settlement was possible, the Applicant would not contest the proposed license conditions recommended by Staff or the proposed license conditions of the State Agencies filed by PPRP.²⁶

On February 21, 2025, the Applicant filed the Rebuttal Testimony of Ryan Boswell.²⁷

²² Maillog No. 315115, M-NCPPC Ex. 1.

²³ Maillog Nos. 315120 and 315122, Joint Intervenors Ex. 1.

²⁴ Maillog Nos. 315120 and 315122, Joint Intervenors Ex. 2.

²⁵ Maillog No. 315127, County Ex. 1.

²⁶ Maillog No. 315543, App. Ex. 21.

²⁷ Maillog No. 316137, App. Ex. 27.

On March 7, 2025, the Joint Intervenors filed the Surrebuttal Testimony of Caroline Taylor.²⁸

On April 1, 2025, PPRP filed Revised Recommended License Conditions (“RLCs”).²⁹

On April 22, 2025, a hearing for taking evidence was held, at which time pre-filed testimony and exhibits were entered into the record. The record was held open but has now closed.

On May 5, 2025, the County filed a response to Bench Data Request 1.³⁰

On May 20, 2025, the Applicant, Staff, and the Joint Intervenors filed Post-Hearing Briefs.³¹

On October 14, 2025, the Applicant filed a Notice of Change of Address indicating that the Montgomery Planning Board, part of the M-NCPPC, changed the address of the Project from 20701 Darnestown Road, Dickerson, MD 20842 to 20597 Darnestown Road, Dickerson, MD 20842.³²

II. Overview of the Project

The proposed Project site (“Site”) is located on a 52.7-acre property near the intersection of Dickerson Road, Martinsburg Road, and Darnestown Road (MD 28) in Montgomery County, Maryland. The Applicant has entered into an agreement with the landowner to lease the Site. The topography of the Site is relatively hilly with slopes between zero and 15 percent. The Point of Interconnection (“POI”) and laydown areas are located outside of the Site, and the Applicant

²⁸ Maillog No. 316543, Joint Intervenors Ex. 3.

²⁹ Maillog No. 317402, PPRP Ex. 9 and 10 (redline version), clean version attached hereto as Attachment A.

³⁰ Maillog No. 318593.

³¹ Applicant Post-Hearing Brief filed under Maillog No. 319007. Staff Post-Hearing Brief filed under Maillog No. 319028. Joint Intervenors Post-Hearing Brief filed under Maillog No. 319027.

³² Maillog No. 323271. Included with this filing were attached correspondences from the Montgomery Planning Board, the ARM Group, the Applicant, and The Potomac Edison Company (“PE”) confirming that the change in address does not affect the Application.

intends to execute an agreement with the owner of the neighboring parcel on the west side prior to the start of construction to address laydown areas, transmission, and access easements.³³

According to the Applicant's Revised Site Plan filed on January 13, 2025, the Limit of Disturbance (LOD) is 21 acres, and the Limit of Construction (LOC) is 20.7 acres. The Site is located within Tax Map CV12, Grid 0000, Parcel P944, and is currently located within the Agricultural Reserve (AR) District of Montgomery County.

The Project proposes installation of 9,552 PV modules to be mounted on a single-axis tracking racking system with a maximum height of 12.9 feet above grade; installation of 34 string inverters; installation of 2 pad-mounted power centers with medium voltage transformers; and installation of a 30,000-gallon fire suppression water underground storage tank.³⁴ This equipment will be enclosed by a seven-foot tall security fence. No vegetative buffer is proposed as the Applicant contends that the existing forest surrounding the Site adequately screens the Project from view. No streams or wetlands were identified within the LOD, and no tree clearing is planned as a part of the Project. While no major grading is proposed for this moderately hilly Site, some minor grading may be needed for installation of the power center concrete pads, to construct access roads, to install the water storage tank, and for improvements to stormwater management.³⁵

III. Public Comments

A. Initial Public Comment Hearing

Approximately 9 members of the public spoke at the initial public comment hearing that occurred virtually on June 10, 2024. The public commentators expressed opposition to the Project.

³³ PPRP Ex. 4, PAR, at 2.

³⁴ PAR at 2.

³⁵ PAR at 3.

Several commentors argued that the Project violated Montgomery County's zoning regulations. They noted that community solar projects in the Agricultural Reserve were limited to a maximum of 2.0 MW generating capacity, but the Project has a generating capacity of 4.0 MW. In addition, they noted that Montgomery County prohibited solar collection systems ("SCSs") on USDA Class II soils and stated the Project would be in violation as 75% of the Project would be on Class II soils. A commentor emphasized that Montgomery County allows commercial solar projects on all but its best/prime soil (*i.e.*, allows projects on Class III soil and above), and therefore, commentors urged this Project be constructed on an alternative site.

Commentors emphasized the national significance of Montgomery County's Agricultural Reserve as a unique and successful farmland preservation area that deserves special protection. A commentor asserted that approving the CPCN would undermine local government authority and potentially lead to further industrial solar development that could erode the long-term integrity and benefits of the Agricultural Reserve. Commentors stressed the importance of preserving prime agricultural soils like Class II soils in the Agricultural Reserve to: (1) ensure adequate food production; and (2) reverse climate change (through regenerative agriculture and carbon sequestration). Commentors argued that preserving the land for local food production was a critical climate strategy, especially given global food system vulnerabilities and the region's suitability for farming as other areas become less productive due to climate change. Moreover, commentors raised concerns about the Project potentially negatively impacting future farming on the land, stating that while the Applicant indicated it would employ agrivoltaics practices, there was limited science on how well agrivoltaics affected future crop production in non-arid climates like the Project's location. In addition, a commentor stated that construction and maintenance of the Project threatened to harm prime farming soil by compacting clay-rich subsoils.

Commentors asserted that approving the CPCN would have additional significant impacts on local farming efforts that extended beyond this Project. They stated that large solar companies were offering significantly high land payments to small farms in the Agricultural Reserve, which were resulting in the termination of long-term farm leases and making farmland unaffordable.

One commentor argued that the Project's interconnection to Potomac Edison could decrease the reliability of the distribution and transmission systems and contribute to already existing significant congestion costs at the Monocacy Aqueduct Substation. The commentor also implied that the Project was designed as a 4.0 MW facility (rather than two 2.0 MW facilities) solely so it could proceed through the State's CPCN system rather than proceeding through the Montgomery County system that would require adherence to local laws and regulations. The commentor stated this was an abuse of process.

B. Second Public Comment Hearing

Approximately 24 members of the public spoke at the February 4, 2025 public comment hearing that took place virtually and in person at the Upper Montgomery County Volunteer Fire Department in Beallsville, Maryland, with about 18 members of the public stating opposition to the Project³⁶ and about 6 members of the public noting support of the Project.³⁷ Commentors who spoke in opposition to the Project generally reiterated the previously raised positions discussed during the initial public comment hearing. Commentors at the second hearing who spoke in support of the Project raised arguments not mentioned during the initial public comment hearing.

A commentor argued that Montgomery County's zoning restrictions concerning this type of Project in the Agricultural Reserve (*e.g.*, the prohibition on Class II soils) severely restrict

³⁶ Many of the commentors stated they represented organizations whose members also opposed the Project.

³⁷ Two of the members of the public noting support were the property owners of the Project Site.

Montgomery County's ability to reach its target goal of 1,800 community solar acres. While a commentor acknowledged the significant threat that climate change represents, the commentor stated that replacing fossil fuel power generation with renewable energy was one of the most effective tools in fighting climate change. Moreover, the commentor stated that the Project was essential for advancing Maryland's renewable energy goals to reduce greenhouse gas emissions. Another commentor argued that agrivoltaics practices would make the land of the Project Site agriculturally productive without sacrificing its quality, and that traditional agriculture would be able to be resumed as soon as the Project was removed at the end of its operation. A commentor stated the dual use of the Project would promote biodiversity, improve soil health, and conserve water resources.

Another commentor stated the Project would reduce dependency on imported energy, thus resulting in an economic benefit. The commentor noted that it is estimated Potomac Edison's residential rate will increase 24% in 2025 and 2026. The commentor asserted the Project may offset those rate hikes for 550 households in the community. In addition, a commentor stated that projects like the one at issue will add revenue streams for farm-land owners that will provide them with financial stability, allowing them to retain their property and potentially maintain lower lease rates for farmers on other portions of their land.

