

SENATE BILL 237

M3, C5

2lr0126
CF 2lr0127

By: **The President (By Request – Administration) and Senators Ferguson, Forehand, Frosh, Garagiola, King, Madaleno, Manno, McFadden, Montgomery, Ramirez, Robey, and Rosapepe**

Introduced and read first time: January 20, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Offshore Wind Energy Act of 2012**

3 FOR the purpose of altering the Maryland renewable energy portfolio standard
4 program to include a certain amount of energy derived from offshore wind
5 energy; prohibiting the portion of the renewable energy portfolio standard that
6 represents offshore wind energy from applying to certain sales in excess of a
7 certain amount of industrial process load; altering the definition of “renewable
8 energy credit” for purposes of the renewable energy portfolio standard program;
9 requiring an electricity supplier to exclude certain retail electricity sales before
10 calculating the number of credits required under the renewable portfolio
11 standard; providing that certain provisions concerning the transfer of renewable
12 energy credits do not apply to certain offshore wind renewable energy credits;
13 authorizing a person to submit to the Public Service Commission an application
14 for approval of a proposed offshore wind project; specifying the application
15 period and authorizing the Commission to provide for additional application
16 periods; requiring the Commission to approve, conditionally approve, or deny an
17 application within a certain time; providing for the contents of an application;
18 requiring the Commission to use certain criteria to evaluate and compare
19 proposed offshore wind projects; prohibiting the Commission from approving an
20 offshore wind project unless certain criteria are met; requiring the Commission
21 to contract the services of independent consultants and experts when evaluating
22 and comparing proposed offshore wind projects and when calculating a proposed
23 offshore wind project’s net benefits to the State; requiring that an order
24 approving a proposed offshore wind project include certain information,
25 restrictions, and conditions; providing that a certain order vests the owner of a
26 qualified offshore wind project with a certain right; requiring the Commission to
27 determine the offshore wind energy component of the renewable portfolio
28 standard based on certain projections and requiring electricity suppliers to
29 purchase a certain number of offshore wind renewable energy credits; requiring

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Commission to adopt regulations establishing a certain escrow account;
2 requiring a certain overpayment to be refunded to ratepayers, subject to certain
3 reserve requirements, under certain circumstances; requiring a qualified
4 offshore wind project to sell certain energy, capacity, and ancillary services into
5 certain markets and distribute the proceeds to electric companies to be refunded
6 or credited to ratepayers; requiring the Commission to adopt certain regulations
7 regarding the creation of excess offshore wind renewable energy credits;
8 providing that certain provisions regarding certain compliance fees do not apply
9 to a shortfall from the offshore wind renewable energy credit requirement;
10 providing that certain provisions authorizing a delay of certain scheduled Tier 1
11 credits do not apply to offshore wind renewable energy credits; exempting
12 certain energy lines from a certain prohibition on construction or installation in
13 a beach erosion control district under certain circumstances; providing that an
14 application for a certificate of public convenience and necessity to construct
15 certain energy lines is subject to certain review; prohibiting the construction or
16 installation of certain energy lines within a certain area; requiring the
17 Commission to provide certain notice to the Maryland Energy Administration
18 for certain purposes; authorizing the Commission to implement a special
19 assessment not to exceed a certain amount in certain fiscal years for certain
20 purposes; authorizing the Commission to implement a special assessment in
21 certain fiscal years to recover certain costs; defining certain terms; making the
22 provisions of this Act severable; and generally relating to the Maryland
23 renewable energy portfolio standard program, development of offshore wind
24 energy projects, and qualified submerged renewable energy lines.

25 BY repealing and reenacting, with amendments,
26 Article – Public Utilities
27 Section 7–208, 7–701, 7–703, 7–704(e), and 7–705(b) and (f)
28 Annotated Code of Maryland
29 (2010 Replacement Volume and 2011 Supplement)

30 BY adding to
31 Article – Public Utilities
32 Section 7–704.1 and 7–704.2
33 Annotated Code of Maryland
34 (2010 Replacement Volume and 2011 Supplement)

35 BY repealing and reenacting, without amendments,
36 Article – Public Utilities
37 Section 7–705(a)
38 Annotated Code of Maryland
39 (2010 Replacement Volume and 2011 Supplement)

40 BY repealing and reenacting, with amendments,
41 Article – Natural Resources
42 Section 8–1102
43 Annotated Code of Maryland

1 (2007 Replacement Volume and 2011 Supplement)

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

4 **Article – Public Utilities**

5 7–701.

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

7 (b) “Administration” means the Maryland Energy Administration.

8 (c) “Fund” means the Maryland Strategic Energy Investment Fund
9 established under § 9–20B–05 of the State Government Article.

10 (d) “Industrial process load” means the consumption of electricity by a
11 manufacturing process at an establishment classified in the manufacturing sector
12 under the North American Industry Classification System, Codes 31 through 33.

13 **(D–1) “OFFSHORE WIND ENERGY” MEANS ENERGY GENERATED BY A**
14 **QUALIFIED OFFSHORE WIND PROJECT.**

15 (e) “Old growth timber” means timber from a forest:

16 (1) at least 5 acres in size with a preponderance of old trees, of which
17 the oldest exceed at least half the projected maximum attainable age for the species;
18 and

19 (2) that exhibits several of the following characteristics:

20 (i) shade–tolerant species are present in all age and size
21 classes;

22 (ii) randomly distributed canopy gaps are present;

23 (iii) a high degree of structural diversity characterized by
24 multiple growth layers reflecting a broad spectrum of ages is present;

25 (iv) an accumulation of dead wood of varying sizes and stages of
26 decomposition accompanied by decadence in live dominant trees is present; and

27 (v) pit and mound topography can be observed.

