

# HOUSE BILL 1112

C5

4lr2475

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By: **Delegate Charkoudian**

Introduced and read first time: February 7, 2024

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Service Commission – Energy Storage Devices – Acquisition and**  
3 **Deployment**

4 FOR the purpose of establishing that a person that applies for a certificate of public  
5 convenience and necessity in response to a certain order is eligible for an expedited  
6 review process of the application; requiring the Public Service Commission to give  
7 priority to the review of and final action on certain applications for a certificate of  
8 public convenience and necessity; requiring the ~~Public Service~~ Commission to  
9 determine whether the deployment of energy storage devices could help to avoid or  
10 limit a reliability–must–run agreement with an energy generating system or facility  
11 in the State under certain circumstances; requiring the Commission to ~~facilitate the~~  
12 ~~acquisition of~~ issue an order directing certain investor–owned electric companies to  
13 construct, acquire, lease, or contract for energy storage devices under certain  
14 circumstances; subjecting certain contracts entered into under this Act to a certain  
15 project labor agreement; authorizing an investor–owned electric company to operate  
16 an energy storage device in wholesale markets or other applications under certain  
17 circumstances; and generally relating to the acquisition and deployment of energy  
18 storage devices.

19 BY adding to

20 Article – Public Utilities

21 Section 7–207(i) and 7–216.2

22 Annotated Code of Maryland

23 (2020 Replacement Volume and 2023 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

**Article – Public Utilities**

7-207.

**(1) (1) IF A PERSON IS REQUIRED TO SUBMIT AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN RESPONSE TO AN ORDER ISSUED UNDER § 7-216.2(C)(2)(I) OF THIS SUBTITLE:**

**(I) THE PERSON IS ELIGIBLE FOR AN EXPEDITED REVIEW PROCESS OF THE APPLICATION FOR THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED UNDER THIS SECTION; AND**

**(II) THE COMMISSION SHALL GIVE PRIORITY TO THE REVIEW OF AND FINAL ACTION ON THE APPLICATION OVER OTHER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY APPLICATIONS THAT ARE BEFORE THE COMMISSION FOR REVIEW AND FINAL ACTION.**

**(2) ON OR BEFORE DECEMBER 1, 2024, THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS ESTABLISHING AN EXPEDITED REVIEW PROCESS FOR APPLICATIONS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY SUBMITTED UNDER THIS SUBSECTION.**

**7-216.2.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “ENERGY STORAGE DEVICE” ~~HAS THE MEANING STATED IN § 7-216 OF THIS SUBTITLE~~ MEANS RESOURCES CAPABLE OF:**

**(I) ABSORBING ELECTRICAL ENERGY;**

**(II) STORING ELECTRICAL ENERGY FOR A PERIOD OF TIME; AND**

**(III) DELIVERING ELECTRICAL ENERGY FOR USE AT A LATER TIME.**

**~~(2)~~ (3) “ENERGY GENERATING SYSTEM” MEANS A SYSTEM OR FACILITY THAT GENERATES ELECTRICITY IN THE STATE AND SELLS THE ELECTRICITY INTO THE REGIONAL MARKET.**

1           (4) ~~“RELIABILITY–MUST–RUN AGREEMENT” MEANS A CONTRACTUAL~~  
2 ~~AGREEMENT OR ARRANGEMENT~~ AN AGREEMENT APPROVED BY THE FEDERAL  
3 ENERGY REGULATORY COMMISSION THAT IS INTENDED TO KEEP AN ENERGY  
4 GENERATING SYSTEM OR FACILITY OPERATING PAST ITS PLANNED RETIREMENT  
5 DATE TO MEET REGIONAL RELIABILITY CRITERIA ESTABLISHED BY PJM  
6 INTERCONNECTION, LLC.

7           (B) (1) THE COMMISSION SHALL DETERMINE, IN ACCORDANCE WITH  
8 ~~PARAGRAPH (2)~~ PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, WHETHER THE  
9 DEPLOYMENT OF ONE OR MORE ENERGY STORAGE DEVICES:

10                   (I) COULD HELP TO AVOID OR LIMIT A RELIABILITY–MUST–RUN  
11 AGREEMENT WITH AN ENERGY GENERATING SYSTEM OR FACILITY IN THE STATE;

12                   (II) COULD PREVENT ADDED COSTS TO RATEPAYERS; AND

13                   (III) IS IN THE PUBLIC INTEREST.