C. Written Public Comments

The Commission received approximately 32 written public comments for this case.³⁸ Approximately 16 written comments expressed opposition to the Project, citing previously raised

³⁸ Some written comments were duplicates and are therefore not included in the total submission count.

positions discussed at the public comment hearings. Approximately 16 written comments expressed support for the Project, also citing previously raised positions.³⁹

IV. Testimony of Participating Landowner

The Applicant filed the testimony of the owners of the Property. This farm was used to grow crops to feed livestock⁴⁰ and the owners have made continuing efforts to address climate change including reforestation of 4 acres 20 years ago, the purchase of a hybrid vehicle in 2003, converting their HVAC to a geothermal heat pump system in 2012, electing to receive electricity from 100% wind power in 2014, and reforestation of an additional 10 acres in 2023.⁴¹ The owners believe lease of 16 acres of their land for this Project furthers their goals of reducing their greenhouse gas emissions, increasing natural carbon sequestration, and using their land in a way that benefits their neighbors and their natural environment.⁴² If the CPCN is not granted, the owners intend to reforest their remaining open land.⁴³

V. Applicable Law

Pursuant to Public Utilities Article, *Annotated Code of Maryland* (“PUA”) § 7-207, a person may not construct a generating station in the State unless they first obtain a Certificate of Public Convenience and Necessity (CPCN). PUA § 7-207(e) mandates the Commission to take final action on a CPCN application for a generating station only after due consideration of the following:

³⁹ Two of the written comments expressing support were from the property owners of the Project site.

⁴⁰ C. Boucher Direct at 2.

⁴¹ D. Boucher Direct at 2.

⁴² D. Boucher Direct at 3.

⁴³ *Id.*

- (1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station is proposed to be located;
- (2) the effect of the generating station on:
 - (i) the stability and reliability of the electric system;
 - (ii) economics;
 - (iii) esthetics;
 - (iv) historic sites;
 - (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration; and
 - (vi) when applicable, air quality and water pollution; and
 - (vii) the availability of means for the required timely disposal of wastes produced by any generating station;
- (3) the effect of climate change on the generating station based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and
- (4) for a generating station:
 - (i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located;
 - (ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located;
 - (iii) the impact of the generating station on the quantity of annual and long-term statewide greenhouse gas emissions, measured in the manner specified in § 2-1202 of the Environment Article and based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and
 - (iv) the consistency of the application with the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article.

The burden is on the applicant to demonstrate that a project meets the public convenience and necessity.⁴⁴

The Code of Maryland Regulations (COMAR) requires an applicant to demonstrate that an application complies with applicable environmental laws, regulations, and restrictions (COMAR 20.79.03.02); addresses the impacts of the project on the State's natural resources (COMAR 20.79.03.03); and addresses the socioeconomic effects of a project (COMAR 20.79.03.04).

⁴⁴ In *Re Potomac Edison Co. dba Allegheny Power*, 97 Md. P.S.C. 239, 243 (2006).

“Due consideration” under PUA § 7-207(e) does not require the Commission to employ a strict balancing test or any particular method. Rather, the Commission must simply “consider all relevant facts and exercise reasonable judgment.”⁴⁵ And “under the plain language of PUA § 7-207, the PSC is the ultimate decision-maker and approving authority of generating stations.”⁴⁶ Given the Commission’s preemptive authority, “‘due consideration’ of local governing bodies’ recommendations does not require the Commission to accept all, or any, local requirements.”⁴⁷

PUA § 7-207(h) provides:

- (1) A county or municipal corporation has the authority to approve or deny any local permit required under a certificate of public convenience and necessity issued under this section.
- (2) A county or municipal corporation shall approve or deny any local permits required under a certificate of public convenience and necessity issued under this section:
 - (i) within a reasonable time; and
 - (ii) to the extent local laws are not preempted by State law, in accordance with local laws.
- (3) A county or municipal corporation may not condition the approval of a local permit required under a certificate of public convenience and necessity issued under this section on receipt of any of the following approvals for any aspect of a generating station, an overhead transmission line, or a qualified lead line proposed to be constructed under the certificate:
 - (i) a conditional use approval;
 - (ii) a special exception approval; or
 - (iii) a floating zone approval.

⁴⁵ *Accokeek, Mattawoman, Piscataway Creeks Communities Council, Inc. v. Public Serv. Comm’n*, 227 Md. App. 265, 288 (2016), *aff’d*, 451 Md. 1 (2016); *see also* Order Affirming Proposed Order of Pub. Utility Judge, Order No. 88260, *In the Matter of the Application of Dan’s Mountain Wind Force, LLC for a CPCN to Construct a 59.5 MW Energy Generating Facility in Alleghany County, Maryland*, Case No. 9413, at 8-9 (June 16, 2017) (rejecting the application of a formulaic approach in favor of the flexible standard adopted by the Maryland Supreme Court).

⁴⁶ *Bd. of Cty. Cmm’rs v. Perennial Solar, LLC*, 464 Md. 610, 643 (2019).

⁴⁷ *See Frederick County v. LeGore Bridge Solar Ctr., LLC*, 2000 Md.App. LEXIS 1140, *17 (2020) (quoting Proposed Order of Pub. Utility Law Judge, *In the Matter of the Application of LeGore Bridge Solar Center, LLC, for a Certificate of Public Convenience and Necessity to Construct a 20.0 MW Solar Photovoltaic Generating Facility in Frederick County, Maryland*, Case No. 9429, at 45 (Oct. 3, 2017)).

The generating station in this case is proposed to be a community solar energy generating system (“CSEGS”). PUA § 7-306.2(d)(1)(i) required the Commission to establish and maintain a Community Solar Energy Generating Systems Program. Pursuant to § 7-306.2(a)(4), a CSEGS means a solar energy system that:

- (i) is connected to the electric distribution grid serving the State;
- (ii) is located in the same electric service territory as its subscribers;
- (iii) is attached to the electric meter of a subscriber or is a separate facility with its own electric meter;
- (iv) credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering;
- (v) has at least two subscribers but no limit to the maximum number of subscribers;
- (vi) does not have subscriptions larger than 200 kilowatts constituting more than 60% of its kilowatt-hour output;
- (vii) has a generating capacity that does not exceed 5 megawatts as measured by the alternating current rating of the system’s inverter;
- (viii) may be owned by any person; and
- (ix) with respect to community solar energy generating systems constructed under the Program, serves at least 40% of its kilowatt-hour output to LMI subscribers unless the solar energy system is wholly owned by the subscribers to the solar energy system.⁴⁸

According to PUA § 7-306.2(b)(1), the General Assembly found that CSEGSs: (i) provide residents and businesses, including those that lease property, increased access to local solar electricity while encouraging private investment in solar resources; (ii) enhance continued diversification of the State’s energy resource mix to achieve the State’s renewable energy portfolio standard and Greenhouse Gas Emissions Reduction Act goals; and (iii) provide electric companies and ratepayers the opportunity to realize the many benefits associated with distributed energy. The General Assembly further found that it is in the public interest that the State enable the

⁴⁸ PUA § 7-306.2(a)(7) defines “LMI subscriber” as “a subscriber that: (i) is low-income; (ii) is moderate-income; or (iii) resides in a census tract that is an: 1. overburdened community; and 2. underserved community.” PUA § 7-306.2(a)(8) defines “Low-income” as “(i) having an annual household income that is at or below 200% of the federal poverty level; or (ii) being certified as eligible for any federal, State, or local assistance program that limits participation to households whose income is at or below 200% of the federal poverty level.” PUA § 7-306.2(a)(9) defines “Moderate-income” as “having an annual household income that is at or below 80% of the median income for Maryland.”

development and deployment of energy generation from CSEGSs in order to: (i) allow renters and low-income and moderate-income retail electric customers to own an interest in a CSEGS; (ii) facilitate market entry for all potential subscribers while giving priority to subscribers who are the most sensitive to market barriers; and (iii) encourage developers to promote participation by renters and low-income and moderate-income retail electric customers.

VI. Analysis and Findings

PPRP, in coordination with the reviewing State Agencies,⁴⁹ completed an independent assessment of the Project's potential impacts.⁵⁰ Based on PPRP's independent assessment of the potential natural resources, environmental and socioeconomic impacts associated with the proposed Project, DNR and MDE recommend that the Commission grant a CPCN for the Project and incorporate the reviewing State agencies' revised RLCs into the CPCN to ensure that the Project may be constructed and operated in compliance with applicable environmental laws and standards.⁵¹

Staff recommended that the Commission grant a CPCN subject to the conditions proposed by the other State agencies, and that the Commission require the Applicant to: (i) provide the Commission with a signed copy of its Interconnection Agreement with PE prior to construction; (ii) provide the Commission with a copy of its Certificate of Completion, countersigned by PE, upon completion of construction and prior to operation; and (iii) provide the Commission with a copy of its Permission to Operate from PE prior to operation.⁵²

⁴⁹ The reviewing State Agencies include Maryland's Departments of Agriculture, Commerce, Environment (MDE), Natural Resources (DNR), Planning and Transportation, and the Maryland Energy Administration.