28 **(E–1) “OREC” OR “OFFSHORE WIND RENEWABLE ENERGY CREDIT”**
29 **MEANS A RENEWABLE ENERGY CREDIT EQUAL TO THE GENERATION**
30 **ATTRIBUTES, INCLUDING ENERGY, CAPACITY, ANCILLARY SERVICES, AND**

1 **ENVIRONMENTAL ATTRIBUTES, OF 1 MEGAWATT-HOUR OF OFFSHORE WIND**
2 **ENERGY.**

3 (f) "PJM region" means the control area administered by the PJM
4 Interconnection, Inc., as the area may change from time to time.

5 (g) "Poultry litter" means the fecal and urinary excretions of poultry,
6 including wood shavings, sawdust, straw, rice hulls, and other bedding material for
7 the disposition of manure.

8 **(G-1) "QUALIFIED OFFSHORE WIND PROJECT" MEANS A WIND TURBINE**
9 **ELECTRICITY GENERATION FACILITY, INCLUDING THE ASSOCIATED**
10 **TRANSMISSION-RELATED INTERCONNECTION FACILITIES AND EQUIPMENT,**
11 **THAT:**

12 **(1) IS LOCATED ON THE OUTER CONTINENTAL SHELF OF THE**
13 **ATLANTIC OCEAN IN AN AREA DESIGNATED FOR LEASING BY THE UNITED**
14 **STATES DEPARTMENT OF THE INTERIOR AFTER COORDINATION AND**
15 **CONSULTATION WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE**
16 **ENERGY POLICY ACT OF 2005;**

17 **(2) INTERCONNECTS TO THE PJM INTERCONNECTION GRID AT A**
18 **POINT LOCATED ON THE DELMARVA PENINSULA; AND**

19 **(3) IS APPROVED BY THE COMMISSION UNDER § 7-704.1 OF THIS**
20 **SUBTITLE.**

21 (h) (1) "Qualifying biomass" means a nonhazardous, organic material that
22 is available on a renewable or recurring basis, and is:

23 (i) waste material that is segregated from inorganic waste
24 material and is derived from sources including:

25 1. except for old growth timber, any of the following
26 forest-related resources:

27 A. mill residue, except sawdust and wood shavings;

28 B. precommercial soft wood thinning;

29 C. slash;

30 D. brush; or

31 E. yard waste;

1 2. a pallet, crate, or dunnage;

2 3. agricultural and silvicultural sources, including tree
3 crops, vineyard materials, grain, legumes, sugar, and other crop by-products or
4 residues; or

5 4. gas produced from the anaerobic decomposition of
6 animal waste or poultry waste; or

7 (ii) a plant that is cultivated exclusively for purposes of being
8 used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

9 (2) “Qualifying biomass” includes biomass listed in paragraph (1) of
10 this subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.

11 (3) “Qualifying biomass” does not include:

12 (i) unsegregated solid waste or postconsumer wastepaper; or

13 (ii) an invasive exotic plant species.

14 (i) “Renewable energy credit” or “credit” means a credit equal to the
15 generation attributes of 1 megawatt-hour of electricity that is derived from a Tier 1
16 renewable source or a Tier 2 renewable source that is located:

17 (1) in the PJM region; [or]

18 (2) outside the area described in item (1) of this subsection but in a
19 control area that is adjacent to the PJM region, if the electricity is delivered into the
20 PJM region; OR

21 **(3) ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC**
22 **OCEAN IN AN AREA DESIGNATED FOR LEASING BY THE UNITED STATES**
23 **DEPARTMENT OF THE INTERIOR AFTER COORDINATION AND CONSULTATION**
24 **WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT.**

25 (j) “Renewable energy portfolio standard” or “standard” means the
26 percentage of electricity sales at retail in the State that is to be derived from Tier 1
27 renewable sources and Tier 2 renewable sources in accordance with § 7-703(b) of this
28 subtitle.

29 (k) “Renewable on-site generator” means a person who generates electricity
30 on site from a Tier 1 renewable source or a Tier 2 renewable source for the person’s
31 own use.

1 (k-1) (1) “Solar water heating system” means a system that:

2 (i) is comprised of glazed liquid-type flat-plate or tubular solar
3 collectors as defined and certified to the OG-100 standard of the Solar Ratings and
4 Certification Corporation;

5 (ii) generates energy using solar radiation for the purpose of
6 heating water; and

7 (iii) does not feed electricity back to the electric grid.

8 (2) “Solar water heating system” does not include a system that
9 generates energy using solar radiation for the sole purpose of heating a hot tub or
10 swimming pool.

11 (1) “Tier 1 renewable source” means one or more of the following types of
12 energy sources:

13 (1) solar energy, including energy from photovoltaic technologies and
14 solar water heating systems;

15 (2) wind;

16 (3) qualifying biomass;

17 (4) methane from the anaerobic decomposition of organic materials in
18 a landfill or wastewater treatment plant;

19 (5) geothermal;

20 (6) ocean, including energy from waves, tides, currents, and thermal
21 differences;

22 (7) a fuel cell that produces electricity from a Tier 1 renewable source
23 under item (3) or (4) of this subsection;

24 (8) a small hydroelectric power plant of less than 30 megawatts in
25 capacity that is licensed or exempt from licensing by the Federal Energy Regulatory
26 Commission;

27 (9) poultry litter-to-energy;

28 (10) waste-to-energy; and

29 (11) refuse-derived fuel.

1 (m) "Tier 2 renewable source" means hydroelectric power other than pump
2 storage generation.

