

# SENATE BILL 595

C5

71r1908

---

By: **Senator Garagiola**

Introduced and read first time: February 2, 2007

Assigned to: Finance

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Public Utility Companies – Net Energy Metering – Renewable Portfolio**  
3 **Energy Standard – Photovoltaic Power**

4 FOR the purpose of increasing a certain limit used to determine the availability of net  
5 energy metering to eligible customer–generators; increasing the amount of  
6 generating capacity of an electric generating system that may be used by an  
7 eligible customer–generator for net metering; requiring that an eligible  
8 customer–generator has a title to certain attributes or credits associated with  
9 certain electricity produced; establishing a Tier 3 renewable portfolio energy  
10 standard for electricity derived from solar energy; providing that a Tier 3  
11 renewable portfolio energy standard applies only to electric companies under  
12 certain circumstances; requiring an electric company to meet the Tier 3  
13 renewable energy portfolio standard in a certain manner; repealing a provision  
14 that required an electricity supplier to receive a double credit toward meeting a  
15 certain standard derived from solar energy; allowing a renewable on–site  
16 generator to retain or transfer certain credits; requiring certain electric  
17 companies to submit a certain report; providing for compliance fees for certain  
18 shortfalls in required Tier 3 renewable sources; allowing an electric company to  
19 request a certain delay for a certain scheduled increase under certain  
20 circumstances; providing that compliance fees paid for Tier 3 renewable sources  
21 be used for a certain support of new Tier 3 renewable sources; requiring that the  
22 duration of a certain contract be not less than 15 years; requiring the Public  
23 Service Commission to appoint a certain individual with certain duties;  
24 requiring the Commission to revise certain interconnection standards and  
25 procedures; defining a certain term and altering certain definitions; making

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.





1 (iii) is intended primarily to offset all or part of the customer's  
2 own electricity requirements.

3 (4) "Net energy metering" means measurement of the difference  
4 between the electricity that is supplied by an electric company and the electricity that  
5 is generated by an eligible customer-generator and fed back to the electric company  
6 over the eligible customer-generator's billing period.

7 (b) The General Assembly finds and declares that a program to provide net  
8 energy metering for eligible customer-generators is a means to encourage private  
9 investment in renewable energy resources, stimulate in-State economic growth,  
10 enhance continued diversification of the State's energy resource mix, and reduce costs  
11 of interconnection and administration.

12 (c) An electric company serving an eligible customer-generator shall ensure  
13 that the meter installed for net energy metering is capable of measuring the flow of  
14 electricity in two directions.

15 (d) The Commission shall require electric utilities to develop a standard  
16 contract or tariff for net energy metering and make it available to eligible  
17 customer-generators on a first-come, first-served basis until the rated generating  
18 capacity owned and operated by eligible customer-generators in the State reaches  
19 [34.722] **1,500** megawatts[, 0.2% of the State's adjusted peak-load forecast for 1998].

20 (e) (1) Except as provided in subsection (g) of this section, a net energy  
21 metering contract or tariff shall be identical, in energy rates, rate structure, and  
22 monthly charges, to the contract or tariff that the customer would be assigned if the  
23 customer were not an eligible customer-generator.

24 (2) (i) A net energy metering contract or tariff may not include  
25 charges that would raise the eligible customer-generator's minimum monthly charge  
26 above that of customers of the rate class to which the eligible customer-generator  
27 would otherwise be assigned.

28 (ii) Charges prohibited by this paragraph include new or  
29 additional demand charges, standby charges, customer charges, and minimum  
30 monthly charges.

31 (f) (1) The electric company shall calculate net energy metering in  
32 accordance with this subsection.

1           (2) Net energy produced or consumed on a monthly basis shall be  
2 measured in accordance with standard metering practices.

3           (3) If electricity supplied by the grid exceeds electricity generated by  
4 the eligible customer-generator during a month, the eligible customer-generator shall  
5 be billed for the net energy supplied in accordance with subsection (e) of this section.

6           (4) If electricity generated by the eligible customer-generator exceeds  
7 the electricity supplied by the grid, the eligible customer-generator shall be required  
8 to pay only customer charges for that month in accordance with subsection (e) of this  
9 section.

10           (5) (i) An eligible customer-generator under paragraph (4) of this  
11 subsection may accrue generation credit for a period not to exceed 12 months.

12                   (ii) The electric company shall carry forward a negative  
13 kilowatt-hour reading until:

14                           1. the eligible customer-generator's consumption of  
15 electricity from the grid eliminates the credit; or

16                           2. the 12-month accrual period under subparagraph (i)  
17 of this paragraph expires.