⁵⁰ PAR at 1.

⁵¹ PPRP Ex. 1, Piwkhov Direct at 3. *See also* PPRP Ex. 2, Secretarial Letter at 1.

⁵² Staff Ex. 1, Direct Testimony of Christopher Lo ("Lo Direct") at 8.

Montgomery County recommended denial of the Application, as it is located in the Agricultural Reserve (“AR”) and does not comply with the requirements set forth in the Zoning Text Amendment (ZTA) for (SCSs) in the AR zone.⁵³

The M-NCPPC recommended denial of the Application, approved the Forest Conservation Plan, and concluded:

Should the Public Service Commission ultimately choose to approve this application, however, the Planning Board respectfully requests the following conditions of approval:

1. the Applicant must pursue agrivoltaics on the Property, in coordination with the Montgomery County Office of Agriculture; and
2. the Applicant must provide an annual report to the Montgomery County Office of Agriculture and M-NCPPC with respect to agrivoltaics activities and efforts to encourage and incentivize continued farming onsite.

The Joint Intervenors recommended denial of the Application due to its location in the AR zone stating, “MCA, SCA, MFCB, and MAP oppose the Project as currently proposed. However, MCA, SCA, MFCB, and MAP would not oppose the Project if it were no greater than 2 MWs and if the Project [was] located on Class III soils, in compliance with ZTA 20-01.”⁵⁴

The Applicant accepted PPRP’s RLCs and Staff’s recommendations.⁵⁵ Each of the PUA § 7-207(e) factors, as well as the additional factors identified by the Applicant, PPRP, Staff, the County, M-NCPPC, and the Joint Intervenors in their respective analyses, are considered below.

⁵³ County Ex. 1, Letter, at 1-3.

⁵⁴ Joint Intervenor Ex. 1, Direct Testimony of Caroline Taylor (“Taylor Direct”) at 11.

⁵⁵ Applicant Ex. 21 at 2.

A. Consideration of PUA § 7-207(e) Factors

1. Recommendations of Montgomery County

Montgomery County intervened as a party to this matter. Also, separately, the M-NCPPC intervened as a party in this matter. The M-NCPPC was created under Division II of the Land Use Article of the Annotated Code of Maryland. The M-NCPPC includes the Montgomery County Planning Department and Montgomery County Planning Board and has geographic authority in the Montgomery County and Prince George's County regions.

Appendix M to the ERD, sponsored by Applicant Witness Reese, indicates that the Applicant consulted with Montgomery County prior to filing the Application.⁵⁶ A draft ERD was submitted to the County on August 30, 2023, and the Applicant requested a response from the County as to whether the Application is consistent with the County's Comprehensive Plan and Zoning Ordinance requirements. There was initially some discussion between the Applicant and the County regarding whether the Department of Permitting Services or the Department of Planning would be responding to the inquiry, resulting in the draft ERD's submission to both County offices.

The County's response in an email from Patrick Butler, Chief of the Upcounty Planning Division of the Montgomery Planning section of the M-NCPPC, stated in reference to this Application and the Application that is the subject of PSC Case No. 9733 (the "Chaberton Solar Ramier Project"), "the only criteria not met for both projects is the prohibition of solar facilities on Class I and Class II soils in Montgomery County. As long as Chaberton complies with Forest Conservation and screening requirements, it appears all other requirements will be met," and that the County Council would soon be meeting on the matter.⁵⁷

⁵⁶ Applicant Ex. 8, ERD Appendices M-R.

⁵⁷ App. Ex. 8, ERD Appendix M.

The Written Comments of Montgomery County Council and County Executive Marc Elrich state that the County is concerned that the Project is not consistent with the Montgomery County Zoning Ordinance that restricts development of solar projects of certain sizes and characteristics in the Agricultural Reserve on Class I and II soils.⁵⁸ The County revised its Zoning Ordinance in 2018 and 2021 to allow SCS in the AR zone as a conditional use to balance the expansion of renewable energy with the protection of its Agricultural Reserve.⁵⁹

The Agricultural Reserve, established in 1980, set aside 93,000 acres, almost a third of the County's land, to preserve farmland and promote agriculture. The County states that the Zoning Test Amendment (ZTA) allows SCSs in the AR zone, but with certain protections for farmland, including:

- Prohibiting ("SCSs") on soils classified by the United States Department of Agriculture as either Soil Classification Category I or Category II; in a stream buffer; on wetlands; or on slopes equal to or greater than 15%;
- Minimizing grading and soil removal and prohibiting scraping topsoil;
- Prohibiting the removal of trees or landscaping otherwise required and prohibiting the disturbance of any tree in or on a floodplain, stream buffer, steep slope, critical habitat, contiguous forest, or historic site, and any champion tree or other exceptionally large tree;
- Prohibiting the use of concrete except for pad areas for transformers and electrical equipment;
- Requiring compliance with the requirements of the State's net metering program;
- Requiring the area under the solar facility to be used for farming or agricultural purposes and meet one of these criteria: (i) designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program; (ii) planted, managed, maintained, and used for grazing farm animals; or (iii) planted, managed, maintained, and used for any other agrivoltaic plant material;
- Providing evidence that the local utility company will allow the ("SCSs") to be connected to the utility grid;

⁵⁸ County Ex. 1, Letter, at 1.

⁵⁹ County Ex. 1, Letter, at 1.

- Providing evidence that the application was submitted to the Office of Agriculture;
- Requiring screening on the sides of the facility within 200 feet of any neighboring house; and
- Limiting the land area for all conditional use approvals for solar facilities in the AR zone to 1,800 acres of land.⁶⁰

The County states that these protections are required to minimize adverse environmental impacts, protect neighboring properties, and ensure that agriculture remains the primary use of the Agricultural Reserve.⁶¹ The County notes that SCSs up to 2 MWs are allowed subject to the above restrictions even in the AR zone and gives an example of a project that was recently approved in the AR zone and compliant with all of the County's requirements. The County asks that the Commission give due consideration to the County's zoning provisions.

The Joint Intervenors further describe Montgomery County agriculture, the 44-year history of the AR zone, and ZTA 20-01. Witness Lechliden testified that there are over 330 farms in Montgomery County that produce table food, many of whom participate in the Farm to Food Bank program and agriculture accounts for more than 10,000 jobs in Montgomery County.⁶² Witness Lechliden testified that zoning in favor of agricultural uses in the AR maintains the economics of farming in Montgomery County by keeping land values reasonable and property taxes low,⁶³ and contributes to the environmental health of Maryland through carbon offsetting, conservation, and compositing.⁶⁴ Witness Taylor points out that agrivoltaics is not a recognized exception under the ZTA and states that the Project should be rejected on that basis alone.⁶⁵ Witness Taylor states: "MCA and SCA stakeholders have been pressing Maryland State and

⁶⁰ County Ex. 1, Letter, at 2.

⁶¹ County Ex. 1, Letter, at 2.

⁶² Lechliden Direct at 4.

⁶³ Lechliden Direct at 4.

⁶⁴ Lechliden Direct at 5.

⁶⁵ Taylor Direct at 10.

Montgomery County officials to engage in pilot projects to determine the viability of co-location of commercial agriculture and solar installations. At this time, however, there is insufficient data to indicate that agrivoltaics will be successful in our growing conditions.”⁶⁶ The Joint Intervenors oppose the Project as currently proposed, averring that it is inconsistent with the goals set forth in the Master Plan, but would not oppose the Project if it were no greater than 2 MWs and if it were located on Class II soils.

The Applicant submitted a Mandatory Referral Application on June 21, 2024. The Montgomery County Planning Board met on September 5, 2024 and January 9, 2025 and considered both the Mandatory Referral Application and the Forest Conservation Plan associated with this Site. The M-NCPPC letter states that the Planning Board voted 3-2 to recommend denial of the Application based on the recommendation of Planning Staff due to the Project’s presence on Class II soils, which are prime soils best suited for crop and food production, and other farming activities, and citing the Project’s “conflict with the Montgomery County Zoning Ordinance and the goals of the County’s *1980 preservation of Agricultural and Rural Open Space Plan*.”⁶⁷ At the same time, the Planning Board approved with a vote of 4-1 the Forest Conservation Plan associated with this Project. M-NCPPC went on to state that should the Commission approve this Application, M-NCPPC proposes two conditions: (1) that the Applicant be required to pursue agrivoltaics on the Property, in coordination with the Montgomery County Office of Agriculture; and (2) that the Applicant be required to provide an annual report to the Montgomery County Office of Agriculture and M-NCPPC with respect to agrivoltaics activities and efforts to encourage and incentivize continued farming onsite.⁶⁸

⁶⁶ Taylor Direct at 10.

