

SENATE BILL 869

Unofficial Copy  
C5

2004 Regular Session  
(4lr3108)

*ENROLLED BILL*  
*-- Finance/Economic Matters --*

Introduced by **Senators Middleton, Astle, Britt, Brochin, Exum, Forehand,  
Frosh, Garagiola, Gladden, Grosfeld, Hogan, Jones, Kelley, McFadden,  
Pinsky, Ruben, and Teitelbaum**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 487

1 AN ACT concerning

2 **Electricity Regulation - Renewable Energy Portfolio Standard and Credit**  
3 **Trading - Maryland Renewable Energy Fund**

4 FOR the purpose of requiring the Public Service Commission to establish renewable  
5 energy portfolio standards for certain retail electricity sales during certain  
6 years; requiring certain standards to be met by the accumulation of renewable  
7 energy credits; providing for the eligibility of energy from certain sources under  
8 certain circumstances; providing additional credit for energy from certain  
9 sources for certain periods; ~~limiting the credits available from certain sources~~  
10 ~~under certain circumstances~~; allowing certain ~~customers~~ persons to obtain and  
11 apply certain credits in a certain manner; providing that certain persons who  
12 surrender certain credits retain all rights and title to certain attributes;  
13 requiring electricity suppliers to submit a certain report each year to the  
14 Commission; authorizing certain electricity suppliers to demonstrate  
15 compliance in certain manners; requiring electricity suppliers to pay certain

1 compliance fees under certain circumstances; providing for the recovery of  
2 certain costs under certain circumstances; authorizing the Commission to waive  
3 the recovery of a certain fee under certain circumstances; establishing a  
4 Maryland Renewable Energy Fund to be administered by the Maryland Energy  
5 Administration under Commission oversight for certain purposes; requiring the  
6 State Treasurer and the State Comptroller to perform certain functions related  
7 to the Fund; authorizing the Fund to be used for loans and grants to eligible  
8 projects; limiting the amount of funds that may be used for certain  
9 administrative expenses; requiring the Commission to review and approve  
10 certain applications; requiring the Commission to establish and maintain a  
11 renewable electricity trading system that includes a certain registry;  
12 authorizing the Commission to contract with another entity for a certain  
13 purpose; requiring the registry to provide certain information to certain persons;  
14 authorizing the sale and transfer of renewable energy credits; establishing a  
15 time limit for the existence of renewable energy credits; authorizing the  
16 Commission to impose an administrative fee on certain transactions; providing  
17 that the Commission has certain power and authority over electricity suppliers  
18 for certain purposes; requiring the Commission to report to the General  
19 Assembly each year on certain matters; requiring the Commission to establish a  
20 technical advisory group for certain purposes; requiring the Commission to  
21 adopt certain regulations by certain dates; requiring the Office of Legislative  
22 Audits to conduct a certain performance audit of the Maryland Renewable  
23 Energy Fund; requiring the Office to report the results of the audit to the  
24 General Assembly by a certain date; requiring the Administration, in  
25 cooperation with the Maryland Department of Agriculture, to enhance the  
26 State's system of monitoring the production and volume of poultry litter for  
27 certain purposes; requiring the Commission to provide a certain status report to  
28 the Governor and the General Assembly on or before a certain date; requiring  
29 the Commission to review certain standards and matters and report its  
30 recommendations to the Governor and the General Assembly on or before a  
31 certain date; specifying intents and findings of the General Assembly; defining  
32 certain terms; repealing certain provisions relating to a requirement that an  
33 electric company continue to purchase certain electricity under certain contracts  
34 and to provide a certain percentage of renewable energy sources; repealing an  
35 obsolete reporting requirement; providing for a delayed effective date for certain  
36 provisions of this Act; and generally relating to the establishment of renewable  
37 energy portfolio standards, a renewable electricity credit trading system, and  
38 the Maryland Renewable Energy Fund.

39 BY repealing and reenacting, without amendments,  
40 Article - Public Utility Companies  
41 Section 1-101(a) and (j)  
42 Annotated Code of Maryland  
43 (1998 Volume and 2003 Supplement)

44 BY repealing and reenacting, with amendments,  
45 Article - Public Utility Companies

1 Section 7-516  
2 Annotated Code of Maryland  
3 (1998 Volume and 2003 Supplement)

4 BY adding to  
5 Article - Public Utility Companies  
6 Section 7-701 through 7-713 to be under the new subtitle "Subtitle 7.  
7 Renewable Energy Portfolio Standard"  
8 Annotated Code of Maryland  
9 (1998 Volume and 2003 Supplement)

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

12 **Article - Public Utility Companies**

13 1-101.

14 (a) In this article the following words have the meanings indicated.

15 (j) (1) "Electricity supplier" means a person:

16 (i) who sells:

- 17 1. electricity;
- 18 2. electricity supply services;
- 19 3. competitive billing services; or
- 20 4. competitive metering services; or

21 (ii) who purchases, brokers, arranges, or markets electricity or  
22 electricity supply services for sale to a retail electric customer.

23 (2) "Electricity supplier" includes an electric company, an aggregator, a  
24 broker, and a marketer of electricity.

25 (3) "Electricity supplier" does not include:

26 (i) the following persons who supply electricity and electricity  
27 supply services solely to occupants of a building for use by the occupants:

- 28 1. an owner/operator who holds ownership in and manages  
29 the internal distribution system serving the building; or
- 30 2. a lessee/operator who holds a leasehold interest in and  
31 manages the internal distribution system serving the building; or

1 (ii) a person who generates on-site generated electricity.

2 SUBTITLE 7. RENEWABLE ENERGY PORTFOLIO STANDARD.

3 7-701.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

7 (C) "FUND" MEANS THE MARYLAND RENEWABLE ENERGY FUND  
8 ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE.

9 (D) "INDUSTRIAL PROCESS LOAD" MEANS THE CONSUMPTION OF  
10 ELECTRICITY BY A MANUFACTURING PROCESS AT AN ESTABLISHMENT CLASSIFIED  
11 IN THE MANUFACTURING SECTOR UNDER THE NORTH AMERICAN INDUSTRY  
12 CLASSIFICATION SYSTEM, CODES 31 THROUGH 33.