18           (g) For an eligible customer-generator whose facility is sized to produce  
19 energy in excess of the eligible customer-generator's annual energy consumption, the  
20 Commission:

21                   (1) may require the eligible customer-generator to install a dual meter  
22 that is capable of measuring the flow of electricity in two directions; and

23                   (2) shall develop a credit formula that:

24                           (i) excludes recovery of transmission and distribution costs; and

25                           (ii) provides that the credit may be calculated using a method  
26 other than a kilowatt-hour basis, including a method that allows a dollar-for-dollar  
27 offset of electricity supplied by the grid compared to electricity generated by the  
28 eligible customer-generator.

1 (h) (1) [(i)] [Except as provided in subparagraph (ii) of this paragraph,  
2 the] **THE** generating capacity of an electric generating system used by an eligible  
3 customer-generator for net metering may not exceed [200 kilowatts] **2 MEGAWATTS**.

4 [(ii) 1. An eligible customer-generator may petition the  
5 Commission to use an electric generating system with a capacity not exceeding 500  
6 kilowatts.

7 2. The Commission may approve a petition for use of an  
8 electric generating system with a capacity not exceeding 500 kilowatts for net  
9 metering if the Commission finds that the project meets public safety and reliability  
10 requirements and is in the public interest.]

11 (2) An electric generating system used by an eligible  
12 customer-generator for net metering shall meet all applicable safety and performance  
13 standards established by the National Electrical Code, the Institute of Electrical and  
14 Electronics Engineers, and Underwriters Laboratories.

15 (3) The Commission may adopt by regulation additional control and  
16 testing requirements for eligible customer-generators that the Commission  
17 determines are necessary to protect public safety and system reliability.

18 (4) An electric company may not require an eligible  
19 customer-generator whose electric generating system meets the standards of  
20 paragraphs (2) and (3) of this subsection to:

21 (i) install additional controls;

22 (ii) perform or pay for additional tests; or

23 (iii) purchase additional liability insurance.

24 **(5) AN ELIGIBLE CUSTOMER-GENERATOR SHALL OWN AND HAVE**  
25 **TITLE TO ALL RENEWABLE ENERGY ATTRIBUTES OR RENEWABLE ENERGY**  
26 **CREDITS ASSOCIATED WITH ANY ELECTRICITY PRODUCED BY ITS ELECTRIC**  
27 **GENERATING SYSTEM.**

28 7-701.

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

30 (b) "Administration" means the Maryland Energy Administration.

1 (c) “Fund” means the Maryland Renewable Energy Fund established under §  
2 7–707 of this subtitle.

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

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

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

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

11 (i) shade-tolerant species are present in all age and size  
12 classes;

13 (ii) randomly distributed canopy gaps are present;

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

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

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

19 (f) “PJM region” means the control area administered by the PJM  
20 Interconnection, Inc., as the area may change from time to time.

21 (g) “Poultry litter” means the fecal and urinary excretions of poultry,  
22 including wood shavings, sawdust, straw, rice hulls, and other bedding material for  
23 the disposition of manure.

24 (h) (1) “Qualifying biomass” means a nonhazardous, organic material that  
25 is available on a renewable or recurring basis, and is:

26 (i) waste material that is segregated from inorganic waste  
27 material and is derived from sources including:

- 1                                    1.    except for old growth timber, any of the following  
2 forest-related resources:
- 3                                    A.    mill residue, except sawdust and wood shavings;  
4                                    B.    precommercial soft wood thinning;  
5                                    C.    slash;  
6                                    D.    brush; or  
7                                    E.    yard waste;
- 8                                    2.    a pallet, crate, or dunnage;
- 9                                    3.    agricultural and silvicultural sources, including tree  
10 crops, vineyard materials, grain, legumes, sugar, and other crop by-products or  
11 residues; or
- 12                                    4.    gas produced from the anaerobic decomposition of  
13 animal waste or poultry waste; or
- 14                                    (ii)    a plant that is cultivated exclusively for purposes of being  
15 used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.
- 16                                    (2)    “Qualifying biomass” includes biomass listed in paragraph (1) of  
17 this section that is used for co-firing, subject to § [7-704(e)] **7-704(D)** of this subtitle.
- 18                                    (3)    “Qualifying biomass” does not include:
- 19                                    (i)    unsegregated solid waste or postconsumer wastepaper; or  
20                                    (ii)    an invasive exotic plant species.
- 21                                    (i)    “Renewable energy credit” or “credit” means a credit equal to the  
22 generation attributes of 1 megawatt-hour of electricity that is derived from:
- 23                                    (1)    a Tier 1 renewable source or [a] Tier 2 renewable source that is  
24 located:
- 25                                    [(1)] (I)    in the PJM region or in a state that is adjacent to the PJM  
26 region; or