3 7-703.

4 (a) (1) (i) The Commission shall implement a renewable energy
5 portfolio standard that, except as provided under [paragraph (2)] **PARAGRAPHS (2)**
6 **AND (3)** of this subsection, applies to all retail electricity sales in the State by
7 electricity suppliers.

8 (ii) If the standard becomes applicable to electricity sold to a
9 customer after the start of a calendar year, the standard does not apply to electricity
10 sold to the customer during that portion of the year before the standard became
11 applicable.

12 (2) A renewable energy portfolio standard may not apply to electricity
13 sales at retail by any electricity supplier:

14 (i) in excess of 300,000,000 kilowatt-hours of industrial process
15 load to a single customer in a year;

16 (ii) to residential customers in a region of the State in which
17 electricity prices for residential customers are subject to a freeze or cap contained in a
18 settlement agreement entered into under § 7-505 of this title until the freeze or cap
19 has expired; or

20 (iii) to a customer served by an electric cooperative under an
21 electricity supplier purchase agreement that existed on October 1, 2004, until the
22 expiration of the agreement.

23 **(3) THE PORTION OF A RENEWABLE ENERGY PORTFOLIO**
24 **STANDARD THAT REPRESENTS OFFSHORE WIND ENERGY MAY NOT APPLY TO**
25 **ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER IN EXCESS OF**
26 **75,000,000 KILOWATT-HOURS OF INDUSTRIAL PROCESS LOAD TO A SINGLE**
27 **CUSTOMER IN A YEAR.**

28 (b) The renewable energy portfolio standard shall be as follows:

29 (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2
30 renewable sources;

31 (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2
32 renewable sources;

33 (3) in 2008, 2.005% from Tier 1 renewable sources, including at least
34 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

1 (4) in 2009, 2.01% from Tier 1 renewable sources, including at least
2 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

3 (5) in 2010, 3.025% from Tier 1 renewable sources, including at least
4 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

5 (6) in 2011, 5.0% from Tier 1 renewable sources, including at least
6 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

7 (7) in 2012, 6.5% from Tier 1 renewable sources, including at least
8 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

9 (8) in 2013, 8.2% from Tier 1 renewable sources, including at least
10 0.2% derived from solar energy, and 2.5% from Tier 2 renewable sources;

11 (9) in 2014, 10.3% from Tier 1 renewable sources, including at least
12 0.3% derived from solar energy, and 2.5% from Tier 2 renewable sources;

13 (10) in 2015, 10.5% from Tier 1 renewable sources, including at least
14 0.4% derived from solar energy, and 2.5% from Tier 2 renewable sources;

15 (11) in 2016, 12.7% from Tier 1 renewable sources, including at least
16 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

17 (12) in 2017[.]:

18 (I) 13.1% from Tier 1 renewable sources, including:

19 1. at least 0.55% derived from solar energy[.]; AND

20 2. AN AMOUNT SET BY THE COMMISSION UNDER §
21 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE
22 WIND ENERGY; and

23 (II) 2.5% from Tier 2 renewable sources;

24 (13) in 2018[.]:

25 (I) 15.8% from Tier 1 renewable sources, including:

26 1. at least 0.9% derived from solar energy[.]; AND

1 **2. AN AMOUNT SET BY THE COMMISSION UNDER §**
2 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**
3 **WIND ENERGY; and**

4 **(II) 2.5% from Tier 2 renewable sources;**

5 (14) in 2019, 17.4% from Tier 1 renewable sources, including:

6 **(I) at least 1.2% derived from solar energy[, and 0% from Tier 2**
7 **renewable sources]; AND**

8 **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**
9 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**
10 **WIND ENERGY;**

11 (15) in 2020, 18% from Tier 1 renewable sources, including:

12 **(I) at least 1.5% derived from solar energy[, and 0% from Tier**
13 **2 renewable sources]; AND**

14 **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**
15 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**
16 **WIND ENERGY;**

17 (16) in 2021, 18.7% from Tier 1 renewable sources, including:

18 **(I) at least 1.85% derived from solar energy[, and 0% from Tier**
19 **2 renewable sources]; and**

20 **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**
21 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**
22 **WIND ENERGY; AND**

23 (17) in 2022 and later, 20% from Tier 1 renewable sources, including:

24 **(I) at least 2% derived from solar energy[, and 0% from Tier 2**
25 **renewable sources]; AND**

26 **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**
27 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**
28 **WIND ENERGY.**

29 (c) Before calculating the number of credits required to meet the percentages
30 established under subsection (b) of this section, an electricity supplier shall exclude

1 from its total retail electricity sales all retail electricity sales described in [subsection
2 (a)(2)] **SUBSECTIONS (A)(2) AND (3)** of this section.

3 (d) Subject to subsections (a) and (c) of this section, **AND IN ACCORDANCE**
4 **WITH § 7-704.2 OF THIS SUBTITLE**, an electricity supplier shall meet the renewable
5 energy portfolio standard by accumulating the equivalent amount of renewable energy
6 credits that equal the percentages required under this section.

7 7-704.

8 (e) **(1) THIS SUBSECTION DOES NOT APPLY TO OFFSHORE WIND**
9 **RENEWABLE ENERGY CREDITS.**

10 **[(1)] (2)** In this subsection, “customer” means:

11 (i) an industrial electric customer that is not on standard offer
12 service; or

13 (ii) a renewable on-site generator.

14 **[(2)] (3)** (i) A customer may independently acquire renewable
15 energy credits to satisfy the standards applicable to the customer’s load, including
16 credits created by a renewable on-site generator.