13 (E) "OLD GROWTH TIMBER" MEANS TIMBER FROM A FOREST:

14 (1) AT LEAST 5 ACRES IN SIZE WITH A PREPONDERANCE OF OLD TREES,  
15 OF WHICH THE OLDEST EXCEED AT LEAST HALF THE PROJECTED MAXIMUM  
16 ATTAINABLE AGE FOR THE SPECIES; AND

17 (2) THAT EXHIBITS SEVERAL OF THE FOLLOWING CHARACTERISTICS:

18 (I) SHADE-TOLERANT SPECIES ARE PRESENT IN ALL AGE AND  
19 SIZE CLASSES;

20 (II) RANDOMLY DISTRIBUTED CANOPY GAPS ARE PRESENT;

21 (III) A HIGH DEGREE OF STRUCTURAL DIVERSITY CHARACTERIZED  
22 BY MULTIPLE GROWTH LAYERS REFLECTING A BROAD SPECTRUM OF AGES IS  
23 PRESENT;

24 (IV) AN ACCUMULATION OF DEAD WOOD OF VARYING SIZES AND  
25 STAGES OF DECOMPOSITION ACCOMPANIED BY DECADENCE IN LIVE DOMINANT  
26 TREES IS PRESENT; AND

27 (V) PIT AND MOUND TOPOGRAPHY CAN BE OBSERVED.

28 (F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM  
29 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.

30 (G) "POULTRY LITTER" MEANS THE FECAL AND URINARY EXCRETIONS OF  
31 POULTRY, INCLUDING WOOD SHAVINGS, SAWDUST, STRAW, RICE HULLS, AND OTHER  
32 BEDDING MATERIAL FOR THE DISPOSITION OF MANURE.

1 ~~(E)~~ (H) (1) "QUALIFYING BIOMASS" MEANS A ~~SOLID~~, NONHAZARDOUS,  
 2 ORGANIC MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS,  
 3 AND IS:

4 (I) WASTE MATERIAL THAT IS SEGREGATED FROM ~~OTHER SOLID~~  
 5 INORGANIC WASTE MATERIAL AND IS DERIVED FROM SOURCES INCLUDING:

6 1. EXCEPT FOR OLD GROWTH TIMBER, ANY OF THE  
 7 FOLLOWING FOREST-RELATED RESOURCES:

8 A. MILL RESIDUE, EXCEPT SAWDUST AND WOOD SHAVINGS;

9 B. PRECOMMERCIAL SOFT WOOD THINNING;

10 C. SLASH;

11 D. BRUSH; OR

12 E. YARD WASTE;

13 2. A PALLET, CRATE, OR DUNNAGE;

14 3. AGRICULTURAL AND SILVICULTURAL SOURCES,  
 15 INCLUDING TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES, SUGAR, AND  
 16 OTHER CROP BY-PRODUCTS OR RESIDUES; OR

17 4. GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION  
 18 OF ANIMAL WASTE OR POULTRY WASTE; OR

19 (II) A PLANT THAT IS CULTIVATED EXCLUSIVELY FOR PURPOSES  
 20 OF BEING USED AT A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE SOURCE  
 21 TO PRODUCE ELECTRICITY.

22 (2) "QUALIFYING BIOMASS" INCLUDES BIOMASS LISTED IN PARAGRAPH  
 23 (1) OF THIS SECTION THAT IS USED FOR CO-FIRING, SUBJECT TO ~~§ 7-704(F)~~ § 7-704(E)  
 24 OF THIS SUBTITLE.

25 (3) "QUALIFYING BIOMASS" DOES NOT INCLUDE:

26 (I) UNSEGREGATED SOLID WASTE OR POSTCONSUMER  
 27 WASTEPAPER; OR

28 (II) AN INVASIVE EXOTIC PLANT SPECIES.

29 ~~(F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM~~  
 30 ~~INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.~~

31 ~~(G)~~ (I) "RENEWABLE ENERGY CREDIT" OR "CREDIT" MEANS A CREDIT  
 32 EQUAL TO THE ~~ENVIRONMENTAL~~ GENERATION ATTRIBUTES OF 1 MEGAWATT-HOUR  
 33 OF ELECTRICITY THAT IS DERIVED FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2  
 34 RENEWABLE SOURCE THAT IS LOCATED:

1 (1) IN THE PJM REGION OR IN A STATE THAT IS ADJACENT TO THE PJM  
2 REGION; OR

3 (2) OUTSIDE THE AREA DESCRIBED IN ITEM (1) OF THIS SUBSECTION  
4 BUT IN A CONTROL AREA THAT IS ADJACENT TO THE PJM REGION, IF THE  
5 ELECTRICITY IS DELIVERED INTO THE PJM REGION.

6 ~~(H)~~ (J) "RENEWABLE ENERGY PORTFOLIO STANDARD" OR "STANDARD"  
7 MEANS THE PERCENTAGE OF ELECTRICITY SALES AT RETAIL IN THE STATE THAT IS  
8 TO BE DERIVED FROM TIER 1 RENEWABLE SOURCES AND TIER 2 RENEWABLE  
9 SOURCES IN ACCORDANCE WITH § 7-703(B) OF THIS SUBTITLE.

10 (K) "RENEWABLE ON-SITE GENERATOR" MEANS A PERSON WHO GENERATES  
11 ELECTRICITY ON SITE FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE  
12 SOURCE FOR THE PERSON'S OWN USE.

13 ~~(H)~~ (L) "TIER 1 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE  
14 FOLLOWING TYPES OF ENERGY SOURCES:

15 (1) SOLAR;

16 (2) WIND;

17 (3) QUALIFYING BIOMASS;

18 (4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC  
19 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

20 (5) GEOTHERMAL;

21 (6) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND  
22 THERMAL DIFFERENCES; ~~AND~~

23 (7) A FUEL CELL THAT PRODUCES ELECTRICITY FROM A TIER 1  
24 RENEWABLE SOURCE UNDER ITEM (3) OR (4) OF THIS SUBSECTION; AND

25 (8) A SMALL HYDROELECTRIC POWER PLANT OF LESS THAN 30  
26 MEGAWATTS IN CAPACITY THAT IS LICENSED OR EXEMPT FROM LICENSING BY THE  
27 FEDERAL ENERGY REGULATORY COMMISSION.

28 ~~(H)~~ (M) "TIER 2 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE  
29 FOLLOWING TYPES OF ENERGY SOURCES:

30 (1) HYDROELECTRIC POWER OTHER THAN PUMP STORAGE  
31 GENERATION;

32 (2) INCINERATION OF POULTRY LITTER, IF THE MARYLAND ENERGY  
33 ADMINISTRATION AND THE MARYLAND DEPARTMENT OF AGRICULTURE DETERMINE  
34 THAT THERE IS A SUFFICIENT QUANTITY OF POULTRY LITTER AVAILABLE FOR THE  
35 ECONOMICAL VIABILITY OF ANY EXISTING AND OPERATING ENTITY THAT IS SITED

1 ON THE DELMARVA PENINSULA AND THAT, AS OF JULY 1, 2004, PROCESSES AND  
2 PASTEURIZES CHICKEN LITTER AS FERTILIZER; AND

3           ~~(2)~~    (3)     WASTE-TO-ENERGY.