1            [(2)](II)     outside the area described in item [(1)] (I) of this  
 2 [subsection] **ITEM** but in a control area that is adjacent to the PJM region, if the  
 3 electricity is delivered into the PJM region; **OR**

4            **(2)     A TIER 3 RENEWABLE SOURCE THAT IS CONNECTED WITH THE**  
 5 **ELECTRIC DISTRIBUTION GRID SERVING MARYLAND.**

6            (j)     “Renewable energy portfolio standard” or “standard” means the  
 7 percentage of electricity sales at retail in the State that is to be derived from Tier 1  
 8 [renewable sources and], Tier 2, **AND TIER 3** renewable sources in accordance with §  
 9 7–703(b) of this subtitle.

10          (k)     “Renewable on–site generator” means a person who generates electricity  
 11 on site from a Tier 1 [renewable source or a], Tier 2, **OR TIER 3** renewable source for  
 12 the person’s own use.

13          (l)     “Tier 1 renewable source” means one or more of the following types of  
 14 energy sources:

15            (1)     [solar;

16            (2)]     wind;

17            [(3)] **(2)**     qualifying biomass;

18            [(4)] **(3)**     methane from the anaerobic decomposition of organic  
 19 materials in a landfill or wastewater treatment plant;

20            [(5)] **(4)**     geothermal;

21            [(6)]**(5)**     ocean, including energy from waves, tides, currents, and  
 22 thermal differences;

23            [(7)] **(6)**     a fuel cell that produces electricity from a Tier 1 renewable  
 24 source under item [(3) or (4)] **(2) OR (3)** of this subsection; and

25            [(8)] **(7)**     a small hydroelectric power plant of less than 30 megawatts  
 26 in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory  
 27 Commission.

1 (m) "Tier 2 renewable source" means one or more of the following types of  
2 energy sources:

3 (1) hydroelectric power other than pump storage generation;

4 (2) incineration of poultry litter, if the Maryland Energy  
5 Administration and the Maryland Department of Agriculture determine that there is a  
6 sufficient quantity of poultry litter available for the economic viability of any existing  
7 and operating entity that is sited on the Delmarva Peninsula and that, as of July 1,  
8 2004, processes and pasteurizes chicken litter as fertilizer; and

9 (3) waste-to-energy.

10 (N) **"TIER 3 RENEWABLE SOURCE" MEANS PHOTOVOLTAIC POWER.**

11 7-702.

12 (a) It is the intent of the General Assembly to:

13 (1) recognize the economic, environmental, fuel diversity, and security  
14 benefits of renewable energy resources;

15 (2) establish a market for electricity from these resources in  
16 Maryland; and

17 (3) lower the cost to consumers of electricity produced from these  
18 resources.

19 (b) The General Assembly finds that:

20 (1) the benefits of electricity from renewable energy resources,  
21 including long-term decreased emissions, a healthier environment, increased energy  
22 security, and decreased reliance on and vulnerability from imported energy sources,  
23 accrue to the public at large; and

24 (2) electricity suppliers and consumers share an obligation to develop  
25 a minimum level of these resources in the electricity supply portfolio of the State.

26 7-703.

27 (a) (1) (i) The Commission shall implement a renewable energy  
28 portfolio standard:

1                   **A. FROM TIER 1 AND TIER 2 RENEWABLE SOURCES**

2 that, except as provided under paragraph (2) of this subsection, applies to all retail  
3 electricity sales in the State by electricity suppliers; **AND**

4                   **B. FROM TIER 3 RENEWABLE SOURCES THAT**  
5 **APPLIES TO ONLY ELECTRIC COMPANIES WHOSE RATES ARE REGULATED BY**  
6 **THE COMMISSION.**

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

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

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

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

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

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

23                   (1) [in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2  
24 renewable sources;

25                   (2)] in 2007, 1% from Tier 1 renewable sources [and], 2.5% from Tier 2  
26 renewable sources, **AND 0% FROM TIER 3 RENEWABLE SOURCES;**