17 (ii) Credits that a customer transfers to its electricity supplier to
18 meet the standard and that the electricity supplier relies on in submitting its
19 compliance report may not be resold or retransferred by the customer or by the
20 electricity supplier.

21 **[(3)] (4)** A renewable on-site generator may retain or transfer at its
22 sole option any credits created by the renewable on-site generator, including credits
23 for the portion of its on-site generation from a Tier 1 renewable source or a Tier 2
24 renewable source that displaces the purchase of electricity by the renewable on-site
25 generator from the grid.

26 **[(4)] (5)** A customer that satisfies the standard applicable to the
27 customer’s load under this subsection may not be required to contribute to a
28 compliance fee recovered under § 7-706 of this subtitle.

29 **[(5)] (6)** The Commission shall adopt regulations governing the
30 application and transfer of credits under this subsection consistent with federal law.

31 **7-704.1.**

32 **(A) (1) A PERSON MAY SUBMIT AN APPLICATION TO THE**
33 **COMMISSION FOR APPROVAL OF A PROPOSED OFFSHORE WIND PROJECT.**

1 **(2) (I) THE INITIAL APPLICATION PERIOD FOR THE APPROVAL**
2 **OF PROPOSED OFFSHORE WIND PROJECTS SHALL BEGIN ON THE LATER OF:**

3 **1. JULY 1, 2013; OR**

4 **2. 180 DAYS AFTER THE UNITED STATES**
5 **DEPARTMENT OF THE INTERIOR ISSUES WIND ENERGY LEASES IN THE AREA OF**
6 **THE OUTER CONTINENTAL SHELF OF THE ATLANTIC OCEAN THAT IS**
7 **DESIGNATED FOR LEASING BY THE UNITED STATES DEPARTMENT OF THE**
8 **INTERIOR AFTER COORDINATION AND CONSULTATION WITH THE STATE IN**
9 **ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF 2005.**

10 **(II) THE COMMISSION SHALL SET THE CLOSING DATE FOR**
11 **THE APPLICATION PERIOD.**

12 **(3) THE COMMISSION, AT ITS DISCRETION, MAY PROVIDE FOR**
13 **ADDITIONAL APPLICATION PERIODS.**

14 **(B) UNLESS EXTENDED ON MUTUAL CONSENT OF THE PARTIES, THE**
15 **COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY AN**
16 **APPLICATION WITHIN 180 DAYS FROM THE CLOSE OF THE APPLICATION**
17 **PERIOD.**

18 **(C) AN APPLICATION SHALL INCLUDE:**

19 **(1) A DETAILED DESCRIPTION AND FINANCIAL ANALYSIS OF THE**
20 **OFFSHORE WIND PROJECT;**

21 **(2) THE PROPOSED METHOD OF FINANCING THE OFFSHORE WIND**
22 **PROJECT;**

23 **(3) A COST-BENEFIT ANALYSIS, WHICH SHALL INCLUDE:**

24 **(I) A DETAILED INPUT-OUTPUT ANALYSIS OF THE IMPACT**
25 **OF THE OFFSHORE WIND PROJECT ON INCOME, EMPLOYMENT, WAGES, AND**
26 **TAXES IN THE STATE;**

27 **(II) AN ASSESSMENT OF JOBS TO BE CREATED BY THE**
28 **OFFSHORE WIND PROJECT, INCLUDING THE LOCATION, EXPECTED DURATION,**
29 **TYPE, AND SALARY OF EACH POSITION, WITH JOB TOTALS EXPRESSED AS**
30 **FULL-TIME EQUIVALENTS;**

1 (III) AN ANALYSIS OF THE ANTICIPATED ENVIRONMENTAL
2 BENEFITS, HEALTH BENEFITS, AND ENVIRONMENTAL IMPACTS OF THE
3 OFFSHORE WIND PROJECT TO THE CITIZENS OF THE STATE; AND

4 (IV) AN ANALYSIS OF ANY IMPACT ON RESIDENTIAL,
5 COMMERCIAL, AND INDUSTRIAL RATEPAYERS OVER THE LIFE OF THE
6 OFFSHORE WIND PROJECT;

7 (4) A PROPOSED OREC PRICING SCHEDULE FOR THE OFFSHORE
8 WIND PROJECT, WHICH SHALL SET A PRICE OF THE GENERATION ATTRIBUTES,
9 INCLUDING THE ENERGY, CAPACITY, ANCILLARY SERVICES, AND
10 ENVIRONMENTAL ATTRIBUTES;

11 (5) A DECOMMISSIONING PLAN FOR THE PROJECT;

12 (6) A DESCRIPTION OF THE APPLICANT'S:

13 (I) PLAN FOR CORPORATE DIVERSITY; AND

14 (II) PLAN FOR ENGAGING SMALL BUSINESSES, AS DEFINED
15 IN § 14-501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

16 (7) ANY OTHER INFORMATION THE COMMISSION REQUIRES.