⁶⁷ M-NCPPC Ex. 1, M-NCPPC Letter at 1.

⁶⁸ M-NCPPC Letter at 1.

It merits noting that there is currently a similarly situated CPCN under review by the Commission in Case No. 9733 which also involves a solar installation in Montgomery County's AR zone which is not in compliance with Montgomery County Zoning Ordinance in that the proposed installation is over 2 MWs and is located on prime soils. Case No 9733, Chaberton Solar Ramiere, is an Application for a 3.0 MW PV facility at 17600 Whites Ferry Road in Poolesville, Maryland, less than 8 miles from this Project, also located in the AR zone, which as proposed has a 10.73-acre LOD, of which 9.7 acres is considered prime farmland. In Case 9733, Montgomery County opposes the project but the M-NCPPC testified that on April 24, 2025, the Montgomery County Planning Board voted 3-2 to approve the Mandatory Referral associated with the Ramiere project contingent on two conditions (1) applicant must implement agrivoltaics on the property in a manner capable of being enforced by the PSC and coordinate this activity with the County OAG, and (1) applicant must receive approval of a stormwater management plan from the County DPS prior to filing for building permits on the property.

In the present matter, the Applicant states that the Prime Farmland Report identifies 77.1 percent of the LOC as prime farmland.⁶⁹ The Applicant intends to perform a soil nutrient analysis to determine the true organic metrics and quality of the soil, noting lima beans were the most recent crop to be harvested on the parcel. The Project calls for conversion of 16 of the total 52 acres to the proposed solar facility and notes the remainder of the parcel consists of the access driveway to the residents' home, existing forest, and land being put into a forest conservation easement. The Applicant argues that in total it will be removing 16 acres from the current agricultural use.⁷⁰ The Applicant entered into discussions with the County regarding use of agrivoltaics for the 16 acres less the area needed for equipment pads and the gravel driveway in an

⁶⁹ ERD at 40.

⁷⁰ ERD at 40.

attempt to convince the County that the combined use for solar and agrivoltaics qualified as agricultural use but those discussions were not fruitful.

PPRP Witness Piwkhov testified that the Project will not significantly impact the total amount of prime farmland soils available in the County. PPRP estimates approximately 0.022% of agricultural land would be removed from the County's Agricultural Reserve.⁷¹ With the incorporation of agrivoltaics, PPRP states the Project will remove only 1.5 acres from agricultural production, removing less than 0.002% of agricultural land from agricultural production. Measured another way, the Project will impact approximately 0.014% of the County's 109,000 total acres of prime farmland.⁷² Finally, PPRP notes that the landowner testified that if the Project does not go forward, the land would be reforested rather than return to agricultural production.⁷³

The RLCs attached to this Proposed Order as Attachment A, incorporate local permits and approvals from Montgomery County, requiring the Applicant to obtain approval of its Site Plan, obtain necessary county permits including but not limited to grading, sediment and erosion control, and stormwater management from Montgomery County.⁷⁴

The Project is inconsistent with County zoning in two ways. First, the Project being proposed in the AR zone is above 2 MW in size. Second, the Site contains Class II Prime Soils. Montgomery County seeks to show that its AR zone requirements are not a ban on solar projects in the AR zone, which comprises nearly a third of the land in the County, by citing its recent approval of a 2 MW project on Class III soils. Since the ZTA became effective on March 15, 2021, 20 rooftop solar projects were approved under the Limited Use provisions in the AR zone, 8 on

⁷¹ Piwkhov Direct at 12.

⁷² Piwkhov Direct at 12.

⁷³ Piwkhov Direct at 12. *See also* Applicant Ex. 25, Douglas Boucher Direct at 3.

⁷⁴ PAR at 4.

commercial buildings and 12 on residential buildings, and only two solar projects were granted Conditional Uses in the AR zone.⁷⁵

PUA § 7-703(b)(25)(i)(1) requires that at least 14.5% of energy from electricity suppliers to be derived from solar energy by the year 2030. This Project Site can contribute to Maryland's solar energy at the same time as the land is being used for Agriculture, as intended by Montgomery County. Agrivoltaics, if required for this Project and looked at through the lens of agricultural production, would limit the removal of agricultural land from agricultural production to less than 0.002% and limit the impact to the County's 109,000 total acres of prime farmland to approximately 0.014%. As so eloquently put by Staff, "allowing the Project to utilize less than a quarter of one percent of Agricultural Reserve land in furtherance of achieving the State's solar generation goals would not be a significant impingement to the County ... [and] is a worthy use of the Commission's preemption authority."⁷⁶

2. Stability and Reliability of the Electric System

The Project is a Community Solar Energy Generating System that will deliver all its output to subscribers via The Potomac Edison Company electric distribution grid. The POI is proposed on the west side of the property at an existing 35.4 kV direct feeder (MD3371) overhead line to PE's Beallsville Substation-Aqueduct.⁷⁷ On September 19, 2023, Chaberton submitted the interconnection application to PE, which PE conditionally approved, and received a feasibility study prepared by the PE engineering team on December 1, 2023. The Interconnection Agreement was executed on December 28, 2023.⁷⁸

⁷⁵ Montgomery County Response to Bench DR 1.

⁷⁶ Staff Brief at 21.

⁷⁷ ERD at 5, PAR at 5.

⁷⁸ ERD at 5, PAR at 5.

Witness Lo noted that renewable energy projects, such as solar and wind farms, have been promoted and mandated by many states, and that the RPS (Renewable Portfolio Standard) requires suppliers to utilize renewable resources to serve an increasing percentage of total demand or pay an alternative compliance fee. Witness Lo cited to the Maryland Clean Energy Jobs Act of 2019, codified in PUA § 7-703, which sets Maryland's RPS target at 50 percent from Tier 1 renewable sources including at least 14.5 percent derived from solar energy by 2030. Witness Lo testified that this Project would contribute toward meeting Maryland's RPS goals.⁷⁹

Witness Lo concluded that the executed Interconnection Agreement will provide the Commission with the assurance that the Project will be connected to PE's electric system in a manner that will not adversely affect the reliability and stability of the local electric system. Additionally, any required expense to construct an upgrade of PE's electric system necessary to accommodate the Project will be borne by the Applicant and not PE's ratepayers. A countersigned copy of the Certificate of Completion will provide the Commission with assurance that PE has determined that the interconnection of the Project to PE's electric distribution system has been inspected and meets all of PE's interconnection requirements. PE's notification of Permission to Operate will provide the Commission with assurance that the Project will be operated in full compliance with PE's operating requirements.⁸⁰

Therefore, Staff recommended that the Commission:

- (i) Grant Chaberton Sugarloaf a CPCN to construct and operate the proposed 4.0 MW CSEGS Project at the location indicated in the Company's CPCN application;
- (ii) Require Chaberton Sugarloaf to provide the Commission with a signed copy of the Company's Interconnection Agreement with PE, prior to construction of the CSEGS Project;

⁷⁹ Staff Ex. 1, Lo Direct at 7.

⁸⁰ *Id.*

- (iii) Require Chaberton Sugarloaf to provide the Commission with a copy of the Company's Certificate of Completion, which has been countersigned by PE, upon completion of construction and prior to operation of its proposed CSEGS Project;
- (iv) Require Chaberton Sugarloaf to provide the Commission with a copy of the Company's Permission to Operate from PE prior to commencing operation of its proposed CSEGS Project; and
- (v) Adopt any additional conditions and requirements proposed by the other State agencies having jurisdiction in this proceeding.

The record reflects that the Project will be connected to PE's electric system in a manner that will not adversely affect the reliability and stability of the local electric system. The Certificate of Completion, countersigned by PE, will provide the Commission with the assurance that PE has determined that the interconnection of the Project to PE's electric distribution system has been inspected and meets all of PE's interconnection requirements. PE's notification of Permission to Operate will provide the Commission with assurance that the Project will be operated in full compliance with PE's operating requirements.