27                   [(3)] **(2)** in 2008, 2% from Tier 1 renewable sources [and], 2.5% from  
28 Tier 2 renewable sources, **AND 0.005% FROM TIER 3 RENEWABLE SOURCES;**

1            [(4)] (3)        in 2009, 2% from Tier 1 renewable sources [and], 2.5% from  
2 Tier 2 renewable sources, **AND 0.01% FROM TIER 3 RENEWABLE SOURCES;**

3            [(5)] (4)        in 2010, 3% from Tier 1 renewable sources [and], 2.5% from  
4 Tier 2 renewable sources, **AND 0.025% FROM TIER 3 RENEWABLE SOURCES;**

5            [(6)] (5)        in 2011, 3% from Tier 1 renewable sources [and], 2.5% from  
6 Tier 2 renewable sources, **AND 0.04% FROM TIER 3 RENEWABLE SOURCES;**

7            [(7)] (6)        in 2012, 4% from Tier 1 renewable sources [and], 2.5% from  
8 Tier 2 renewable sources, **0.06% FROM TIER 3 RENEWABLE SOURCES;**

9            [(8)] (7)        in 2013, 4% from Tier 1 renewable sources [and], 2.5% from  
10 Tier 2 renewable sources, **AND 0.1% FROM TIER 3 RENEWABLE SOURCES;**

11           [(9)] (8)        in 2014, 5% from Tier 1 renewable sources [and], 2.5% from  
12 Tier 2 renewable sources, **AND 0.15% FROM TIER 3 RENEWABLE SOURCES;**

13           [(10)] (9)        in 2015, 5% from Tier 1 renewable sources [and], 2.5% from  
14 Tier 2 renewable sources, **AND 0.25% FROM TIER 3 RENEWABLE SOURCES;**

15           [(11)](10)        in 2016, 6% from Tier 1 renewable sources [and], 2.5% from  
16 Tier 2 renewable sources, **AND 0.35% FROM TIER 3 RENEWABLE SOURCES;**

17           [(12)] (11)        in 2017, 6% from Tier 1 renewable sources [and], 2.5% from  
18 Tier 2 renewable sources, **AND 0.55% FROM TIER 3 RENEWABLE SOURCES;**

19           [(13)] (12)        in 2018, 7% from Tier 1 renewable sources, [and] 2.5% from  
20 Tier 2 renewable sources, **AND 0.9% FROM TIER 3 RENEWABLE SOURCES;[and]**

21           [(14)] (13)        in 2019 [and later], 7.5% from Tier 1 renewable sources  
22 [and], 0% from Tier 2 renewable sources, **AND 1.2% FROM TIER 3 RENEWABLE**  
23 **SOURCES;**

24           (14)    IN 2020, **7.5% FROM TIER 1 RENEWABLE SOURCES, 0% FROM**  
25 **TIER 2 RENEWABLE SOURCES, AND 1.5% FROM TIER 3 RENEWABLE SOURCES;**

26           (15)    IN 2021, **7.5% FROM TIER 1 RENEWABLE SOURCES, 0% FROM**  
27 **TIER 2 RENEWABLE SOURCES, AND 1.85% FROM TIER 3 RENEWABLE SOURCES;**  
28 **AND**

1           **(16) IN 2022 AND LATER, 7.5% FROM TIER 1 RENEWABLE**  
2 **SOURCES, 0% FROM TIER 2 RENEWABLE SOURCES, AND 2% FROM TIER 3**  
3 **RENEWABLE SOURCES.**

4           (c) Before calculating the number of credits required to meet the percentages  
5 established under subsection (b) of this section, an electricity supplier shall exclude  
6 from its total retail electricity sales all retail electricity sales described in subsection  
7 (a)(2) of this section.

8           (d) **(I)** Subject to subsections (a) and (c) of this section, an electricity  
9 supplier shall meet the renewable energy portfolio standard by accumulating the  
10 equivalent amount of renewable energy credits that equal the percentage required  
11 under this section.

12           **(II) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN**  
13 **ELECTRIC COMPANY SHALL MEET THE TIER 3 RENEWABLE ENERGY PORTFOLIO**  
14 **STANDARD BY ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE**  
15 **ENERGY CREDITS FROM TIER 3 RENEWABLE SOURCES THAT EQUAL THE TIER 3**  
16 **PERCENTAGES REQUIRED UNDER THIS SECTION.**

17 7-704.