4 7-702.

5       (A)     IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

6           (1)     RECOGNIZE THE ECONOMIC, ENVIRONMENTAL, FUEL DIVERSITY,  
7 AND SECURITY BENEFITS OF RENEWABLE ENERGY RESOURCES;

8           (2)     ESTABLISH A MARKET FOR ELECTRICITY FROM THESE RESOURCES  
9 IN MARYLAND; AND

10          (3)     LOWER THE COST TO CONSUMERS OF ELECTRICITY PRODUCED  
11 FROM THESE RESOURCES.

12       (B)     THE GENERAL ASSEMBLY FINDS THAT:

13           (1)     THE BENEFITS OF ELECTRICITY FROM RENEWABLE ENERGY  
14 RESOURCES, INCLUDING LONG-TERM DECREASED EMISSIONS, A HEALTHIER  
15 ENVIRONMENT, INCREASED ENERGY SECURITY, AND DECREASED RELIANCE ON AND  
16 VULNERABILITY FROM IMPORTED ENERGY SOURCES, ACCRUE TO THE PUBLIC AT  
17 LARGE; AND

18           (2)     ELECTRICITY SUPPLIERS AND CONSUMERS SHARE AN OBLIGATION  
19 TO DEVELOP A MINIMUM LEVEL OF THESE RESOURCES IN THE ELECTRICITY SUPPLY  
20 PORTFOLIO OF THE STATE.

21 7-703.

22       (A)     (1)     (I)     THE COMMISSION SHALL IMPLEMENT A RENEWABLE ENERGY  
23 PORTFOLIO STANDARD THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS  
24 SUBSECTION, APPLIES TO ALL RETAIL ELECTRICITY SALES IN THE STATE BY  
25 ELECTRICITY SUPPLIERS.

26                   (II)     IF THE STANDARD BECOMES APPLICABLE TO ELECTRICITY  
27 SOLD TO A CUSTOMER AFTER THE START OF A CALENDAR YEAR, THE STANDARD  
28 DOES NOT APPLY TO ELECTRICITY SOLD TO THE CUSTOMER DURING THAT PORTION  
29 OF THE YEAR BEFORE THE STANDARD BECAME APPLICABLE.

30           (2)     A RENEWABLE ENERGY PORTFOLIO STANDARD MAY NOT APPLY TO  
31 ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER:

32                   (I)     IN EXCESS OF 300,000,000 KILOWATT-HOURS OF INDUSTRIAL  
33 PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR;

34                   (II)     TO RESIDENTIAL CUSTOMERS IN A REGION OF THE STATE IN  
35 WHICH ELECTRICITY PRICES FOR RESIDENTIAL CUSTOMERS ARE SUBJECT TO A

1 FREEZE OR CAP CONTAINED IN A SETTLEMENT AGREEMENT ENTERED INTO UNDER  
2 § 7-505 OF THIS TITLE UNTIL THE FREEZE OR CAP HAS EXPIRED; OR

3 (III) TO A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE  
4 UNDER AN ELECTRICITY SUPPLIER PURCHASE AGREEMENT THAT EXISTED ON  
5 OCTOBER 1, 2004, UNTIL THE EXPIRATION OF THE AGREEMENT.

6 (B) THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE AS FOLLOWS:

7 (1) IN 2006, 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
8 2 RENEWABLE SOURCES;

9 (2) IN 2007, ~~4.5~~ 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
10 TIER 2 RENEWABLE SOURCES;

11 (3) IN 2008, 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
12 2 RENEWABLE SOURCES;

13 (4) IN 2009, ~~2.5~~ 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
14 TIER 2 RENEWABLE SOURCES;

15 (5) IN 2010, 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
16 2 RENEWABLE SOURCES;

17 (6) IN 2011, ~~3.5~~ 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
18 TIER 2 RENEWABLE SOURCES;

19 (7) IN 2012, 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
20 2 RENEWABLE SOURCES;

21 (8) IN 2013, ~~4.5~~ 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
22 TIER 2 RENEWABLE SOURCES;

23 (9) IN 2014, 5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
24 2 RENEWABLE SOURCES;

25 (10) IN 2015, ~~5.5~~ 5% FROM TIER 1 RENEWABLE SOURCES AND ~~2%~~ 2.5%  
26 FROM TIER 2 RENEWABLE SOURCES;

27 (11) IN 2016, 6% FROM TIER 1 RENEWABLE SOURCES AND ~~4.5%~~ 2.5% FROM  
28 TIER 2 RENEWABLE SOURCES;

29 (12) IN 2017, ~~6.5~~ 6% FROM TIER 1 RENEWABLE SOURCES AND ~~1%~~ 2.5%  
30 FROM TIER 2 RENEWABLE SOURCES;

31 (13) IN 2018, 7% FROM TIER 1 RENEWABLE SOURCES AND ~~0.5%~~ 2.5% FROM  
32 TIER 2 RENEWABLE SOURCES; AND

33 (14) IN 2019 AND LATER, 7.5% FROM TIER 1 RENEWABLE SOURCES AND 0%  
34 FROM TIER 2 RENEWABLE SOURCES.

1 (C) BEFORE CALCULATING THE NUMBER OF CREDITS REQUIRED TO MEET  
2 THE PERCENTAGES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN  
3 ELECTRICITY SUPPLIER SHALL EXCLUDE FROM ITS TOTAL RETAIL ELECTRICITY  
4 SALES ALL RETAIL ELECTRICITY SALES DESCRIBED IN SUBSECTION (A)(2) OF THIS  
5 SECTION.

6 (D) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRICITY  
7 SUPPLIER SHALL MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD BY  
8 ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE ENERGY CREDITS THAT  
9 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

10 7-704.

11 (A) (1) ENERGY FROM A TIER 1 RENEWABLE SOURCE:

12 (I) IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE  
13 ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE GENERATING SYSTEM  
14 OR FACILITY WAS PLACED IN SERVICE; AND

15 (II) MAY BE APPLIED TO THE PERCENTAGE REQUIREMENTS OF THE  
16 STANDARD FOR EITHER TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE  
17 SOURCES.