17 (D) (1) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO
18 EVALUATE AND COMPARE PROPOSED OFFSHORE WIND PROJECTS:

19 (I) LOWEST COST IMPACT ON RATE PAYERS OF THE PRICE
20 SET UNDER A PROPOSED OREC PRICING SCHEDULE;

21 (II) LONG-TERM RELIABILITY OF MARYLAND'S
22 ELECTRICITY SUPPLY;

23 (III) POTENTIAL REDUCTIONS IN TRANSMISSION
24 CONGESTION PRICES WITHIN MARYLAND;

25 (IV) POTENTIAL REDUCTIONS IN CAPACITY PRICES WITHIN
26 MARYLAND;

27 (V) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL
28 PRICES WITHIN MARYLAND;

1 **(VI) ANTICIPATED CLIMATE BENEFITS, HEALTH BENEFITS,**
2 **AND ENVIRONMENTAL IMPACTS TO THE CITIZENS OF THE STATE;**

3 **(VII) ESTIMATED ABILITY TO ASSIST IN MEETING THE**
4 **STATE'S RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703 OF THIS**
5 **SUBTITLE;**

6 **(VIII) SITING AND PROJECT FEASIBILITY;**

7 **(IX) THE EXTENT TO WHICH THE COST-BENEFIT ANALYSIS**
8 **SUBMITTED UNDER SUBSECTION (C)(3) OF THIS SECTION DEMONSTRATES**
9 **POSITIVE NET BENEFITS TO THE STATE;**

10 **(X) THE EXTENT TO WHICH AN APPLICANT'S PLAN FOR**
11 **CORPORATE DIVERSITY INCLUDES OUTREACH TO AND INCLUSION OF MINORITY**
12 **BUSINESS ENTERPRISES AS DEFINED UNDER TITLE 14, SUBTITLE 3 OF THE**
13 **STATE FINANCE AND PROCUREMENT ARTICLE IN THE DEVELOPMENT AND**
14 **GENERATION OF OFFSHORE WIND ENERGY;**

15 **(XI) THE EXTENT TO WHICH AN APPLICANT'S PLAN FOR**
16 **ENGAGING SMALL BUSINESSES MEETS THE GOALS SPECIFIED IN TITLE 14,**
17 **SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

18 **(XII) ANY OTHER CRITERIA THAT THE COMMISSION**
19 **DETERMINES TO BE APPROPRIATE.**

20 **(2) IN EVALUATING AND COMPARING APPLICANTS' PROPOSED**
21 **OFFSHORE WIND PROJECTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
22 **COMMISSION SHALL CONTRACT THE SERVICES OF INDEPENDENT CONSULTANTS**
23 **AND EXPERTS.**

24 **(E) (1) THE COMMISSION MAY NOT APPROVE AN APPLICANT'S**
25 **PROPOSED OFFSHORE WIND PROJECT UNLESS:**

26 **(I) THE PROPOSED OFFSHORE WIND PROJECT**
27 **DEMONSTRATES POSITIVE NET BENEFITS TO THE STATE, BASED ON THE**
28 **CRITERIA SPECIFIED IN SUBSECTION (C)(3) OF THIS SECTION;**

29 **(II) THE PROJECTED NET RATE IMPACT FOR AN AVERAGE**
30 **RESIDENTIAL CUSTOMER, BASED ON ANNUAL CONSUMPTION OF 12,000**
31 **KILOWATT-HOURS, COMBINED WITH THE PROJECTED NET RATE IMPACT OF**
32 **OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED \$2 PER**

1 MONTH IN 2012 DOLLARS, OVER THE DURATION OF THE PROPOSED OREC
2 PRICING SCHEDULE;

3 (III) THE PROJECTED NET AVERAGE RATE IMPACT FOR A
4 NONRESIDENTIAL CUSTOMER, COMBINED WITH THE PROJECTED NET RATE
5 IMPACT OF OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED
6 2.5% OF THE NONRESIDENTIAL CUSTOMER'S TOTAL ANNUAL ELECTRIC BILL,
7 OVER THE DURATION OF THE PROPOSED OREC PRICING SCHEDULE; AND

8 (IV) THE PRICE SET IN THE PROPOSED OREC PRICE
9 SCHEDULE DOES NOT EXCEED \$200 PER MEGAWATT-HOUR IN 2012 DOLLARS.

10 (2) WHEN CALCULATING THE NET BENEFITS TO THE STATE
11 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL
12 CONTRACT THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.

13 (F) (1) AN ORDER ISSUED BY THE COMMISSION APPROVING A
14 PROPOSED OFFSHORE WIND PROJECT SHALL:

15 (I) SPECIFY THE PRICE SET IN THE OREC PRICING
16 SCHEDULE;

17 (II) SPECIFY THE DURATION OF THE OREC PRICING
18 SCHEDULE, WHICH MAY NOT EXCEED 20 YEARS;

19 (III) SPECIFY THE AMOUNT OF ORECS THE OFFSHORE WIND
20 PROJECT MAY SELL EACH YEAR; AND

21 (IV) PROVIDE THAT:

22 1. A PAYMENT MAY NOT BE MADE FOR AN OREC
23 UNTIL ELECTRICITY SUPPLY IS GENERATED BY THE OFFSHORE WIND PROJECT;
24 AND

25 2. RATEPAYERS AND THE STATE SHALL BE HELD
26 HARMLESS FOR ANY COST OVERRUNS ASSOCIATED WITH THE OFFSHORE WIND
27 PROJECT.

28 (2) AN ORDER APPROVING A PROPOSED OFFSHORE WIND
29 PROJECT VESTS THE OWNER OF THE QUALIFIED OFFSHORE WIND PROJECT
30 WITH THE RIGHT TO RECEIVE PAYMENTS FOR ORECS ACCORDING TO THE
31 TERMS IN THE ORDER.

1 **7-704.2.**

2 (A) THE COMMISSION SHALL DETERMINE THE OFFSHORE WIND
3 ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD
4 UNDER § 7-703(B)(12) THROUGH (17) OF THIS SUBTITLE BASED ON THE
5 PROJECTED ANNUAL CREATION OF ORECS BY QUALIFIED OFFSHORE WIND
6 PROJECTS.