18           (a) (1) Energy from a Tier 1 renewable source:

19                   (i) is eligible for inclusion in meeting the renewable energy  
20 portfolio standard regardless of when the generating system or facility was placed in  
21 service; and

22                   (ii) may be applied to the percentage requirements of the  
23 standard for either Tier 1 renewable sources or Tier 2 renewable sources.

24           (2) Energy from a Tier 1 renewable source under § [7-701(l)(8)]  
25 **7-701(L)(7)** of this subtitle is eligible for inclusion in meeting the renewable energy  
26 portfolio if it is generated at a dam that existed as of January 1, 2004, even if a system  
27 or facility that is capable of generating electricity did not exist on that date.

28           (3) (i) Energy from a Tier 2 renewable source under § 7-701(m)(1)  
29 or (3) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio  
30 standard through 2018 if it is generated at a system or facility that existed and was  
31 operational as of January 1, 2004, even if the facility or system was not capable of  
32 generating electricity on that date.

1                   (ii) Energy from a Tier 2 renewable source under § 7-701(m)(2)  
2 of this subtitle is eligible for inclusion in meeting the renewable energy portfolio  
3 standard regardless of when the generating system was placed in service.

4           (b) On or after January 1, 2004, an electricity supplier may:

5                   (1) receive renewable energy credits; and

6                   (2) accumulate renewable energy credits under this subtitle.

7           (c) [An electricity supplier shall receive double credit toward meeting the  
8 renewable energy portfolio standard for energy derived from solar energy.

9           (d)] (1) This subsection applies only to a generating facility that is placed  
10 in service on or after January 1, 2004.

11                   (2) (i) On or before December 31, 2005, an electricity supplier shall  
12 receive 120% credit toward meeting the renewable energy portfolio standard for  
13 energy derived from wind.

14                   (ii) After December 31, 2005, and on or before December 31,  
15 2008, an electricity supplier shall receive 110% credit toward meeting the renewable  
16 energy portfolio standard for energy derived from wind.

17                   (3) On or before December 31, 2008, an electricity supplier shall  
18 receive 110% credit toward meeting the renewable energy portfolio standard for  
19 energy derived from methane under § [7-701(1)(4)] **7-701(L)(3)** of this subtitle.

20           [(e)] **(D)** An electricity supplier shall receive credit toward meeting the  
21 renewable energy portfolio standard for electricity derived from the biomass fraction of  
22 biomass co-fired with other fuels.

23           [(f)] **(E)** (1) In this subsection, “customer” means:

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

26                   (ii) a renewable on-site generator.

1           (2) (i) A customer may independently acquire renewable energy  
2 credits to satisfy the standards applicable to the customer's load, including credits  
3 created by a renewable on-site generator.

4           (ii) [Except as provided in subparagraph (iii)1 of this paragraph,  
5 the customer shall surrender the credits necessary to meet the standard to its  
6 electricity supplier for inclusion in the electricity supplier's compliance report under §  
7 7-705 of this subtitle.

8           (iii) 1.] Credits that a customer [surrenders] **TRANSFERS** to  
9 its electricity supplier to meet the standard and that the electricity supplier relies on  
10 in submitting its compliance report may not be resold or retransferred by the customer  
11 or by the electricity supplier.

12           [2. The customer may retain or transfer any credits in  
13 excess of the amount needed to satisfy the standard for the customer's load.

14           (iv) A customer who surrenders credits under this subsection  
15 retains all rights and title to any environmental or other attributes associated with  
16 the credits, including emission reductions or related allowances.]

17           (3) A renewable on-site generator [shall receive credit] **MAY RETAIN**  
18 **OR TRANSFER AT ITS SOLE OPTION ANY CREDITS CREATED BY THE RENEWABLE**  
19 **ON-SITE GENERATOR, INCLUDING CREDITS** for the portion of its on-site generation  
20 from a Tier 1 [renewable source or a], Tier 2, **OR TIER 3** renewable source that  
21 displaces the purchase of electricity by the renewable on-site generator from the grid.

22           (4) A customer that satisfies the standard applicable to the customer's  
23 load under this subsection may not be required to contribute to a compliance fee  
24 recovered under § 7-706 of this subtitle.

25           (5) The Commission shall adopt regulations governing the application  
26 and transfer of credits under this subsection consistent with federal law.

27           [(g)] **(F)** (1) In order to create a renewable energy credit, a Tier 1  
28 [renewable source or], Tier 2, **OR TIER 3** renewable source must substantially comply  
29 with all applicable environmental and administrative requirements, including air  
30 quality, water quality, solid waste, and right-to-know provisions, permit conditions,  
31 and administrative orders.