14           (2) THE COMMISSION SHALL MAKE A DETERMINATION UNDER  
15 PARAGRAPH (1) OF THIS SUBSECTION ANY TIME:

16                   (I) THE OFFICE OF PEOPLE’S COUNSEL, THE MARYLAND  
17 ENERGY ADMINISTRATION, AN INVESTOR–OWNED ELECTRIC COMPANY, OR ANY  
18 OTHER PARTY SUBMITS A NOTICE TO THE COMMISSION PROVIDING EVIDENCE THAT  
19 AN ENERGY GENERATING SYSTEM IS LIKELY TO BE DEACTIVATED AND MAY  
20 NEGATIVELY IMPACT SYSTEM RELIABILITY; OR

21                   (II) ~~ANY TIME~~ THAT PJM INTERCONNECTION, LLC RECEIVES,  
22 IN RESPONSE TO A DEACTIVATION NOTICE REGARDING AN ENERGY GENERATING  
23 SYSTEM OR FACILITY WITHIN THE STATE; OR

24                   (III) ~~WITHIN 3 YEARS OF AN EXPECTED RECEIPT OF A~~  
25 ~~DEACTIVATION NOTICE REGARDING AN ENERGY GENERATING SYSTEM OR FACILITY~~  
26 ~~WITHIN THE STATE,~~ DETERMINES THAT DEACTIVATION OF THE ENERGY  
27 GENERATING SYSTEM WOULD NEGATIVELY IMPACT SYSTEM RELIABILITY.

28           (3) (1) BEFORE MAKING A DETERMINATION UNDER PARAGRAPH  
29 (1) OF THIS SUBSECTION, THE COMMISSION SHALL:

30                   1. REQUEST THAT PJM INTERCONNECTION, LLC  
31 PROVIDE THE INFORMATION SPECIFIED UNDER SUBPARAGRAPH (II) OF THIS  
32 PARAGRAPH TO THE COMMISSION IN A TIMELY MANNER; AND

1                   **2. REQUIRE THAT EACH INVESTOR-OWNED ELECTRIC**  
2 **COMPANY PROVIDE THE INFORMATION SPECIFIED UNDER SUBPARAGRAPH (II) OF**  
3 **THIS PARAGRAPH TO THE COMMISSION IN A TIMELY MANNER.**

4                   **(II) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF**  
5 **THIS SUBSECTION, THE COMMISSION MAY USE ANY OF THE FOLLOWING**  
6 **INFORMATION PROVIDED BY PJM INTERCONNECTION, LLC OR AN**  
7 **INVESTOR-OWNED ELECTRIC COMPANY:**

8                   **1. RELEVANT ANALYSES AND ASSESSMENTS RELATED**  
9 **TO A POTENTIAL RELIABILITY-MUST-RUN AGREEMENT;**

10                   **2. ECONOMIC PROJECTIONS, INCLUDING PROJECTIONS**  
11 **RELATED TO TRANSMISSION AND DISTRIBUTION SYSTEM PLANNING;**

12                   **3. RELIABILITY-MUST-RUN AGREEMENT COSTS AND**  
13 **FUTURE WHOLESALE ELECTRICITY COSTS AND REVENUE; AND**

14                   **4. INPUT FROM STATE AGENCIES AND OTHER**  
15 **STAKEHOLDERS OR CONSULTANTS WITH RELEVANT TECHNICAL AND ECONOMIC**  
16 **EXPERTISE.**

17                   **(4) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS**  
18 **SUBSECTION, THE COMMISSION SHALL CONSIDER:**

19                   **(I) THE COST-EFFECTIVENESS OF DEPLOYING ENERGY**  
20 **STORAGE DEVICES COMPARED TO ALLOWING A RELIABILITY-MUST-RUN**  
21 **AGREEMENT TO PROCEED, INCLUDING WHETHER THE POTENTIAL AVOIDED COSTS**  
22 **TO RATEPAYERS JUSTIFIES THE DEPLOYMENT OF ENERGY STORAGE DEVICES;**