7 (B) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING AN
8 ESCROW ACCOUNT UNDER COMMISSION SUPERVISION AND DEFINING RULES
9 THAT FACILITATE AND ENSURE THE SECURE AND TRANSPARENT TRANSFER OF
10 REVENUES AND ORECS AMONG THE PARTIES.

11 (C) (1) EACH ELECTRICITY SUPPLIER SHALL PURCHASE FROM THE
12 ESCROW ACCOUNT ESTABLISHED UNDER THIS SECTION THE NUMBER OF
13 ORECS REQUIRED TO SATISFY THE OFFSHORE WIND ENERGY COMPONENT OF
14 THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703(B)(12)
15 THROUGH (17) OF THIS SUBTITLE.

16 (2) SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT
17 ESTABLISHED BY THE COMMISSION, IF THERE ARE INSUFFICIENT ORECS
18 AVAILABLE TO SATISFY THE SUPPLIERS' OREC OBLIGATION, THE
19 OVERPAYMENT SHALL BE DISTRIBUTED TO ELECTRIC COMPANIES TO BE
20 REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S
21 CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE
22 ENERGY PORTFOLIO STANDARD.

23 (3) FOR EACH OREC FOR WHICH A QUALIFIED OFFSHORE WIND
24 PROJECT RECEIVES PAYMENT, A QUALIFIED OFFSHORE WIND PROJECT SHALL:

25 (I) SELL ALL ENERGY, CAPACITY, AND ANCILLARY
26 SERVICES ASSOCIATED WITH THE CREATION OF ORECS INTO THE MARKETS
27 OPERATED BY PJM INTERCONNECTION, INC.; AND

28 (II) DISTRIBUTE THE PROCEEDS RECEIVED FROM THE
29 SALES TO PJM INTERCONNECTION, INC., UNDER SUBPARAGRAPH (I) OF THIS
30 PARAGRAPH, TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO
31 EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY
32 SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.

33 (4) NOTWITHSTANDING § 7-709 OF THIS SUBTITLE, THE
34 COMMISSION SHALL ADOPT REGULATIONS REGARDING THE TRANSFER AND

1 **EXPIRATION OF ORECS CREATED BY A QUALIFIED OFFSHORE WIND PROJECT**
 2 **IN EXCESS OF THE OREC PRICING SCHEDULE.**

3 7–705.

4 (a) Each electricity supplier shall submit a report to the Commission each
 5 year in a form and by a date specified by the Commission that:

6 (1) demonstrates that the electricity supplier has complied with the
 7 applicable renewable energy portfolio standard under § 7–703 of this subtitle and
 8 includes the submission of the required amount of renewable energy credits; or

9 (2) demonstrates the amount of electricity sales by which the
 10 electricity supplier failed to meet the applicable renewable energy portfolio standard.

11 (b) **(1) THIS SUBSECTION DOES NOT APPLY TO A SHORTFALL FROM**
 12 **THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM**
 13 **OFFSHORE WIND ENERGY.**

14 **(2)** If an electricity supplier fails to comply with the renewable energy
 15 portfolio standard for the applicable year, the electricity supplier shall pay into the
 16 Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the
 17 State Government Article:

18 [(1)] **(I)** except as provided in [item (2)] **ITEM (II)** of this
 19 [subsection] **PARAGRAPH**, a compliance fee of:

20 [(i)] **1.** 4 cents for each kilowatt–hour of shortfall from
 21 required Tier 1 renewable sources other than the shortfall from the required Tier 1
 22 renewable sources that is to be derived from solar energy;

23 [(ii)] **2.** the following amounts for each kilowatt–hour of
 24 shortfall from required Tier 1 renewable sources that is to be derived from solar
 25 energy:

26 [1.] **A.** 45 cents in 2008;

27 [2.] **B.** 40 cents in 2009 through 2014;

28 [3.] **C.** 35 cents in 2015 and 2016;

29 [4.] **D.** 20 cents in 2017 and 2018;

30 [5.] **E.** 15 cents in 2019 and 2020;

31 [6.] **F.** 10 cents in 2021 and 2022; and

1 [7.] G. 5 cents in 2023 and later; and

2 [(iii)] 3. 1.5 cents for each kilowatt-hour of shortfall from
3 required Tier 2 renewable sources; or

4 [(2)] (II) for industrial process load:

5 [(i)] 1. for each kilowatt-hour of shortfall from required Tier
6 1 renewable sources, a compliance fee of:

7 [1.] A. 0.8 cents in 2006, 2007, and 2008;

8 [2.] B. 0.5 cents in 2009 and 2010;

9 [3.] C. 0.4 cents in 2011 and 2012;

10 [4.] D. 0.3 cents in 2013 and 2014;

11 [5.] E. 0.25 cents in 2015 and 2016; and

12 [6.] F. 0.2 cents in 2017 and later; and

13 [(ii)] 2. nothing for any shortfall from required Tier 2
14 renewable sources.

15 (f) (1) Except as provided in subsection (e) of this section, and
16 notwithstanding the requirements of § 7-703(b) of this subtitle, if the actual or
17 projected dollar-for-dollar cost incurred or to be incurred by an electricity supplier
18 solely for the purchase of Tier 1 renewable energy credits other than solar credits **OR**
19 **ORECS** in any 1 year is greater than or equal to, or is anticipated to be greater than
20 or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity
21 supplier's total annual electricity sales revenues in Maryland, the electricity supplier
22 may request that the Commission:

23 (i) delay by 1 year each of the scheduled percentages for Tier 1
24 credits under § 7-703(b) of this subtitle that would apply to the electricity supplier;
25 and

26 (ii) allow the renewable energy portfolio standard for Tier 1 for
27 that year to continue to apply to the electricity supplier for the following year.