32           (2) (i) This paragraph applies to Tier 2 renewable sources that  
33 incinerate solid waste.

1 (ii) At least 80% of the solid waste incinerated at a Tier 2  
2 renewable source facility shall be collected from:

3 1. for areas in Maryland, jurisdictions that achieve the  
4 recycling rates required under § 9–505 of the Environment Article; and

5 2. for other states, jurisdictions for which the electricity  
6 supplier demonstrates recycling substantially comparable to that required under §  
7 9–505 of the Environment Article, in accordance with regulations of the Commission.

8 (iii) An electricity supplier may report credits received under  
9 this paragraph based on compliance by the facility with the percentage requirement of  
10 subparagraph (ii) of this paragraph during the year immediately preceding the year in  
11 which the electricity supplier receives the credit to apply to the standard.

12 7–705.

13 (a) Each electricity supplier **AND EACH ELECTRIC COMPANY WHOSE**  
14 **RATES ARE REGULATED BY THE COMMISSION** shall submit a report to the  
15 Commission each year in a form and by a date specified by the Commission that:

16 (1) demonstrates that [the electricity supplier] **IT** has complied with  
17 the applicable renewable energy portfolio standard under § 7–703 of this subtitle and  
18 includes the submission of the required amount of renewable energy credits; or

19 (2) demonstrates the amount of electricity sales by which [the  
20 electricity supplier] **IT** failed to meet the applicable renewable energy portfolio  
21 standard.

22 (b) If an electricity supplier fails to comply with the renewable energy  
23 portfolio standard **FOR TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE**  
24 **SOURCES** for the applicable year, the electricity supplier shall pay into the Maryland  
25 Renewable Energy Fund established under § 7–707 of this subtitle:

26 (1) except as provided in paragraph (2) of this subsection, a  
27 compliance fee of:

28 (i) 2 cents for each kilowatt–hour of shortfall from required  
29 Tier 1 renewable sources; and

1 (ii) 1.5 cents for each kilowatt-hour of shortfall from required  
2 Tier 2 renewable sources; or

3 (2) for industrial process load:

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

- 6 1. 0.8 cents in 2006, 2007, and 2008;
- 7 2. 0.5 cents in 2009 and 2010;
- 8 3. 0.4 cents in 2011 and 2012;
- 9 4. 0.3 cents in 2013 and 2014;
- 10 5. 0.25 cents in 2015 and 2016; and
- 11 6. 0.2 cents in 2017 and later; and

12 (ii) nothing for any shortfall from required Tier 2 renewable  
13 sources.

14 (C) IF AN ELECTRIC COMPANY FAILS TO COMPLY WITH THE RENEWABLE  
15 ENERGY PORTFOLIO STANDARD FOR TIER 3 RENEWABLE SOURCES FOR THE  
16 APPLICABLE YEAR, THE ELECTRIC COMPANY SHALL PAY INTO THE MARYLAND  
17 RENEWABLE ENERGY FUND ESTABLISHED UNDER § 7-707 OF THIS SUBTITLE  
18 FOR EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED TIER 3  
19 RENEWABLE SOURCES A COMPLIANCE FEE OF:

- 20 (1) 45 CENTS IN 2007 AND 2008;
- 21 (2) 40 CENTS IN 2009 AND 2010;
- 22 (3) 35 CENTS IN 2011 AND 2012;
- 23 (4) 30 CENTS IN 2013 AND 2014;
- 24 (5) 25 CENTS IN 2015 AND 2106; AND
- 25 (6) 20 CENTS IN 2017 AND LATER.

1           [(c)] (D)     The Commission may allow an electricity supplier **OR AN**  
2 **ELECTRIC COMPANY** to submit the report required under § 7-505(b)(4) of this title to  
3 demonstrate compliance with the renewable energy portfolio standard.

4           [(d)] (E)     An aggregator or broker who assists an electricity customer in  
5 purchasing electricity but who does not supply the electricity or take title to or  
6 ownership of the electricity may require the electricity supplier who supplies the  
7 electricity to demonstrate compliance with this subtitle.