3. Economics

During the peak construction period, the Project is estimated to create approximately 48 design, management, and construction jobs, working remotely or on the Project site.⁸¹ Following construction, it is estimated that approximately one job will be supported annually.⁸² Most construction activities are not expected to require highly specialized skills so the Project is likely to source many construction jobs from the Maryland labor pool if local labor is available and area subcontractors competitively bid the work.⁸³ This will have a positive effect on the Montgomery County economy from construction worker payrolls and subsequent consumption expenditures,

⁸¹ ERD at 3

⁸² PAR at 11.

⁸³ Piwkhov Direct at 26.

local purchases of common construction materials, tax revenues, and associated multiplier effects.⁸⁴ Not all benefits will accrue to Maryland since specialized components, particularly PV panels, are manufactured elsewhere and will be imported into the State. Most of the construction workforce is expected to be within daily commuting distance so the Project will have no effect upon population and housing, or on population-related public service provision. Witness Piwkhov concluded that with public service levels largely unaffected, the net benefit of Project construction will be positive for Montgomery County, the State, and surrounding jurisdictions.⁸⁵

PPRP concluded that the Project will have a positive effect on the local economy from construction worker payrolls and subsequent consumption expenditures, local purchases of common construction materials, tax revenues, and associated multiplier effects. PPRP further concluded that fiscal benefits will be in the form of business personal property taxes from the Project could be around \$68,494 in the first year of operations, declining to about \$36,204 in Year 20. The Applicant indicated that the lifespan of the Project is between 20 and 40 years. In Year 40, the business personal property tax is expected to be approximately \$35,416.⁸⁶

Public commentors suggested that installation of a solar facility in the AR zone would result in increased cost to farmers if leasing agricultural land because solar facilities typically pay a higher lease rate than tenant farmers.⁸⁷ PPRP stated it is unable to calculate the potential impact of solar developments on land lease prices due to the lack of available data, however, PPRP stated it reviewed published studies and concluded that the Project will have a benign local presence and surrounding property values will be minimally affected.⁸⁸

⁸⁴ Piwkhov Direct at 26.

⁸⁵ Piwkhov Direct at 26.

⁸⁶ PAR at 11.

⁸⁷ Piwkhov Direct at 9.

⁸⁸ Piwkhov Direct at 9.

The record reflects that the net benefit of Project construction will be positive for Montgomery County and the State. The record further reflects a likelihood of fiscal benefits in the form of corporate income tax revenues to the State, income tax revenues to the State and Montgomery County, and property tax revenues to Montgomery County.

4. Esthetics

The Project Site is surrounded by forested and agricultural lands and a few residential properties. The northern and eastern portions of the Project Site have a planned forest banking conservation easement. Due to the existing vegetation, views of the Project Site are mostly obscured from nearby residences as well as from the adjacent major roads, such as Darnestown Road, Dickerson Road, and Big Woods Road.⁸⁹

The Applicant is proposing 50-foot setbacks from all surrounding property lines, and a 7-foot security fence will surround the perimeter of the solar panels and associated equipment.⁹⁰ The Applicant does not intend to use a vegetative buffer.

PPRP estimated the Project's visual footprint within a 0.5-mile radius around the Project LOD and concluded that the robust existing forested area in the vicinity of the Project provides substantial natural screening, effectively preventing views of the Project from adjacent properties and roads.⁹¹

PPRP used the Forge Solar GlareGauge glare prediction model to perform an independent assessment to estimate the potential of reflective glare upon nearby residences as well as public and private roadways within the immediate area surrounding the Project. The results indicate that

⁸⁹ Piwkhov Direct at 21.

⁹⁰ ERD at 42.

⁹¹ Piwkhov Direct at 22.

no glare (green, yellow, or red) is predicted to occur on any nearby residences or roads.⁹² As there are no public or private airports within a 3-mile radius of the site, PPRP did not find it necessary to model glare impacts on airports.

PPRP proposes a landscape maintenance agreement RLC, landscape surety agreement RLC, and a complaint resolution RLC to address unanticipated solar reflections and other visual impacts or noise issues.⁹³ all of which are adopted and included in Attachment A.

There is no evidence in the record that any visual impacts are at all likely in the 0.5-mile radius around the Project LOD. Similarly, the record reflects that there will be no impacts from glare.

5. Historic Sites

There are no historic properties listed on the National Register of Historic Places Inventory or Maryland Inventory of Historic Properties on the Project Site. The Applicant contacted the Maryland Historical Trust (MHT) for formal determinations and recommendations. MHT determined the Project will have no adverse effect on any historic properties.⁹⁴ In the event that construction reveals unforeseen archeological relics or sites, PPRP proposed an archeological discoveries RLC requiring the Applicant to consult with MHT.⁹⁵

Based on this record, and subject to compliance with applicable RLCs in Attachment A, the Project will not have an adverse effect on historic sites, or cultural or archeological resources.

⁹² Piwkhov Direct at 22.

⁹³ Attachment A.

⁹⁴ Piwkhov Direct at 28.

⁹⁵ PAR at 7.

6. Aviation Safety

There are no public or private airports within three miles of the Project site.⁹⁶ PPRP determined that the Project is not in close proximity to any military installations or located within a Military Special Use Airspace. The Applicant used the Federal Aviation Administration (FAA) online Notice Criteria Tool to determine that the Applicant is not required to notify the FAA of the Project.⁹⁷

Based on the record in this proceeding, the Project will have no impact on aviation safety.

7. Air Quality and Water Pollution

a. Air Quality

The only sources of air emissions from the Project will be those associated with construction activities, which will be temporary.⁹⁸ PPRP recommended a fugitive dust control license condition.⁹⁹

As a solar power generation project, the Project will generate no air pollution emissions during its operation.¹⁰⁰ According to PPRP, both the Applicant and PPRP used the Environmental Protection Agency (EPA) Avoided Emissions and geneRation Tool (AVERT) online calculator with consistent results, and estimated that the addition of this 4.0 MW solar energy generating system in Maryland would result in reduction of approximately 5,100 tons of carbon dioxide (CO₂) in the Mid-Atlantic Region and 270 tons of CO₂ in Maryland.¹⁰¹

⁹⁶ PAR at 12 and 19.

⁹⁷ PAR at 12. ERD Appendix I.

⁹⁸ PAR at 22.

⁹⁹ Attachment A, Condition 7.

¹⁰⁰ PAR at 23.

¹⁰¹ PAR at 23.

Subject to compliance with the fugitive dust control License Condition, which has been included in the License Conditions in Attachment A, the Project will not have an adverse impact on air pollution during construction. Once operational, the Project will have a positive impact on air quality.

b. Water Pollution

PPRP recommended several license conditions with respect to stormwater management and impacts on streams and watersheds. Witness Piwkhaw stated that mitigation for stormwater effects should be incorporated into the Erosion and Sediment Control and Stormwater Management Plans submitted to the County for approval.¹⁰² The grading and stormwater management RLC requires that copies of these plans and approvals be filed in the Docket.¹⁰³ The vegetation management RLC addresses avoidance and remediation of compacted soils. The sediment control RLC requires that the Applicant employ MDE-approved best management practice (BMP) standards and actions to control erosion and sediment impacts during construction.¹⁰⁴

PPRP reviewed the potential of the Project's changes to site hydrology and runoff water quality to affect streams and wetlands. The runoff from the northwest portion of the proposed panel array will flow down a relatively steep slope into a floodplain/wetland area on the property that is around the Little Monocacy River, which then flows into the Potomac River. Witness Piwkhaw testified that this is not of particular concern and cited the DNR Land Acquisition and Planning

¹⁰² Piwkhaw Direct at 13.

¹⁰³ Piwkhaw Direct at 13.

¹⁰⁴ Piwkhaw Direct at 13.

Unit which stated the Project will have no adverse effect on the scenic quality of the Potomac River.¹⁰⁵

Witness Piwkhov explained that construction of this Project may be positive in that it may reduce the amount of nutrients, herbicides, and pesticides that would otherwise enter the adjacent streams from farmed land runoff; however, stormwater runoff from the panels, road, and soil stockpile has the potential to erode portions of the drainage feature and increase the sediment entering the Little Monacacy River from the west of the Project.¹⁰⁶ Also, access roads, equipment pads, storage tanks, and other impervious surfaces constructed for the Project will decrease the ground area available for stormwater infiltration and collect debris and contaminants that can be flushed into streams during storms.¹⁰⁷

PPRP cited several aspects of the Plan that will mitigate stormwater impacts of the Project. The Project as proposed includes 100-foot buffers from all streams and wetlands on the Project site.¹⁰⁸ The Applicant also intends to use silt and super silt fences during construction and level spreaders during operation to aid in stormwater capture and infiltration.¹⁰⁹ Runoff from disconnected impervious areas will drain through planted meadow grasses and the Applicant will install an earthen dike and mountable berm along the southwest edges of the LOD to redirect the stormwater runoff out of the drainage feature.