18 (2) ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(L)(8) OF  
19 THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY  
20 PORTFOLIO IF IT IS GENERATED AT A DAM THAT EXISTED AS OF JANUARY 1, 2004,  
21 EVEN IF A SYSTEM OR FACILITY THAT IS CAPABLE OF GENERATING ELECTRICITY DID  
22 NOT EXIST ON THAT DATE.

23 ~~(2)~~ (3) (I) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §  
24 7-701(M)(1) OR (3) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE  
25 RENEWABLE ENERGY PORTFOLIO STANDARD THROUGH 2018 IF IT IS GENERATED AT  
26 A SYSTEM OR FACILITY THAT EXISTED AND WAS OPERATIONAL AS OF JANUARY 1,  
27 2004, EVEN IF THE FACILITY OR SYSTEM WAS NOT CAPABLE OF GENERATING  
28 ELECTRICITY ON THAT DATE.

29 (II) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §  
30 7-701(M)(2) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE  
31 RENEWABLE ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE  
32 GENERATING SYSTEM WAS PLACED IN SERVICE.

33 (B) ON OR AFTER JANUARY 1, 2004, AN ELECTRICITY SUPPLIER MAY:

34 (1) RECEIVE RENEWABLE ENERGY CREDITS; AND

35 (2) ACCUMULATE RENEWABLE ENERGY CREDITS UNDER THIS  
36 SUBTITLE.

1 (C) AN ELECTRICITY SUPPLIER SHALL RECEIVE DOUBLE CREDIT TOWARD  
2 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED  
3 FROM SOLAR ENERGY.

4 (D) (1) THIS SUBSECTION APPLIES ONLY TO A GENERATING FACILITY THAT  
5 IS PLACED IN SERVICE ON OR AFTER JANUARY 1, 2004.

6 (2) (I) ON OR BEFORE DECEMBER 31, 2005, AN ELECTRICITY SUPPLIER  
7 SHALL RECEIVE 120% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
8 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM WIND.

9 (II) AFTER DECEMBER 31, 2005, AND ON OR BEFORE DECEMBER 31,  
10 2008, AN ELECTRICITY SUPPLIER SHALL RECEIVE 110% CREDIT TOWARD MEETING  
11 THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED FROM  
12 WIND.

13 (3) ON OR BEFORE DECEMBER 31, 2008, AN ELECTRICITY SUPPLIER  
14 SHALL RECEIVE 110% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
15 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM METHANE UNDER ~~§ 7-701(L)(4)~~ §  
16 7-701(L)(4) OF THIS SUBTITLE.

17 ~~(E) (1) AN ELECTRICITY SUPPLIER MAY NOT USE THE INCINERATION OF  
18 SOLID WASTE TO MEET MORE THAN 20% OF THE STANDARD FOR TIER 2 RENEWABLE  
19 SOURCES FOR A GIVEN YEAR.~~

20 ~~(2) AFTER DECEMBER 31, 2012, AN ELECTRICITY SUPPLIER MAY NOT  
21 RECEIVE A RENEWABLE ENERGY CREDIT FROM THE INCINERATION OF SOLID  
22 WASTE.~~

23 ~~(F)~~ (E) AN ELECTRICITY SUPPLIER SHALL RECEIVE CREDIT TOWARD  
24 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ELECTRICITY  
25 DERIVED FROM THE BIOMASS FRACTION OF BIOMASS CO-FIRED WITH OTHER  
26 FUELS.

27 ~~(G)~~ (F) (1) IN THIS SUBSECTION, "CUSTOMER" MEANS:

28 (I) AN INDUSTRIAL ELECTRIC CUSTOMER THAT IS NOT ON  
29 STANDARD OFFER SERVICE; OR

30 (II) A RENEWABLE ON-SITE GENERATOR.

31 (2) (I) A CUSTOMER MAY INDEPENDENTLY ACQUIRE RENEWABLE  
32 ENERGY CREDITS TO SATISFY THE STANDARDS APPLICABLE TO THE CUSTOMER'S  
33 LOAD, INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

34 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III)1 OF THIS  
35 PARAGRAPH, THE CUSTOMER SHALL SURRENDER THE CREDITS NECESSARY TO  
36 MEET THE STANDARD TO ITS ELECTRICITY SUPPLIER FOR INCLUSION IN THE  
37 ELECTRICITY SUPPLIER'S COMPLIANCE REPORT UNDER § 7-705 OF THIS SUBTITLE.

1 (III) 1. CREDITS THAT A CUSTOMER SURRENDERS TO ITS  
2 ELECTRICITY SUPPLIER TO MEET THE STANDARD AND THAT THE ELECTRICITY  
3 SUPPLIER RELIES ON IN SUBMITTING ITS COMPLIANCE REPORT MAY NOT BE RESOLD  
4 OR RETRANSFERRED BY THE CUSTOMER OR BY THE ELECTRICITY SUPPLIER.

5 2. THE CUSTOMER MAY RETAIN OR TRANSFER ANY CREDITS  
6 IN EXCESS OF THE AMOUNT NEEDED TO SATISFY THE STANDARD FOR THE  
7 CUSTOMER'S LOAD.

8 (IV) A CUSTOMER WHO SURRENDERS CREDITS UNDER THIS  
9 SUBSECTION RETAINS ALL RIGHTS AND TITLE TO ANY ENVIRONMENTAL OR OTHER  
10 ATTRIBUTES ASSOCIATED WITH THE CREDITS, INCLUDING EMISSION REDUCTIONS  
11 OR RELATED ALLOWANCES.

12 (3) A RENEWABLE ON-SITE GENERATOR SHALL RECEIVE CREDIT FOR  
13 THE PORTION OF ITS ON-SITE GENERATION FROM A TIER 1 RENEWABLE SOURCE OR  
14 A TIER 2 RENEWABLE SOURCE THAT DISPLACES THE PURCHASE OF ELECTRICITY BY  
15 THE RENEWABLE ON-SITE GENERATOR FROM THE GRID.

16 ~~(3)~~ (4) A CUSTOMER THAT SATISFIES THE STANDARD APPLICABLE TO  
17 THE CUSTOMER'S LOAD UNDER THIS SUBSECTION MAY NOT BE REQUIRED TO  
18 CONTRIBUTE TO A COMPLIANCE FEE RECOVERED UNDER § 7-706 OF THIS SUBTITLE.