8           **(F) (1) NOTWITHSTANDING THE TIER 3 RENEWABLE ENERGY**  
9 **PORTFOLIO STANDARD REQUIREMENTS UNDER § 7-703(B) OF THIS TITLE, IF**  
10 **THE ACTUAL DOLLAR-FOR-DOLLAR COSTS INCURRED SOLELY FOR THE**  
11 **PURCHASE OF TIER 3 RENEWABLE ENERGY CREDITS IN ANY ONE YEAR IS**  
12 **GREATER THAN OR EQUAL TO 1% OF THE ANNUAL ELECTRICITY SALES**  
13 **REVENUE FOR AN ELECTRIC COMPANY, THE ELECTRIC COMPANY MAY REQUEST**  
14 **THAT THE COMMISSION DELAY A SCHEDULED INCREASE THAT APPLIES TO THE**  
15 **ELECTRIC COMPANY IN TIER 3 REQUIREMENTS FOR 1 YEAR.**

16           **(2) IN MAKING ITS DETERMINATION UNDER PARAGRAPH (1) OF**  
17 **THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE**  
18 **DOLLAR-FOR-DOLLAR COMPLIANCE COSTS OF OTHER ELECTRIC COMPANIES.**

19 7-706.

20           (a) (1)     Except as provided in paragraph (2) of this subsection, in  
21 accordance with the obligation to provide standard offer service through the bid  
22 process created under § 7-510 of this title, the Commission shall allow an electricity  
23 supplier to recover actual dollar-for-dollar costs incurred, including a compliance fee  
24 under § 7-705 of this subtitle, in complying with a State-mandated renewable energy  
25 portfolio standard.

26           (2)     In accordance with the Phase II Settlement Agreement approved  
27 by the Commission in Order No. 78710 in Case No. 8908 on September 30, 2003, for  
28 any full-service agreement executed before the renewable energy standard under this  
29 subtitle applies to an electric company, the electric company and its wholesale  
30 electricity suppliers may pass through their commercially reasonable additional costs,  
31 if any, associated with complying with the standard, through the end of the year of  
32 standard offer service in which the requirement took effect.

33           (b)     An electricity supplier may recover a compliance fee if:

1 (1) the payment of a compliance fee is the least-cost measure to  
2 customers as compared to the purchase of Tier 1 renewable sources to comply with a  
3 renewable energy portfolio standard;

4 (2) there are insufficient Tier 1 renewable sources available for the  
5 electricity supplier to comply with a renewable energy portfolio standard; or

6 (3) a wholesale electricity supplier defaults or otherwise fails to  
7 deliver renewable energy credits under a supply contract approved by the  
8 Commission.

9 (c) Any cost recovery under this section:

10 (1) for all electricity suppliers, may be in the form of a generation  
11 surcharge payable by all current electricity supply customers, except as otherwise  
12 provided in § [7-704(f)] **7-704 (E)** of this subtitle;

13 (2) shall be disclosed to customers in a manner to be determined by  
14 the Commission; and

15 (3) may not include the costs for a power purchase contract under the  
16 federal Public Utility Regulatory Policy Act contemplated in rates or restructuring  
17 proceedings.

18 (d) (1) In accordance with regulations adopted by the Commission in  
19 consultation with the Department of Business and Economic Development, the  
20 Commission may waive the recovery of all or part of the compliance fee assessed on  
21 the load of a particular industrial or nonretail commercial customer for a particular  
22 year, based on a demonstration by the applicant of an extreme economic hardship that  
23 significantly impairs the continued operation of the applicant.

24 (2) Any compliance fee recovery that is waived under this subsection  
25 may not be assessed against other customers.

26 (3) An electricity supplier is not liable for any compliance fee that is  
27 waived under this subsection.

28 7-707.

29 (a) There is a Maryland Renewable Energy Fund.

1 (b) The purpose of the Fund is to encourage the development of resources to  
2 generate renewable energy in the State.

3 (c) Subject to oversight by the Commission, the Administration shall  
4 administer the Fund.

5 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
6 7-302 of the State Finance and Procurement Article.

7 (2) The Treasurer shall hold the Fund separately and the Comptroller  
8 shall account for the Fund.

9 (e) The Fund consists of:

10 (1) compliance fees paid under § 7-705 of this subtitle;

11 (2) payments received in repayment of a loan;

12 (3) investment earnings of the Fund; and

13 (4) any other money from any other source accepted for the benefit of  
14 the Fund.

15 (f) (1) **[The] IN ACCORDANCE WITH PARAGRAPH (2) OF THIS**  
16 **SUBSECTION, THE** Fund may be used only to make loans and grants to support the  
17 creation of new Tier 1 **AND TIER 3** renewable [energy] sources in the State.