23                   **(II) THE LEAD TIME REQUIRED TO PROCURE THE NECESSARY**  
24 **MATERIALS, COMPONENTS, EQUIPMENT, AND LABOR TO DEPLOY THE APPROPRIATE**  
25 **ENERGY STORAGE DEVICES;**

26                   **(III) THE PERMITS AND OTHER FEDERAL, STATE, OR LOCAL**  
27 **AUTHORIZATIONS NECESSARY TO DEPLOY THE APPROPRIATE ENERGY STORAGE**  
28 **DEVICES;**

29                   **(IV) OPERATIONAL DETAILS, CONSTRUCTION TIMELINES, AND**  
30 **OTHER RELEVANT DETAILS OF PROJECTS PJM INTERCONNECTION, LLC**  
31 **APPROVES TO ENSURE RELIABILITY FOLLOWING THE RETIREMENT OF AN ENERGY**  
32 **GENERATING SYSTEM; AND**

1 (V) ANY OTHER FACTORS THE COMMISSION CONSIDERS  
2 RELEVANT TO ITS DETERMINATION.

3 (C) (1) IF THE COMMISSION DETERMINES THAT THE USE OF ~~AN~~ ONE OR  
4 MORE ENERGY STORAGE ~~DEVICE IS A COST-EFFECTIVE SOLUTION OR PART OF A~~  
5 ~~COST-EFFECTIVE SOLUTION TO~~ DEVICES, ALONE OR AS A PART OF A  
6 COMPREHENSIVE PACKAGE, WILL AVOID OR LIMIT A RELIABILITY-MUST-RUN  
7 AGREEMENT AND IS IN THE PUBLIC INTEREST, THE COMMISSION SHALL:

8 (I) ~~FACILITATE THE ACQUISITION OF THE ENERGY STORAGE~~  
9 ~~DEVICES, INCLUDING REQUIRING AN INVESTOR-OWNED ELECTRIC COMPANY TO~~  
10 ~~CONSTRUCT, ACQUIRE, LEASE, OR CONTRACT FOR AN ENERGY STORAGE FACILITY;~~

11 (II) ~~COORDINATE WITH PJM INTERCONNECTION, LLC TO~~  
12 ~~IMPLEMENT THE OTHER PARTS OF THE COST-EFFECTIVE SOLUTION; AND~~

13 (III) ~~DETERMINE THE APPROPRIATE AMOUNT OF COST~~  
14 ~~RECOVERY FROM CUSTOMERS IN THE STATE NOTIFY PJM INTERCONNECTION, LLC~~  
15 ~~OF THE DETERMINATION; AND~~

16 (II) REQUEST THAT PJM INTERCONNECTION, LLC PROVIDE  
17 WRITTEN CONFIRMATION TO THE COMMISSION REGARDING WHETHER PJM  
18 INTERCONNECTION, LLC IS:

19 1. LIKELY TO DIRECT OR AUTHORIZE THE  
20 INTERCONNECTION OF A TRANSMISSION PROJECT RELATED TO THIS  
21 DETERMINATION, INCLUDING THE CONSTRUCTION OF OR FACILITATING THE  
22 CONSTRUCTION OF ANY NECESSARY ENERGY STORAGE DEVICES ON THE  
23 TRANSMISSION SYSTEM; AND

24 2. UNLIKELY TO SEEK A RELIABILITY-MUST-RUN  
25 AGREEMENT FOR ANY PERIOD OF TIME THAT THE PROPOSED ENERGY STORAGE  
26 DEVICE, ALONE OR AS A PART OF A COMPREHENSIVE PACKAGE, WILL ADDRESS  
27 RELIABILITY NEED.