19 ~~(4)~~ (5) THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING  
20 THE APPLICATION AND TRANSFER OF CREDITS UNDER THIS SUBSECTION  
21 CONSISTENT WITH FEDERAL LAW.

22 ~~(H)~~ (G) (1) IN ORDER TO CREATE A RENEWABLE ENERGY CREDIT, A TIER 1  
23 RENEWABLE SOURCE OR TIER 2 RENEWABLE SOURCE MUST SUBSTANTIALLY  
24 COMPLY WITH ALL APPLICABLE ENVIRONMENTAL AND ADMINISTRATIVE  
25 REQUIREMENTS, INCLUDING AIR QUALITY, WATER QUALITY, SOLID WASTE, AND  
26 RIGHT-TO-KNOW PROVISIONS, PERMIT CONDITIONS, AND ADMINISTRATIVE ORDERS.

27 (2) (I) THIS PARAGRAPH APPLIES TO TIER 2 RENEWABLE SOURCES  
28 THAT INCINERATE SOLID WASTE.

29 (II) AT LEAST 80% OF THE SOLID WASTE INCINERATED AT A TIER 2  
30 RENEWABLE SOURCE FACILITY SHALL BE COLLECTED FROM:

31 1. FOR AREAS IN MARYLAND, JURISDICTIONS THAT ACHIEVE  
32 THE RECYCLING RATES REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE;  
33 AND

34 2. FOR OTHER STATES, JURISDICTIONS FOR WHICH THE  
35 ELECTRICITY SUPPLIER DEMONSTRATES RECYCLING SUBSTANTIALLY COMPARABLE  
36 TO THAT REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE, IN  
37 ACCORDANCE WITH REGULATIONS OF THE COMMISSION.

38 (III) AN ELECTRICITY SUPPLIER MAY REPORT CREDITS RECEIVED  
39 UNDER THIS PARAGRAPH BASED ON COMPLIANCE BY THE FACILITY WITH THE

1 PERCENTAGE REQUIREMENT OF SUBPARAGRAPH (II) OF THIS PARAGRAPH DURING  
 2 THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE ELECTRICITY  
 3 SUPPLIER RECEIVES THE CREDIT TO APPLY TO THE STANDARD.

4 7-705.

5 (A) EACH ELECTRICITY SUPPLIER SHALL SUBMIT A REPORT TO THE  
 6 COMMISSION EACH YEAR IN A FORM AND BY A DATE SPECIFIED BY THE COMMISSION  
 7 THAT:

8 (1) DEMONSTRATES THAT THE ELECTRICITY SUPPLIER HAS COMPLIED  
 9 WITH THE APPLICABLE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703  
 10 OF THIS SUBTITLE AND INCLUDES THE SUBMISSION OF THE REQUIRED AMOUNT OF  
 11 RENEWABLE ENERGY CREDITS; OR

12 (2) DEMONSTRATES THE AMOUNT OF ELECTRICITY SALES BY WHICH  
 13 THE ELECTRICITY SUPPLIER FAILED TO MEET THE APPLICABLE RENEWABLE  
 14 ENERGY PORTFOLIO STANDARD.

15 (B) IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE RENEWABLE  
 16 ENERGY PORTFOLIO STANDARD FOR THE APPLICABLE YEAR, THE ELECTRICITY  
 17 SUPPLIER SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND  
 18 ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE ~~A COMPLIANCE FEE OF:~~

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
 20 COMPLIANCE FEE OF:

21 (I) 2 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
 22 REQUIRED TIER 1 RENEWABLE SOURCES; AND

23 (II) 1.5 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
 24 REQUIRED TIER 2 RENEWABLE SOURCES; OR

25 (2) FOR INDUSTRIAL PROCESS LOAD:

26 ~~(I) 1 CENT FOR EACH KILOWATT HOUR OF SHORTFALL FROM~~  
 27 ~~REQUIRED TIER 1 RENEWABLE SOURCES; AND~~

28 ~~(II) 0.75 CENT FOR EACH KILOWATT HOUR OF SHORTFALL FROM~~  
 29 ~~REQUIRED TIER 2 RENEWABLE SOURCES.~~

30 (I) FOR EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED  
 31 TIER 1 RENEWABLE SOURCES, A COMPLIANCE FEE OF:

32 1. 0.8 CENTS IN 2006, 2007, AND 2008;

33 2. 0.5 CENTS IN 2009 AND 2010;

34 3. 0.4 CENTS IN 2011 AND 2012;

35 4. 0.3 CENTS IN 2013 AND 2014;



1 (3) A WHOLESALE ELECTRICITY SUPPLIER DEFAULTS OR OTHERWISE  
2 FAILS TO DELIVER RENEWABLE ENERGY CREDITS UNDER A SUPPLY CONTRACT  
3 APPROVED BY THE COMMISSION.

4 (C) ANY COST RECOVERY UNDER THIS SECTION:

5 (1) FOR ALL ELECTRICITY SUPPLIERS, MAY BE IN THE FORM OF A  
6 GENERATION SURCHARGE PAYABLE BY ALL CURRENT ELECTRICITY SUPPLY  
7 CUSTOMERS, EXCEPT AS OTHERWISE PROVIDED IN § 7-704(F) OF THIS SUBTITLE;

8 (2) SHALL BE DISCLOSED TO CUSTOMERS IN A MANNER TO BE  
9 DETERMINED BY THE COMMISSION; AND

10 (3) MAY NOT INCLUDE THE COSTS FOR A POWER PURCHASE CONTRACT  
11 UNDER THE FEDERAL PUBLIC UTILITY REGULATORY POLICY ACT CONTEMPLATED IN  
12 RATES OR RESTRUCTURING PROCEEDINGS.

13 *(D) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE*  
14 *COMMISSION IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND*  
15 *ECONOMIC DEVELOPMENT, THE COMMISSION MAY WAIVE THE RECOVERY OF ALL OR*  
16 *PART OF THE COMPLIANCE FEE ASSESSED ON THE LOAD OF A PARTICULAR*  
17 *INDUSTRIAL OR NONRETAIL COMMERCIAL CUSTOMER FOR A PARTICULAR YEAR,*  
18 *BASED ON A DEMONSTRATION BY THE APPLICANT OF AN EXTREME ECONOMIC*  
19 *HARDSHIP THAT SIGNIFICANTLY IMPAIRS THE CONTINUED OPERATION OF THE*  
20 *APPLICANT.*

21 *(2) ANY COMPLIANCE FEE RECOVERY THAT IS WAIVED UNDER THIS*  
22 *SUBSECTION MAY NOT BE ASSESSED AGAINST OTHER CUSTOMERS.*

23 *(3) AN ELECTRICITY SUPPLIER IS NOT LIABLE FOR ANY COMPLIANCE*  
24 *FEE THAT IS WAIVED UNDER THIS SUBSECTION.*

25 7-707.