18 **(2) COMPLIANCE FEES PAID UNDER § 7-705 OF THIS SUBTITLE:**

19 **(I) FOR A SHORTFALL IN THE REQUIREMENTS FOR TIER 1**  
20 **RENEWABLE RESOURCES OR TIER 2 RENEWABLE SOURCES, MAY BE USED ONLY**  
21 **TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW TIER 1**  
22 **RENEWABLE SOURCES IN THE STATE; AND**

23 **(II) FOR A SHORTFALL IN THE REQUIREMENTS FOR TIER 3**  
24 **RENEWABLE SOURCES, MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO**  
25 **SUPPORT THE CREATION OF NEW TIER 3 RENEWABLE SOURCES IN THE STATE.**

26 **[(2)] (3)** By regulation the Commission shall adopt eligibility criteria  
27 for projects supported by the Fund.

1            ~~[(3)]~~ (4) (i) The Administration shall receive and review  
2 applications for loans and grants for eligible projects.

3            (ii) The Administration shall approve or disapprove applications  
4 for loans and grants from the Fund.

5            ~~[(4)]~~ (5) (i) Subject to subparagraph (ii) of this paragraph, the  
6 Commission may allow the use of money of the Fund for administrative expenses  
7 related to the Fund and project review and oversight.

8            (ii) The Administration and the Commission may not spend  
9 more than 10% of the funds placed in the Fund for administrative expenses.

10          (g) (1) The Treasurer shall invest the money of the Fund in the same  
11 manner as other State money may be invested.

12          (2) Any investment earnings of the Fund shall be credited to the Fund.

13 7-708.

14          (a) (1) The Commission shall establish and maintain a market-based  
15 renewable electricity trading system to facilitate the creation and transfer of  
16 renewable energy credits.

17          (2) To the extent practicable, the trading system shall be consistent  
18 with and operate in conjunction with the trading system developed by PJM  
19 Interconnection, Inc., if available.

20          (3) The Commission may contract with a for-profit or a nonprofit  
21 entity to assist in the administration of the electricity trading system required under  
22 paragraph (1) of this subsection.

23          (b) (1) The system shall include a registry of pertinent information  
24 regarding all:

25                  (i) available renewable energy credits; and

26                  (ii) renewable energy credit transactions among electricity  
27 suppliers in the State, including:

28                          1. the creation and application of renewable energy  
29 credits;



1 (iii) demonstrated noncompliance by the generating facility with  
2 the requirements of § [7-704(g)] **7-704(F)** of this subtitle.

3 [(d)] **(E)** Notwithstanding subsection [(c)(2)(iii)] **(D)(2)(III)** of this section,  
4 and only if the demonstrated noncompliance does not result in environmental  
5 degradation, an electricity supplier that reasonably includes in its annual report  
6 under § 7-705 of this subtitle a renewable energy credit that is extinguished for  
7 noncompliance with § [7-704(g)(1)] **7-704(F)(1)** or (2) of this subtitle:

8 (1) may continue to rely on that credit for that year; but

9 (2) for later years must:

10 (i) demonstrate a return to compliance of the generating facility  
11 under § [7-704(g)] **7-704(F)** of this subtitle; or

12 (ii) replace the credit with a renewable energy credit from  
13 another source.

14 [(e)] **(F)** The Commission by regulation shall establish requirements for  
15 documentation and verification of renewable energy credits by licensed electricity  
16 suppliers and other generators that create and receive credits for compliance with the  
17 standards for Tier 1 [renewable sources and], Tier 2, **AND TIER 3** renewable sources.

18 **7-714.**

19 **THE COMMISSION SHALL APPOINT AN INDIVIDUAL WHO SHALL BE**  
20 **SOLELY RESPONSIBLE FOR:**

21 **(1) THE OVERSIGHT OF COMPLIANCE WITH THE RENEWABLE**  
22 **ENERGY PORTFOLIO REQUIREMENTS FOR TIER 3 RENEWABLE SOURCES; AND**

23 **(2) THE DEVELOPMENT OF PROGRAMMATIC CHANGES,**  
24 **OUTREACH, AND POLICY RECOMMENDATIONS TO ENSURE THE SUCCESS OF THE**  
25 **RENEWABLE ENERGY PORTFOLIO REQUIREMENTS FOR TIER 3 RENEWABLE**  
26 **SOURCES.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before November  
28 1, 2007, the Public Service Commission shall revise Maryland's interconnection  
29 standards and procedures to be consistent with the interconnection standards of any

1 state in the PJM region with more than 1,000 interconnected renewable on-site  
2 generators.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2007.