The surface water, wetlands, and hydrology impacts RLC addresses direct impact concerns to wetlands and stream resources. The sediment control RLC requires that the Applicant employ MDE-approved BMP standards and actions to control erosion and sediment impacts during construction. The grading and stormwater management RLC requires the Applicant to file in the

¹⁰⁵ Piwkhov Direct at 14.

¹⁰⁶ Piwkhov Direct at 15.

¹⁰⁷ *Id.*

¹⁰⁸ Piwkhov direct at 15.

¹⁰⁹ ERD Appendix G.

Docket any plans that it submits to Montgomery County and permits it receives from Montgomery County and MDE in connection with the Project for grading and stormwater management.¹¹⁰

Pursuant to COMAR 26.17.06, PPRP recommended a construction dewatering RLC that requires the Applicant to keep any construction dewatering that becomes necessary to a duration of less than 30 days (including non-pumping days) and a volume of less than 10,000 gallons/day as an annual average.¹¹¹ If the Applicant anticipates that either of these conditions will be exceeded, they are required to file a notice in the docket that they have requested either a Water Appropriation Permit or a Notice of Exemption from the MDE Water and Science Administration. The Applicant submitted a groundwater appropriation exemption request to MDE on November 20, 2023, which MDE approved on January 25, 2025.¹¹²

Subject to compliance with applicable RLCs in Attachment A, the record reflects no likely adverse impacts on water quality due to the Project.

8. Timely Disposal of Wastes Produced

According to the ERD, all waste generated during construction will be collected and removed from the site and disposed of at an approved waste handling facility.¹¹³ Waste associated with maintenance or repair efforts will be disposed of at an approved waste handling facility.¹¹⁴

The Applicant filed a decommissioning plan on June 19, 2024 attached as Appendix B to the Direct Testimony of Witness Reese, then filed a Revised Decommissioning Plan on January 15, 2025.¹¹⁵ Witness Reese stated that waste produced during decommissioning of the

¹¹⁰ Piwkhov Direct at 15.

¹¹¹ Piwkhov direct at 29.

¹¹² ERD at 28 and Appendix P.

¹¹³ ERD at 32.

¹¹⁴ *Id.*

¹¹⁵ Applicant Ex. 18.

Project will be recycled, sold, or disposed of in accordance with an approved Decommissioning Plan. When the Project is decommissioned, the Site will be restored to the pre-developed condition as required by the Decommissioning Plan and County Code.¹¹⁶

In the Updated Decommissioning Plan filed on January 15, 2025, the Applicant proposed to post financial security in the amount of \$740,329, which represents 125% of the total estimated cost of decommissioning the Project.¹¹⁷ PPRP Witness Piwkhov testified that this cost estimate is reasonable and consistent with the Project's Decommissioning Plan and recent decommissioning cost estimates that the Commission has approved for other solar projects.¹¹⁸

PPRP proposed a decommissioning RLC which requires the Applicant to submit a pre-construction decommissioning plan after County approval of the site plan and prior to the start of construction to ensure the financial instrument is sufficient for the first five years of the Project, after which the Decommissioning Plan must be updated every five years. Provided the Applicant complies with applicable RLCs in Attachment A and final approved decommissioning plan, there should be no adverse impacts stemming from a failure to timely dispose of waste materials.

9. Effect of Climate Change on Generating Station

PPRP states that the potential changes in Maryland's climate during the lifetime of the Project (roughly 20-40 years) include slightly higher average and extreme air temperatures (1-2 degrees C), possibly more extreme high-temperature days per year, an increase in the frequency or intensity of severe storms, and gradually rising sea level.¹¹⁹ While the Project will not be affected by sea level rise, it may be subject to possible effects of increases in air temperature or

¹¹⁶ *Id.*

¹¹⁷ Applicant Ex. 18 Updated Decommissioning Plan, Attachment A.

¹¹⁸ Piwkhov Direct at 30.

¹¹⁹ PAR at 24.

severe storms. There do not appear to be direct risks to the panels and other facility components from higher temperatures; however, the Applicant's analysis indicated that higher temperatures could reduce PV panel efficiency and power output but do not pose a permanent impact to the operation of the facility.¹²⁰

The Applicant states that the potential effects of enhanced severe storms are mitigated by the Project's design (based on the 2018 International Building Code) to withstand a storm wind speed of 115 mph. Incorporating this feature into the design should create a facility that is robust to foreseeable direct weather effects.¹²¹

The record reflects features of the Project's design limit potential damage to the facility from foreseeable weather effects and therefore limit the possibility of catastrophic destruction from an intense storm that could require premature decommissioning to the extent practicable.

10. Consistency with County's Comprehensive Plan and Zoning

The County indicated that the Project satisfies all County land use and zoning requirements with the exception of the Zoning Text Amendment (ZTA 20-01) prohibition of Solar Collection Facilities above 2.0 MW on Class I/II soils in the AR zone.¹²² However, the Applicant has committed to the use of agrivoltaics as part of the Project.

On this record, the Project is consistent with Montgomery County's comprehensive plan but not consistent with the County's zoning for the Agricultural Reserve. (See discussion in section V(A)(1) above.)

¹²⁰ ERD at 38.

¹²¹ ERD at 38.

¹²² Piwkhov Direct at 9.

11. Efforts to Resolve Any Issues

The Applicant states it has been in active collaboration with the staff and leadership of Montgomery County since 2021 in relation to this Project and others, and lists its communications and meetings with County offices, County Council members, and State Representatives.¹²³ The Applicant met with Montgomery County's Office of Agriculture on November 8, 2024 and incorporated the comments from the OAG staff into a draft RFP that was sent to OAG on December 2, 2024. The Applicant testified that the County "verbally indicated that if the Project maintains the agricultural use of the land the intent behind the class I/II soil restriction might be met."¹²⁴ The discussions between the Applicant and the County regarding the appropriateness of agrivoltaics as an agricultural use within the AR zone did not change the County's opposition to the Project.

12. Impact on Greenhouse Gas Emissions

PPRP used the Environmental Protection Agency (EPA) Avoided Emissions and generation Tool (AVERT) online calculator to estimate that the addition of this 4.0 MW solar energy generating system will displace approximately 5,100 tons of CO₂ emissions in the Mid-Atlantic Region and 270 tons of CO₂ emissions in Maryland.¹²⁵ The record in this case reflects that the Project will positively impact (decrease) greenhouse gas (GHG) emissions.

13. Consistency with the State's Climate Commitment for Reducing Statewide Greenhouse Gas Emissions

The Climate Solutions Now Act of 2022 (Senate Bill 528) amended several provisions of the Environment Article, *Annotated Code of Maryland* ("EN"). EN § 2-1204.2 now provides that

¹²³ ERD at 6.

¹²⁴ ERD at 6.

¹²⁵ PAR at 12, 23.

the State shall achieve net-zero statewide GHG emissions by 2045, with EN § 2-1205 mandating a 60 percent reduction from 2006 levels by 2031.

Reduction in GHG emissions requires more renewable energy resources. The Clean Energy Jobs Act (SB 516) made substantial updates to PUA § 7-703, which addresses the State's RPS. The RPS requires certain percentages of the State's retail electricity sales each year to be generated from a renewable source. By 2030, the RPS is 50 percent renewable energy with at least 14.5 percent derived from solar energy.¹²⁶

The Project will improve Maryland's ability to generate carbon-free electricity and is therefore consistent with the State's climate commitment for reducing statewide GHG emissions.

B. Additional Considerations

1. Impacts to Natural Resources and the Environment

PPRP notes the Applicant's commitment to incorporate agrivoltaics practices thus, for site stabilization in areas of the Site not used for agrivoltaics, PPRP recommends a self-sustaining, low-growing vegetation community that will minimize mowing and provide wildlife and pollinator habitat that can be achieved using a native seed mix and an integrated vegetation management (IVM) approach.¹²⁷ The Applicant plans to obtain the Pollinator-Friendly Solar Facility Designation by proposing vegetative cover that will be devoid of neonicotinoid-treated seeds and contain at least eight different pollinator-friendly species.¹²⁸ The reviewing State agencies' RLCs regarding vegetation management practices include avoiding soil compaction and remediating as necessary, planting only native or naturalized species, avoiding mowing during the nesting season of most ground-nesting birds (*i.e.*, May through August), restricting mowing at all times to a height

¹²⁶ PUA §§ 7-703(b)(19) and (25).