26 (A) THERE IS A MARYLAND RENEWABLE ENERGY FUND.

27 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF  
28 RESOURCES TO GENERATE RENEWABLE ENERGY IN THE STATE.

29 (C) SUBJECT TO OVERSIGHT BY THE COMMISSION, THE ADMINISTRATION  
30 SHALL ADMINISTER THE FUND.

31 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
32 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

33 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE  
34 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

35 (E) THE FUND CONSISTS OF:

36 (1) COMPLIANCE FEES PAID UNDER § 7-705 OF THIS SUBTITLE;

- 1 (2) PAYMENTS RECEIVED IN REPAYMENT OF A LOAN;  
2 (3) INVESTMENT EARNINGS OF THE FUND; AND  
3 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE  
4 BENEFIT OF THE FUND.

5 (F) (1) THE FUND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO  
6 SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE  
7 STATE.

8 (2) BY REGULATION THE COMMISSION SHALL ADOPT ELIGIBILITY  
9 CRITERIA FOR PROJECTS SUPPORTED BY THE FUND.

10 (3) (I) THE ADMINISTRATION SHALL RECEIVE AND REVIEW  
11 APPLICATIONS FOR LOANS AND GRANTS FOR ELIGIBLE PROJECTS.

12 (II) THE ADMINISTRATION SHALL APPROVE OR DISAPPROVE  
13 APPLICATIONS FOR LOANS AND GRANTS FROM THE FUND.

14 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE  
15 COMMISSION MAY ALLOW THE USE OF MONEY OF THE FUND FOR ADMINISTRATIVE  
16 EXPENSES RELATED TO THE FUND AND PROJECT REVIEW AND OVERSIGHT.

17 (II) THE ADMINISTRATION AND THE COMMISSION MAY NOT SPEND  
18 MORE THAN 10% OF THE FUNDS PLACED IN THE FUND FOR ADMINISTRATIVE  
19 EXPENSES.

20 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE  
21 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

22 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO  
23 THE FUND.

24 7-708.

25 (A) (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A  
26 MARKET-BASED RENEWABLE ELECTRICITY TRADING SYSTEM TO FACILITATE THE  
27 CREATION AND TRANSFER OF RENEWABLE ENERGY CREDITS.

28 (2) TO THE EXTENT PRACTICABLE, THE TRADING SYSTEM SHALL BE  
29 CONSISTENT WITH AND OPERATE IN CONJUNCTION WITH THE TRADING SYSTEM  
30 DEVELOPED BY PJM INTERCONNECTION, INC., IF AVAILABLE.

31 (3) THE COMMISSION MAY CONTRACT WITH A FOR-PROFIT OR A  
32 NONPROFIT ENTITY TO ASSIST IN THE ADMINISTRATION OF THE ELECTRICITY  
33 TRADING SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

34 (B) (1) THE SYSTEM SHALL INCLUDE A REGISTRY OF PERTINENT  
35 INFORMATION REGARDING ALL:

1 (I) AVAILABLE RENEWABLE ENERGY CREDITS; AND

2 (II) RENEWABLE ENERGY CREDIT TRANSACTIONS AMONG  
3 ELECTRICITY SUPPLIERS IN THE STATE, INCLUDING:

4 1. THE CREATION AND APPLICATION OF RENEWABLE  
5 ENERGY CREDITS;

6 2. THE NUMBER OF RENEWABLE ENERGY CREDITS SOLD OR  
7 TRANSFERRED; AND

8 3. THE PRICE PAID FOR THE SALE OR TRANSFER OF  
9 RENEWABLE ENERGY CREDITS.

10 (2) (I) THE REGISTRY SHALL PROVIDE CURRENT INFORMATION TO  
11 ELECTRICITY SUPPLIERS AND THE PUBLIC ON THE STATUS OF RENEWABLE ENERGY  
12 CREDITS CREATED, SOLD, OR TRANSFERRED IN THE STATE.

13 (II) REGISTRY INFORMATION SHALL BE AVAILABLE BY COMPUTER  
14 NETWORK ACCESS THROUGH THE INTERNET.

15 7-709.

16 (A) AN ELECTRICITY SUPPLIER MAY USE ACCUMULATED RENEWABLE  
17 ENERGY CREDITS TO MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD,  
18 INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

19 (B) A RENEWABLE ENERGY CREDIT MAY BE SOLD OR OTHERWISE  
20 TRANSFERRED.

21 (C) (1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS  
22 SUBSECTION, A RENEWABLE ENERGY CREDIT SHALL EXIST FOR 3 YEARS FROM THE  
23 DATE CREATED.

24 (2) A RENEWABLE ENERGY CREDIT MAY BE DIMINISHED OR  
25 EXTINGUISHED BEFORE THE EXPIRATION OF 3 YEARS BY:

26 (I) THE ELECTRICITY SUPPLIER THAT RECEIVED THE CREDIT;

27 (II) A NONAFFILIATED ENTITY OF THE ELECTRICITY SUPPLIER:

28 1. THAT PURCHASED THE CREDIT FROM THE ELECTRICITY  
29 SUPPLIER RECEIVING THE CREDIT; OR

30 2. TO WHOM THE ELECTRICITY SUPPLIER OTHERWISE  
31 TRANSFERRED THE CREDIT; OR

32 (III) DEMONSTRATED NONCOMPLIANCE BY THE GENERATING  
33 FACILITY WITH THE REQUIREMENTS OF § 7-704(G) OF THIS SUBTITLE.

1 (D) NOTWITHSTANDING SUBSECTION (C)(2)(III) OF THIS SECTION, AND ONLY  
2 IF THE DEMONSTRATED NONCOMPLIANCE DOES NOT RESULT IN ENVIRONMENTAL  
3 DEGRADATION, AN ELECTRICITY SUPPLIER THAT REASONABLY INCLUDES IN ITS  
4 ANNUAL REPORT UNDER § 7-705 OF THIS SUBTITLE A RENEWABLE ENERGY CREDIT  
5 THAT IS EXTINGUISHED FOR NONCOMPLIANCE WITH § 7-704(G)(1) OR (2) OF THIS  
6 SUBTITLE:

7 (1) MAY CONTINUE TO RELY ON THAT CREDIT FOR THAT YEAR; BUT

8 (2) FOR LATER YEARS MUST:

9 (I) DEMONSTRATE A RETURN TO COMPLIANCE OF THE  
10 GENERATING FACILITY UNDER § 7-704(G) OF THIS SUBTITLE; OR

11 (II) REPLACE THE CREDIT WITH A RENEWABLE ENERGY CREDIT  
12 FROM ANOTHER SOURCE.