28 (2) In making its determination under paragraph (1) of this
29 subsection, the Commission shall consider the actual or projected dollar-for-dollar
30 compliance costs of other electricity suppliers.

1 (3) If an electricity supplier makes a request under paragraph (1) of
2 this subsection based on projected costs, the electricity supplier shall provide verifiable
3 evidence of the projections to the Commission at the time of the request.

4 (4) If the Commission allows a delay under paragraph (1) of this
5 subsection:

6 (i) the renewable energy portfolio standard for Tier 1 applicable
7 to the electricity supplier under the delay continues for each subsequent consecutive
8 year that the actual or projected dollar-for-dollar costs incurred, or to be incurred, by
9 the electricity supplier solely for the purchase of Tier 1 credits other than solar credits
10 **OR ORECS** is greater than or equal to, or is anticipated to be greater than or equal
11 to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's
12 total annual retail electricity sales revenues in Maryland; and

13 (ii) the renewable energy portfolio standard for Tier 1 applicable
14 to the electricity supplier under the delay is increased to the next scheduled
15 percentage increase under § 7-703(b) of this subtitle for each year in which the actual
16 or projected dollar-for-dollar costs incurred, or to be incurred, by the electricity
17 supplier solely for the purchase of Tier 1 credits other than solar credits **OR ORECS**
18 is less than, or is anticipated to be less than, the greater of the applicable Tier 1
19 percentage or 10% of the electricity supplier's total annual retail electricity sales
20 revenues in Maryland.

21 Article – Natural Resources

22 8-1102.

23 (a) (1) **[For] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2)**
24 **AND (3) OF THIS SUBSECTION, FOR** the purposes of maintaining the Atlantic Coast
25 beaches of the State and the Beach Erosion Control District, the integrity and
26 continuity of the dunal system and assuring adequate maintenance of the beaches,
27 Beach Erosion Control District, and dunal system, to provide for shore erosion and
28 sediment control and storm protection, and to minimize structural interference with
29 the littoral drift of sand and any anchoring vegetation, any land clearing, construction
30 activity, or the construction or placement of permanent structures within the Beach
31 Erosion Control District is prohibited.

32 (2) This prohibition does not apply to any project or activity approved
33 by the Department and the appropriate soil conservation district specifically for storm
34 control; beach erosion and sediment control; maintenance projects designed to benefit
35 the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to
36 an additional 40 feet to the east between South Second Street and the south side of
37 Worcester Street and from the south side of Somerset Street to the southerly terminus
38 of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east
39 between the south side of Worcester Street and the south side of Somerset Street to
40 include associated appurtenances and construction of one restroom facility in an

1 easterly direction between South Second Street and the southerly terminus of the steel
2 and concrete bulkhead at 4th Street for the purpose of public health, safety, and
3 welfare; and a planned public utility pipeline carrying treated sewage effluent from a
4 unit not exceeding 14 million gallons per day, if, in addition to the approvals required
5 by all other applicable federal and local laws and regulations, it is approved by the
6 Board of Public Works as essential to the public health, safety, and welfare of the
7 citizens of Worcester County, after having received the permission of the Secretaries of
8 the Environment and Natural Resources, and the Director of Planning, including a
9 guarantee that in any contract under this provision a person will not make any
10 significant permanent environmental disruption to the area, and the construction area
11 for the purpose of laying a single pipe with a diameter not exceeding 36 inches is
12 limited to a single 100 foot wide area perpendicular eastward from the west crest of
13 the natural dune line on Assateague Island and in Ocean City, and if the Secretaries
14 of the Environment and Natural Resources and the Director of Planning find that
15 there is no economically and environmentally feasible alternative, and that there is
16 insufficient capacity at the existing Ocean City wastewater treatment facility and
17 discharge pipe.

18 **(3) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH,**
19 **THIS PROHIBITION DOES NOT APPLY TO THE CONSTRUCTION AND**
20 **INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS**
21 **DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC UTILITIES ARTICLE, IF THE**
22 **PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT**
23 **ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS**
24 **DETERMINED BY THE DEPARTMENT.**

25 **(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC**
26 **CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED**
27 **RENEWABLE ENERGY LINE, AS DEFINED IN TITLE 7, SUBTITLE 2 OF THE PUBLIC**
28 **UTILITIES ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE**
29 **DEPARTMENT OF THE ENVIRONMENT, AS PROVIDED IN § 3-306 OF THIS**
30 **ARTICLE.**

31 **(III) A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE**
32 **MAY NOT BE CONSTRUCTED OR INSTALLED WITHIN THE ASSATEAGUE NATIONAL**
33 **SEASHORE PARK OR THE ASSATEAGUE STATE PARK.**

34 (b) The Secretary of the Environment, the Secretary of Natural Resources,
35 and the Director of Planning, with the approval of the Board of Public Works, shall
36 jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State
37 Government Article for the purpose of implementing the provisions of this section.

38 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
39 read as follows:

1

Article – Public Utilities

2 7–208.