¹²⁷ PAR at 10.

¹²⁸ ERD at 40-43.

of no less than 10 inches, a plan for avoiding and minimizing the use of herbicides or pesticides, and using IVM protocols.¹²⁹

No impacts on forests or reforestation requirements are anticipated. Ten acres of Forest Conservation Easements have been in existence on the Property since 2022. The Applicant provided a draft Forest Stand Delineation and draft Forest Conservation Plan with the ERD. The Project does not involve any tree clearing; thus, reforestation is not required.¹³⁰ M-NCPPC approved the Forest Conservation Plan. PPRP's forest conservation RLC requires the Applicant to comply with County forest conservation requirements.

Regarding rare, threatened, or endangered (RTE) species, PPRP notes that the USFWS IPaC system identified potential habitat for the candidate Monarch Butterfly (*Danaus plexippus*) and confirmed that the project will have "no effect" on the endangered Northern Long-eared Bat (*Myotis septentrionalis*).¹³¹ DNR Wildlife and Heritage (WHS) did not have any concerns regarding potential impacts to rare, threatened, or endangered species.¹³² PPRP concluded that since no tree clearing is proposed, no effects are anticipated to the Northern Long-eared Bat. Furthermore, PPRP concluded that if the Applicant's seed-mix for its pollinator friendly habitat includes suitable milkweed species or other nectar producing species, the Project could have a positive impact on RTE species as it could create a habitat for the Monarch Butterfly.¹³³

PPRP anticipates no impacts to rare, threatened, or endangered species unless an RTE species is discovered during construction. PPRP proposed a Wildlife and Heritage Service (WHS)

¹²⁹ PAR at 21.

¹³⁰ PAR at 10, ERD at 8.

¹³¹ Piwkhov Direct at 19.

¹³² *Id.*

¹³³ Piwkhov Direct at 20.

RLC requiring the Applicant to contact and coordinate with WHO should any encounters with any RTE species occur during the construction or operation of the Project.¹³⁴

Based on the record, the Applicant's compliance with the RLCs in Attachment A ensure proper vegetation management, and that no adverse impacts to vegetation resources or wildlife will result from the Project.

2. Transportation

During Operation, the Project will not generate significant traffic. During the construction and decommissioning phases, tractor-trailers and/or other large vehicles will transport materials and equipment from the Site; however the Applicant anticipates that personnel vehicles will comprise most of the daily construction traffic with an estimated daily peak of 25-30 vehicles.¹³⁵ During construction, the Applicant does not anticipate the need for oversized or overweight vehicles and all deliveries will adhere to normal weight/size requirements.¹³⁶ PPRP noted that there are no schools within a half mile radius to the Site, the two nearest public schools are Monocacy Elementary School, 2.1 miles northeast, and Poolesville High School, 4.2 miles south.¹³⁷ PPRP proposed truck routing and traffic management plan, road permits, and road damage RLCs. The truck routing and traffic management plan RLC requires the Applicant to file a county-approved truck routing plan prior to the commencement of construction. PPRP's road permits RLC requires the Applicant to comply with all permit requirements for use, crossing, and occupancy of State and County roads and to obtain appropriate approvals as necessary, and PPRP's road damage RLC addresses damage to public roads from construction vehicles.¹³⁸

¹³⁴ PAR at 7. *See also* ERD at 34.

¹³⁵ PAR at 17.

¹³⁶ ERD at 44.

¹³⁷ PAR at 17.

¹³⁸ Attachment A.

Based on the record, the Applicant's compliance with these RLCs will ensure that any adverse impacts to transportation during construction and operation of the Project are minimized.

3. Noise

During operation, PPRP noted that based on the manufacturer's data sheets for this type of inverter and the distance to the nearest receptor to the edge of the closest solar array (460 feet) and any transformer pad (520 feet), the solar arrays and associated equipment would not contribute to ambient levels exceeding the day and nighttime allowable limits set in COMAR.¹³⁹ During construction, when noise is expected to exceed the 75 dBA construction noise limit set by the County, the Applicant will be required to request a temporary noise waiver from the County and be required to monitor noise levels at property boundaries once the facility is in operation to demonstrate compliance with applicable noise limits.¹⁴⁰

Based on the information in the record, the Project will comply with both the construction and operational noise limits.

4. Electromagnetic Field Levels

The Project is designed to have over 800 feet of distance from the closest adjacent neighbor's residences.¹⁴¹ PPRP found that electromagnetic field (EMF) levels from the Project are not anticipated to pose a potential health risk to nearby residents. The PAR states that EMF levels for a solar energy system at this distance are well below the risk thresholds established by international guidelines.

Based on the record, EMF levels at the Site will not cause adverse impacts to human health.

¹³⁹ PAR at 22.

¹⁴⁰ PAR at 23. *See also* ERD at 35.

¹⁴¹ ERD at 9.

5. Environmental Justice

Given that the Project will not generate air pollutants or large amounts of fugitive dust, and traffic will be minimized during operation, PPRP determined that the Project will not have an adverse effect on nearby environmental justice communities.¹⁴²

6. Miscellaneous

a. PUA §7-306.2(d)(13)

Witness Piwkhaw testified that based on PPRP's understanding from information available at this time, there are no existing or proposed CSEGSs located on the same or an adjacent parcel of land as the Project. There are no projects with a CPCN to construct, nor any proposed projects currently under CPCN review on the same or an adjacent parcel of land. Witness Piwkhaw noted that there is an inactive project still in development on an adjacent parcel that is registered as a subscriber organization by its affiliated company, Chaberton Solar Sugarloaf I, LLC.¹⁴³ Therefore, based on this information, Public Utilities Article (PUA) §7-306.2(d)(13)(i) is not applicable to the proposed Project.¹⁴⁴

b. PUA §7-306.2(n)

The Project will be subject to the prevailing wage standard requirements outlined in PUA § 7-306.2(n).¹⁴⁵

¹⁴² Piwkhaw Direct at 24.

¹⁴³ Piwkhaw Direct at 10.

¹⁴⁴ See Applicant Response to PPRP Data Request 7-2.

¹⁴⁵ Piwkhaw Direct at 10-11.

c. Agrivoltaics

The Applicant voluntarily committed to incorporating agrivoltaics practices as a part of the Project¹⁴⁶ and submitted an Agrivoltaics Report and a draft Farming Request for Proposals (RFP) to Montgomery County’s Office of Agriculture (OAG) on December 2, 2024.¹⁴⁷ The Applicant has not issued the RFP in solicitation of bids.

The RFP does not specify the type of agrivoltaics that will be used. PUA § 7-306.2(a)(2), as of the date the Application was filed, defined “Agrivoltaics” as the simultaneous use of areas of land for both solar power generation and:

- (i) raising grains, fruits, herbs, melons, mushrooms, nuts, seeds, tobacco, or vegetables;
- (ii) raising poultry, including chickens and turkeys, for meat or egg production;
- (iii) dairy production, such as the raising of milking cows;
- (iv) raising livestock, including cattle, sheep, goats, or pigs;
- (v) horse boarding, breeding, or training;
- (vi) turf farming;
- (vii) raising ornamental shrubs, plants, or flowers, including aquatic plants;
- (viii) aquaculture;
- (ix) silviculture; or
- (x) any other activity recognized by the Department of Agriculture as an agricultural activity.¹⁴⁸

Agrivoltaics, a term that applies to a wide spectrum of farming and husbandry activities combined with energy generation, are somewhat new across the country, and to Maryland. The term in Maryland has recently been more precisely defined to include more than mere pollinator

¹⁴⁶ App. Ex. 26, Boswell Supplemental Direct at 2.

¹⁴⁷ App. Ex. 26, Boswell Supplemental Direct at 2.

¹⁴⁸ As of July 1, 2025, PUA § 7-306.2 was amended to include the requirements that areas of land must be maintained in agricultural use in accordance with COMAR 18.02.03 or the Maryland Assessment Procedures Manual (§ 7-306.2(a)(2)(i)(1)) and “Agrivoltaics” specifically does not include the simultaneous use of areas of land for both solar power and apiaries or pollinator habitat (§ 7-306.2(a)(2)(ii)(1-2)).

habitat and/or apiaries,¹⁴⁹ and this most recent definition is what “Agrivoltaics” refers to in the ordering paragraphs herein.