13 (E) THE COMMISSION BY REGULATION SHALL ESTABLISH REQUIREMENTS  
14 FOR DOCUMENTATION AND VERIFICATION OF RENEWABLE ENERGY CREDITS BY  
15 LICENSED ELECTRICITY SUPPLIERS AND OTHER GENERATORS THAT CREATE AND  
16 RECEIVE CREDITS FOR COMPLIANCE WITH THE STANDARDS FOR TIER 1 RENEWABLE  
17 SOURCES AND TIER 2 RENEWABLE SOURCES.

18 7-710.

19 THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A RENEWABLE  
20 ENERGY CREDIT TRANSACTION, BUT THE AMOUNT OF THE FEE MAY NOT EXCEED  
21 THE COMMISSION'S ACTUAL DIRECT COST OF PROCESSING THE TRANSACTION.

22 7-711.

23 THE COMMISSION HAS THE SAME POWER AND AUTHORITY WITH RESPECT TO  
24 AN ELECTRICITY SUPPLIER UNDER THIS SUBTITLE THAT THE COMMISSION HAS  
25 WITH RESPECT TO ANY PUBLIC SERVICE COMPANY UNDER THIS ARTICLE FOR THE  
26 PURPOSES OF INVESTIGATING AND EXAMINING THE ELECTRICITY SUPPLIER TO  
27 DETERMINE COMPLIANCE WITH THIS SUBTITLE AND WITH OTHER APPLICABLE LAW.

28 7-712.

29 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE  
30 FEBRUARY 1 OF EACH YEAR THE COMMISSION SHALL REPORT TO THE GENERAL  
31 ASSEMBLY ON THE STATUS OF IMPLEMENTATION OF THIS SUBTITLE, INCLUDING  
32 THE AVAILABILITY OF TIER 1 RENEWABLE SOURCES, PROJECTS SUPPORTED BY THE  
33 FUND, AND OTHER PERTINENT INFORMATION.

34 7-713.

35 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE  
36 PROVISIONS OF THIS SUBTITLE.

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

3 **Article - Public Utility Companies**

4 7-516.

5 [(a) An electric company shall continue to purchase electricity under any  
6 contract in effect on January 1, 1999, with a renewable energy resource facility  
7 located in the State until the later of the expiration of the contract or the expiration or  
8 satisfaction of bonds existing on January 1, 1999, supporting the facility.

9 (b) An investor-owned electric company shall continue to provide at least the  
10 same percentage of electricity from available renewable energy resources, at a  
11 reasonably comparable cost, as the electric company provided in 1998.

12 (c) On or before February 1, 2000, the Commission, in consultation with the  
13 Maryland Energy Administration, shall report to the Governor and, subject to §  
14 2-1246 of the State Government Article, to the General Assembly on the feasibility of  
15 requiring a renewables portfolio standard, including the feasibility and structure of a  
16 two-tiered standard, and the estimated costs and benefits of establishing this  
17 requirement.]

18 [(d) (A) (1) [(i) In recognition of the potential environmental impacts of  
19 restructuring the electric industry, it is the intent of the General Assembly to  
20 minimize the effects of electric restructuring on the environment.

21 [(ii) (2) Electric companies in Maryland shall conduct a study that  
22 tracks shifts in generation and emissions as a result of restructuring the electric  
23 industry.

24 [(iii) (3) The study shall be submitted to the Department of the  
25 Environment and the Commission one year after the initial date of implementation of  
26 customer choice.

27 [(iv) (4) Electric companies in Maryland shall update the study  
28 twice and submit each updated study to the Department of the Environment and the  
29 Commission on or before December 31, 2003 and on or before December 31, 2005.

30 [(2) (B) If, after review of the study required under paragraph (1) of this  
31 subsection, the Department of the Environment determines that the emissions levels  
32 impose a higher emission burden in Maryland, the Department of the Environment,  
33 in consultation with the Commission, shall study the appropriateness,  
34 constitutionality, and feasibility of establishing an air quality surcharge or other  
35 mechanism to protect Maryland's environment in connection with the  
36 implementation of customer choice of electricity suppliers.

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

1 (a) (1) On or before October 1, 2004, the Public Service Commission shall  
2 establish a technical advisory group to develop recommendations on siting,  
3 operational, and monitoring criteria for wind-powered electricity generating facilities  
4 relating to avian and bat issues.

5 (2) The technical advisory group shall include the following members:

6 (i) two biologists who are professionally recognized for their  
7 expertise in avian issues and behavior, including one from the Department of Natural  
8 Resources;

9 (ii) two representatives of wind energy companies;

10 (iii) one representative of an electricity transmission company or  
11 other individual with interest and experience in siting and interconnection of  
12 electricity transmission facilities with generating facilities;

13 (iv) two representatives of environmental groups; and

14 (v) one representative of the Commission.

15 (3) The technical advisory group shall study and make recommendations  
16 on:

17 (i) standards that will avoid or minimize impacts on birds and bats  
18 from the construction and operation of wind-energy generating facilities;

19 (ii) a tiered system of standards that vary with the size of the  
20 wind-energy generating facility and the associated generating capacity;

21 (iii) additional assessments of avian and bat populations and  
22 behavior that may be needed before issuance of a certificate of public convenience and  
23 necessity beyond those needed for other types of generating facilities, if any;

24 (iv) additional monitoring studies of avian and bat populations and  
25 behavior during and after construction of a facility; and

26 (v) mitigation appropriate to address any impact on avian and bat  
27 populations above a threshold level to be included in the certificate of public  
28 convenience and necessity for a wind-powered electricity generating facility.

29 (4) In conducting its study, the technical advisory group shall consider  
30 guidelines for siting, operation, and avoidance and mitigation of avian impacts under  
31 development by the United States Fish and Wildlife Service and by other states.

32 (5) The Power Plant Research Program of the Department of Natural  
33 Resources shall assist the technical advisory group in its study and the development  
34 of recommendations.

35 (6) On or before June 1, 2005, the technical advisory group shall report  
36 its recommendations to the Commission.