28 (2) ON RECEIPT OF WRITTEN CONFIRMATION FROM PJM  
29 INTERCONNECTION, LLC UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE  
30 COMMISSION SHALL:

31 (I) ISSUE AN ORDER DIRECTING AN INVESTOR-OWNED  
32 ELECTRIC COMPANY TO CONSTRUCT, ACQUIRE, LEASE, OR CONTRACT FOR ONE OR  
33 MORE ENERGY STORAGE DEVICES OF A SIZE AND SCOPE THAT WOULD, ALONE OR AS  
34 A PART OF A COMPREHENSIVE PACKAGE, SATISFY THE RELIABILITY NEED

1 IDENTIFIED OR CONFIRMED BY PJM INTERCONNECTION, LLC THAT WOULD HAVE  
 2 OTHERWISE BEEN SATISFIED BY A RELIABILITY–MUST–RUN AGREEMENT;

3 (II) ENGAGE IN PERIODIC COMMUNICATION AND  
 4 COORDINATION WITH PJM INTERCONNECTION, LLC REGARDING THE TIMELY  
 5 IMPLEMENTATION OF THE CONSTRUCTION AND OPERATION OF TRANSMISSION  
 6 SYSTEM COMPONENTS NECESSARY TO SUPPORT, IN A COST–EFFECTIVE MANNER,  
 7 THE DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

8 (III) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AUTHORIZE  
 9 AN INVESTOR–OWNED ELECTRIC COMPANY TO RECOVER ANY VERIFIABLE AND  
 10 PRUDENTLY INCURRED COSTS ASSOCIATED WITH IMPLEMENTING THE  
 11 REQUIREMENTS OF THIS SECTION.

12 ~~(2) (3)~~ IN FACILITATING THE ACQUISITION OF ENERGY STORAGE  
 13 ~~DEVICES~~ ISSUING AN ORDER UNDER PARAGRAPH ~~(1)(1)~~ (2)(1) OF THIS SUBSECTION,  
 14 THE COMMISSION SHALL ~~CONSIDER THE MOST COST–EFFECTIVE OPTION OF THE~~  
 15 ~~FOLLOWING MODELS~~ DETERMINE WHICH OF THE FOLLOWING MODELS BEST SERVES  
 16 THE PUBLIC INTEREST:

17 (I) A “UTILITY–ONLY” MODEL UNDER WHICH THE ELECTRIC  
 18 COMPANY WOULD OWN THE PROJECT, CONTROL THE PROJECT FOR ELECTRIC  
 19 TRANSMISSION OR DISTRIBUTION SYSTEM RELIABILITY, AND, IF APPROPRIATE,  
 20 OPERATE THE PROJECT IN WHOLESALE MARKETS OR FOR OTHER APPLICATIONS  
 21 WHEN NOT PROVIDING ELECTRIC TRANSMISSION OR DISTRIBUTION SYSTEM  
 22 SERVICES;

23 (II) A “THIRD–PARTY OWNERSHIP” MODEL UNDER WHICH ~~THE~~  
 24 AN INVESTOR–OWNED ELECTRIC COMPANY WOULD:

25 1. CONTRACT WITH A THIRD PARTY FOR A PROJECT  
 26 THAT IS OWNED BY THE THIRD PARTY AND THAT PROVIDES ELECTRIC  
 27 TRANSMISSION OR DISTRIBUTION SYSTEM RELIABILITY; AND

28 2. IF APPROPRIATE, ALLOW THE THIRD PARTY TO  
 29 OPERATE THE PROJECT IN WHOLESALE MARKETS OR FOR OTHER APPLICATIONS  
 30 WHEN THE PROJECT IS NOT PROVIDING ELECTRIC TRANSMISSION OR DISTRIBUTION  
 31 SYSTEM SERVICES; OR

32 (III) ANY OTHER OPTIONS OR COMBINATION OF OPTIONS THAT  
 33 THE COMMISSION DETERMINES IS BENEFICIAL TO ELECTRICITY CUSTOMERS.

34 ~~(3) (4)~~ EACH CONTRACT ENTERED INTO UNDER THIS SUBSECTION  
 35 FOR THE CONSTRUCTION OF ENERGY STORAGE DEVICES OR FACILITIES SHALL ~~BE~~

1 ~~SUBJECT TO A PROJECT LABOR AGREEMENT THAT REQUIRES~~ REQUIRE ALL  
2 CONTRACTORS AND SUBCONTRACTORS ON A CONTRACT TO:

3 (I) PAY THE PREVAILING WAGE AS DETERMINED BY THE  
4 MARYLAND DEPARTMENT OF LABOR; AND

5 (II) HIRE REGISTERED APPRENTICES TO PERFORM AT LEAST  
6 12.5% OF THE TOTAL WORK HOURS REQUIRED FOR THE CONSTRUCTION OF THE  
7 BATTERY STORAGE DEVICE OR FACILITY.