Due to its location in Montgomery County’s Agricultural Reserve, and its siting on Class I/II soils, consistent dual-use agrivoltaics, as described by PUA § 7-306.2(a)(2), should be a requirement for the issuance of a CPCN in this case. Mere use of pollinator friendly habitats and/or apiaries is not enough. The requirement of consistent dual-use Agrivoltaics both satisfies Maryland’s renewable energy goals and ensures the use of agriculture in the land designated by Montgomery County as an Agricultural Reserve.

The Applicant stated that it “is voluntarily committing to incorporate agrivoltaic practices as part of the Project, such that the site will generate both clean electricity and agricultural products.”¹⁵⁰ The Applicant further committed to “maintaining meaningful agricultural use of the site in parallel with the operations of the project.”¹⁵¹ The question is what these “commitments” mean and how they can be enforced. The Applicant “has solicited proposals from industry leaders in agrivoltaic strategies”¹⁵² and has drafted an RFP to solicit providers but has not yet issued that RFP; thus, “the Applicant cannot provide specific details of the agrivoltaic plan” at this time.¹⁵³

PPRP proposed an agrivoltaics plan RLC that says “*if* Agrivoltaics is employed at the Project site” the Project Owner shall file an agrivoltaics plan *reviewed by* Montgomery County in the PSC docket at least 30 days prior to operation, sets forth the minimum requirements of such a plan, and requires an updated plan be filed at least every five years after the commencement of operation or whenever a change occurs in the agrivoltaic activity selected.

¹⁴⁹ § 7-306.2(a)(2)(ii)(1-2).

¹⁵⁰ Boswell Supplemental Direct at 2.

¹⁵¹ Boswell Supplemental Direct at 2.

¹⁵² Boswell Supplemental Direct at 2.

¹⁵³ Boswell Supplemental Direct at 2.

M-NCPPC maintains its opposition to the Project, however, if the Commission grants a CPCN, requests that the Applicant be required to pursue agrivoltaics on the Property, in coordination with the Montgomery County OAG and that the Applicant be required to provide an annual report to the Montgomery County OAG and M-NCPPC regarding “agrivoltaics activities and efforts to encourage and incentivize continued farming onsite.”¹⁵⁴

These conditions, at a bare minimum, are necessary; however, this Proposed Order hereby conditions approval of this Project on the use of Agrivoltaics with more specific conditions.

If this Project is to be approved, it must include Agrivoltaics as defined by PUA § 7-306.2(a)(2) throughout the life of the Project. Agrivoltaics shall be used on the majority of the LOD, except where access roads and/or concrete pads or other equipment are installed. In addition, in areas of the Property where Agrivoltaics is not feasible, the Project shall include the planting and maintenance of pollinator-friendly habitat. In addition, the Applicant shall obtain financial surety in the form of a bond or letter of credit from a financial institution in an amount not less than \$500,000 payable to Montgomery County, in the event the Commission makes a finding that Project Owner failed to ensure continued use of Agrivoltaics as defined by PUA § 7-306.2(a)(2) throughout the life of the Project.

Use of Agrivoltaics is a requirement of this Project. In addition, the reporting requirements in PPRP’s agrivoltaics plan RLC #13, in Attachment A to this Proposed Order and M-NCPPC conditions in Attachment C to this Proposed Order are hereby accepted. Should the owner/operator of this Project fail to maintain Agrivoltaics throughout the LOD as set forth herein throughout the life of the Project, the Compliance RLC will allow Montgomery County, PPRP, or any other Party to the case to file notice with the Project’s Representative who will have 45 days to file in the

¹⁵⁴ Attachment C, M-NCPPC Ex. 1 at 2.

docket a summary of the non-compliance issue and a statement of how the Project Owner has addressed or is addressing the matter.

VII. Conclusion

Before taking final action on a CPCN application, the Commission must give due consideration to several factors under PUA § 7-207(e). After considering all of these and other factors, including the recommendations, if any, of the county in which the project is proposed, the Commission weighs the overall benefits of the project against the likely impacts of the project.

As set forth herein, the Project is consistent with Montgomery County's comprehensive plan but not consistent with the County's zoning because it exceeds the 2 MW maximum for solar installations within the AR zone and because the Site is located on Class II soils. The Project is consistent with all other aspects of the County's zoning. In many ways, this is an ideal Project. The Project will not adversely affect the reliability and stability of the local electric system. There are no visual impacts. No glare is predicted. There are no historic sites, or cultural or archeological resources on or near the Site. No adverse effects are predicted on aviation safety, water quality, vegetation, forests, or wildlife. There will be no permanent noise impacts, or adverse impacts to health due to EMF. A primary consideration is the renewable energy generation the Project will provide, which contributes to meeting regional energy needs, advancing sustainability goals, and reducing carbon emissions. The Project will have a positive impact on air quality through a reduction in GHG emissions. In addition, the Project is expected to provide the various economic benefits noted by the General Assembly.

The record in this case supports the conclusion that, considering Maryland's renewable energy goals, subject to appropriate license conditions, on balance, the benefits of this proposed Project strongly outweigh Montgomery County's local zoning that would preclude it. The

requirement of Agrivoltaics throughout the life of the Project allows use of this Site to both generate solar electricity in furtherance of Maryland’s renewable energy goals and to use the land for agriculture, which is the intended use of Montgomery County’s AR zone. The Applicant or any Project Owner shall use Agrivoltaics throughout the LOD and through the end of the life of the Project. The Applicant or Project Owner shall be required to obtain a financial surety which will be payable to Montgomery County in the event the Commission finds that Agrivoltaics is not implemented or ceases prior to the end of the life of the Project. Should any Party allege that the Project Owner fails to implement or fails to continue to employ Agrivoltaics throughout the life of the Project, that Party shall contact the Project’s Representative pursuant to PPRP compliance RLC 40 and the Project Representative shall have 45 days to respond with a filing in the docket.

Accordingly, Chaberton Solar Sugarloaf I, LLC’s Application is approved subject to (1) the use of Agrivoltaics throughout the LOD and through the end of the life of the Project, (2) the Project Owner’s acquisition of financial surety in the form of a bond or letter of credit payable to Montgomery County in the amount of not less than \$500,000 from a financial institution prior to the start of construction, (3) the planting and maintenance of pollinator habitat in that portion of the LOD where Agrivoltaics use is not viable, (4) the License Conditions of PPRP¹⁵⁵ as attached to this Proposed Order as Attachment A, (5) the recommendations of Staff,¹⁵⁶ as attached to this Proposed Order as Attachment B, and (6) the conditions of M-NCPPC,¹⁵⁷ attached to this Proposed Order as Attachment C.¹⁵⁸

IT IS, THEREFORE, this 12th day of November, in the year Two Thousand Twenty-Five,

¹⁵⁵ Attachment A.

¹⁵⁶ Attachment B.

¹⁵⁷ Attachment C at 2.

¹⁵⁸ The conditions of M-NCPPC are accepted, however, the conditions in this Proposed Order regarding the use of Agrivoltaics goes beyond M-NCPPC’s recommendation.

ORDERED: (1) That the Application of Chaberton Solar Sugarloaf I, LLC for authority to construct a solar photovoltaic generating facility in Montgomery County, Maryland is hereby granted, subject to the conditions herein;

(2) That a Certificate of Public Convenience and Necessity, subject to:

- (A) the use of Agrivoltaics throughout the LOD and through the end of the life of the Project;
- (B) the Project Owner's acquisition of financial surety in the form of a bond or letter of credit payable to Montgomery County in the event that the Commission finds agrivoltaics is not used or ceases to be used on the Site in the amount of not less than \$500,000 from a financial institution prior to the start of construction;
- (C) the planting and maintenance of pollinator habitat throughout the Site where agrivoltaics use is not viable;
- (D) the License Conditions of PPRP, attached hereto as Attachment A;
- (E) the recommendations of Staff, attached hereto as Attachment B;
- and
- (F) the conditions of M-NCPPC, attached hereto as Attachment C, is hereby granted;

(3) That any party wishing to appeal this Proposed Order pursuant to Section 3-113(d)(2) of the Public Utilities Article shall file a notice of appeal and associated memorandum by December 12, 2025; and

(4) That if the Commission does not modify or reverse the Proposed Order or initiate further proceedings as provided in Section 3-114(c)(2)(ii) of the Public Utilities Article, this Proposed Order will become a final order of the Commission on December 13, 2025.

/s/ *Jennifer J. Grace*
Jennifer J. Grace
Public Utility Law Judge
Public Service Commission of Maryland