1                   (7)     (i)     On or before July 1, 2006, the Commission shall adopt  
2 regulations for wind-powered electricity generating facility siting taking into  
3 consideration the recommendations of the technical advisory group.

4                   (ii)     The regulations may not apply to any wind-powered electricity  
5 generating facility for which an application for a certificate of public convenience and  
6 necessity has been submitted to the Commission before the effective date of the  
7 regulations.

8     (b)     The General Assembly strongly encourages:

9                   (1)     the Public Service Commission to exempt from siting, operational,  
10 and monitoring requirements wind-energy generating facilities that involve only  
11 small turbines for residential, agricultural, and small business use, including  
12 facilities installed for net-energy metering;

13                  (2)     developers of commercial wind-energy generating facilities that  
14 involve more than 10 turbines to:

15                   (i)     conduct at least 1 year of site evaluation, using state-of-the-art  
16 techniques, both for the potential for direct mortality of avian species and for impacts  
17 from fragmentation and loss of forest and other affected habitat; and

18                   (ii)    provide the results of the evaluation to the Commission for  
19 review in connection with proceedings for the issuance of a certificate of public  
20 convenience and necessity;

21                  (3)     developers of commercial wind-energy generating facilities that  
22 involve 10 or fewer turbines to:

23                   (i)     conduct a shorter-term site evaluation both for the potential for  
24 direct mortality of avian species and for impacts from fragmentation and loss of forest  
25 and other affected habitat; and

26                   (ii)    provide the results of the evaluation to the Commission for  
27 review in connection with proceedings for the issuance of a certificate of public  
28 convenience and necessity; and

29                  (4)     developers of all commercial wind-energy generating facilities to:

30                   (i)     conduct post-construction avian mortality studies of the impact  
31 of facility operation; and

32                   (ii)    provide copies to the Commission and, while it exists, to the  
33 technical advisory group.

34     SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
35 Section 3 of this Act, on or before July 1, 2005, the Public Service Commission shall  
36 adopt regulations to implement this Act. It is the intent of the General Assembly that  
37 the Public Service Commission propose its regulations concerning waiver of the

1 compliance fee due to hardship under § 7-706(d) of the Public Utility Companies  
2 Article, as enacted by this Act, through the emergency adoption process under §  
3 10-111(b) of the State Government Article.

4 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the  
5 General Assembly that the Public Service Commission recover the costs of  
6 establishing a market-based renewable electricity trading system under § 7-708 of  
7 the Public Utility Companies Article as enacted by this Act through its assessment  
8 under § 2-110 of the Public Utility Companies Article.

9 SECTION 6. AND BE IT FURTHER ENACTED, That:

10 (a) The Office of Legislative Audits shall conduct a performance audit of the  
11 Maryland Renewable Energy Fund which includes, for each year since the creation of  
12 the Fund, an assessment of:

13 (1) the amount of funds received in the Fund;

14 (2) the uses of the funds; and

15 (3) the administrative expenses related to the Fund for project review  
16 and oversight.

17 (b) The Office shall report the results of the audit to the General Assembly, in  
18 accordance with § 2-1246 of the State Government Article, on or before December 1,  
19 2009.

20 (c) The cost of the performance audit shall be included in the administrative  
21 expenses under § 7-707(f)(4) of the Public Utility Companies Article, as enacted by  
22 this Act.

23 SECTION 7. AND BE IT FURTHER ENACTED, That:

24 (a) The General Assembly acknowledges that significant investments have  
25 been made in the utilization of poultry litter in alternative and beneficial ways, such  
26 as poultry litter pelletizing ~~plans~~ plants, before enactment of this Act, and it is the  
27 intent of the General Assembly that the private sector continue to find creative and  
28 innovative ways in which to utilize poultry litter that are consistent with and  
29 responsive to the purposes of this Act.

30 (b) To the extent that existing and future State financial assistance programs  
31 can help facilitate ~~this undertaking~~ the goals specified in subsection (a) of this  
32 section, the General Assembly encourages partnerships that lead to environmentally  
33 friendly and economically advantageous initiatives.

34 (c) To help safeguard previous private sector investment efforts and yet  
35 facilitate future private sector investment efforts consistent with the purposes of this  
36 Act, the General Assembly encourages the Maryland Energy Administration, in  
37 cooperation with the Maryland Department of Agriculture, to enhance the State's  
38 system of monitoring the production and volume of poultry litter in order to realize, to

1 the extent possible, a balance between existing demands and anticipated demands for  
2 poultry litter to help ensure:

3           (1) that existing projects have sufficient quantities of poultry litter to  
4 meet reasonably projected demands and to be economically viable; and

5           (2) that future projects, such as power generation, have sufficient  
6 quantities of poultry litter in order to become economically viable.

7       SECTION 8. AND BE IT FURTHER ENACTED, That, on or before December 1,  
8 2009, the Public Service Commission shall provide a status report to the Governor  
9 and the General Assembly, subject to § 2-1246 of the State Government Article, which  
10 includes a review of the implementation of this Act, the availability and development  
11 of each type of Tier 1 renewable energy source, the impact on the price of Tier 1  
12 renewable energy sources, the amount of compliance fees paid by electricity suppliers  
13 each year for noncompliance with Tier 1 and Tier 2 renewable energy sources, and the  
14 use of these compliance fees to support the creation of new Tier 1 renewable energy  
15 sources.

16       SECTION 9. AND BE IT FURTHER ENACTED, That the Public Service  
17 Commission shall:

18           (1) on or before January 1, 2016, commence a review of the  
19 implementation and the environmental and economic impacts of the renewable  
20 portfolio standard enacted by this Act, including the impacts of Tier 2 renewable  
21 sources;

22           (2) in the course of its review, consult with appropriate scientific,  
23 economic, and environmental resources, and with affected communities of interest;

24           (3) develop recommendations concerning the continuation of the  
25 renewable portfolio standard for Tier 1 and Tier 2 renewable sources, including the  
26 classification of sources in distinct tiers, any recommended alteration to the tier  
27 system, and whether the tiers should be continued and, if so, at what percentages;  
28 and

29           (4) on or before January 1, 2017, report its recommendations to the  
30 Governor and the General Assembly, subject to § 2-1246 of the State Government  
31 Article.

32       ~~SECTION 10.~~ SECTION 10. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
33 shall take effect January 1, 2006.

34       ~~SECTION 11.~~ SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in  
35 Section § 10 of this Act, this Act shall take effect July 1, 2004.