3 **(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
4 **INDICATED:**

5 **(1) “QUALIFIED OFFSHORE WIND PROJECT” HAS THE MEANING**
6 **STATED IN § 7–701 OF THIS TITLE.**

7 **(2) “QUALIFIED SUBMERGED RENEWABLE ENERGY LINE” MEANS**
8 **A LINE:**

9 **(I) CARRYING ELECTRICITY SUPPLY AND CONNECTING A**
10 **QUALIFIED OFFSHORE WIND PROJECT TO THE TRANSMISSION SYSTEM; AND**

11 **(II) IN WHICH THE PORTIONS OF THE LINE CROSSING ANY**
12 **SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL DISTRICT**
13 **ARE BURIED OR SUBMERGED.**

14 **[(a)] (A–1) This section applies to any person:**

15 **(1) constructing a generating station and its associated overhead**
16 **transmission lines designed to carry a voltage in excess of 69,000 volts; [or]**

17 **(2) exercising the right of condemnation in connection with the**
18 **construction; OR**

19 **(3) CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE**
20 **ENERGY LINE.**

21 **(b) (1) To obtain the certificate of public convenience and necessity**
22 **required under § 7–207 of this subtitle for construction under this section, a person**
23 **shall file an application with the Commission at least 2 years before construction of**
24 **the facility will commence.**

25 **(2) The Commission may waive the 2–year requirement on a showing**
26 **of good cause.**

27 **(c) The applicant shall:**

28 **(1) include in an application under this section the information that**
29 **the Commission requests initially; and**

30 **(2) furnish any additional information that the Commission requests**
31 **subsequently.**

1 (d) (1) On the receipt of an application under this section, together with
2 any additional information requested under subsection (c)(2) of this section, the
3 Commission shall provide notice to:

4 (i) all interested persons;

5 (ii) the Department of Agriculture;

6 (iii) the Department of Business and Economic Development;

7 (iv) the Department of the Environment;

8 (v) the Department of Natural Resources;

9 (vi) the Department of Transportation; [and]

10 (vii) the Department of Planning; AND

11 **(VIII) THE MARYLAND ENERGY ADMINISTRATION.**

12 (2) The Commission shall hold a public hearing on the application as
13 required by § 7-207 of this subtitle, after:

14 (i) the receipt of any additional information requested under
15 subsection (c)(2) of this section that the Commission considers necessary; and

16 (ii) any publication of notice the Commission considers to be
17 proper.

18 (3) (i) At the public hearing, the Commission shall ensure
19 presentation of the information and recommendations of the State units specified in
20 paragraph (1) of this subsection and shall allow the official representative of each unit
21 to sit during hearing of all parties.

22 (ii) Based on the evidence relating to the unit's areas of concern,
23 the Commission shall allow each unit 15 days after the conclusion of the hearing to
24 modify or affirm the unit's initial recommendations.

25 (e) Within 90 days after the conclusion of the hearing on an application
26 under this section, the Commission shall:

27 (1) (i) grant a certificate of public convenience and necessity
28 unconditionally;

29 (ii) grant the certificate, subject to conditions the Commission
30 determines to be appropriate; or

1 (iii) deny the certificate; and

2 (2) notify all interested parties of its decision.

3 (f) (1) The Commission shall include in each certificate it issues under
4 subsection (e) of this section:

5 (i) the requirements of the federal and State environmental
6 laws and standards that are identified by the Department of the Environment; and

7 (ii) the methods and conditions that the Commission determines
8 are appropriate to comply with those environmental laws and standards.

9 (2) The Commission may not adopt any method or condition under
10 paragraph (1)(ii) of this subsection that the Department of the Environment
11 determines is inconsistent with federal and State environmental laws and standards.

12 (g) (1) A decision of the Commission regarding the issuance of a
13 certificate requires the vote of a majority of the members of the Commission.

14 (2) If a majority of the members of the Commission fails to reach
15 agreement on the conditions to be attached to a conditional certificate, the certificate
16 shall be denied.

17 (h) The grant of a certificate by the Commission to any person under
18 subsection (e) of this section constitutes:

19 (1) authority for the person to dredge and construct bulkheads in the
20 waters or private wetlands of the State and to appropriate or use the waters; and

21 (2) registration and a permit to construct, as required under Title 2,
22 Subtitle 4 of the Environment Article.

23 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any
24 other provision of law, for fiscal years 2013 through 2016 only, the Public Service
25 Commission may implement a special assessment using the assessment process
26 authorized under § 2–110 of the Public Utilities Article in order to contract the
27 services of independent consultants and experts as necessary to carry out the
28 provisions of this Act. The cumulative special assessment may not exceed \$3,000,000,
29 provided that:

30 (1) the assessment shall be imposed only on those electric companies
31 and electricity suppliers otherwise subject to the assessment under § 2–110 of the
32 Public Utilities Article; and

1 (2) the limit imposed under § 2–110(c)(12) of the Public Utilities
2 Article does not apply to any assessment made under this section.

3 SECTION 4. AND BE IT FURTHER ENACTED, That:

4 (a) Notwithstanding any other provision of law, for any fiscal year during
5 which an OREC obligation exists to meet a renewable portfolio standard derived from
6 offshore wind energy set by the Commission under § 7–703(b)(12) through (17) of the
7 Public Utilities Article, the Public Service Commission may implement a special
8 assessment using the assessment process authorized under § 2–110 of the Public
9 Utilities Article in order to employ staff and recover administrative costs necessary to
10 carry out the provisions of this Act.

11 (b) (1) The cumulative special assessment shall be imposed only on those
12 electric companies and electricity suppliers otherwise subject to the assessment under
13 § 2–110 of the Public Utilities Article.

14 (2) The limit imposed under § 2–110(c)(12) of the Public Utilities
15 Article does not apply to any assessment made under this section.

16 SECTION 5. AND BE IT FURTHER ENACTED, That if any provision of this
17 Act or the application thereof to any person or circumstance is held invalid for any
18 reason in a court of competent jurisdiction, the invalidity does not affect other
19 provisions or any other application of this Act which can be given effect without the
20 invalid provision or application, and for this purpose the provisions of this Act are
21 declared severable.

22 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2012.