8 (D) (1) IF THE COMMISSION ISSUES AN ORDER DIRECTING AN  
9 INVESTOR-OWNED ELECTRIC COMPANY TO DEPLOY ONE OR MORE ENERGY  
10 STORAGE DEVICES TO SUPPORT THE TRANSMISSION SYSTEM IN ACCORDANCE WITH  
11 SUBSECTION (C) OF THIS SECTION, THE INVESTOR-OWNED ELECTRIC COMPANY  
12 SHALL SEEK RECOVERY OF THE COSTS TO DEPLOY THE ENERGY STORAGE DEVICES:

13 (I) AS A TRANSMISSION ASSET WITH THE FEDERAL ENERGY  
14 REGULATORY COMMISSION; AND

15 (II) IN A MANNER REASONABLY ANTICIPATED TO MAXIMIZE THE  
16 VALUE FOR CUSTOMERS OF THE INVESTOR-OWNED ELECTRIC COMPANY.

17 (2) (I) SUBJECT TO APPROVAL BY THE COMMISSION, AN  
18 INVESTOR-OWNED ELECTRIC COMPANY MAY RECOVER IN ITS DISTRIBUTION RATES  
19 ANY PRUDENTLY INCURRED COSTS TO DEPLOY ONE OR MORE ENERGY STORAGE  
20 DEVICES THAT WERE NOT APPROVED FOR COST RECOVERY BY THE FEDERAL  
21 ENERGY REGULATORY COMMISSION.

22 (II) AN INVESTOR-OWNED ELECTRIC COMPANY THAT  
23 RECOVERS THE COST OF DEPLOYING ONE OR MORE ENERGY STORAGE DEVICES IN  
24 ITS DISTRIBUTION RATES SHALL OPERATE THE DEVICE IN A WAY THAT MAXIMIZES  
25 THE VALUE OF THE DEVICE FOR THE CUSTOMERS OF THE INVESTOR-OWNED  
26 ELECTRIC COMPANY.

27 (3) AN INVESTOR-OWNED ELECTRIC COMPANY THAT IS ORDERED TO  
28 DEPLOY ONE OR MORE ENERGY STORAGE DEVICES UNDER THIS SECTION IS  
29 ENTITLED TO SEEK RECOVERY OF ITS VERIFIABLE AND PRUDENTLY INCURRED  
30 COSTS, EVEN IF THE ENERGY STORAGE DEVICE IS NOT DEPLOYED IN TIME TO AVOID  
31 OR LIMIT A RELIABILITY-MUST-RUN AGREEMENT, IF:

32 (I) FOR AN ENERGY STORAGE DEVICE THAT WAS NOT  
33 DEPLOYED IN TIME TO AVOID OR LIMIT A RELIABILITY-MUST-RUN AGREEMENT,  
34 THERE WAS A REASONABLE EXPECTATION THAT THE ENERGY STORAGE DEVICE

1 WOULD HAVE BEEN DEPLOYED IN TIME TO AVOID OR LIMIT THE RELIABILITY–MUST–  
2 RUN AGREEMENT; AND

3 (II) THE COSTS WERE NOT APPROVED BY THE FEDERAL  
4 ENERGY REGULATORY COMMISSION FOR RECOVERY.

5 (E) SUBJECT TO APPROVAL BY THE COMMISSION, AN INVESTOR–OWNED  
6 ELECTRIC COMPANY MAY OPERATE AN ENERGY STORAGE DEVICE IN WHOLESALE  
7 MARKETS OR OTHER APPLICATIONS WHEN THE ENERGY STORAGE DEVICE IS NOT  
8 PROVIDING ELECTRICITY TO THE TRANSMISSION OR DISTRIBUTION SYSTEM.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 ~~October~~ June 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.