SB 1

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1 (Senator Augustine)

Education, Energy, and the Environment Economic Matters

Electricity and Gas - Retail Supply - Regulation and Consumer Protection

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This bill alters regulatory requirements for the marketing and sale of electricity and gas by retail suppliers, utilities, and related entities. Most of the requirements are related to residential service. The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electricity supply agreement or gas supply agreement that is in effect on or before December 31, 2024. The bill also (1) increases the maximum amount that the Public Service Commission (PSC) may assess public service companies each year to reimburse its expenses; (2) alters the name, purposes, and permissible uses of the Retail Choice Customer Education and Protection Fund; and (3) requires PSC to conduct a study on co-located load configuration. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Net special fund expenditures for PSC and the Office of People's Counsel (OPC) increase by $1.7 million FY 2025. Future years generally reflect annualization and the elimination of one-time costs. The FY 2025 budget as passed by the General Assembly includes 12 positions and $1.2 million in associated net funding for PSC and OPC, contingent on enactment of this bill or its cross file, as discussed below. Special fund revenues increase correspondingly from fees and from assessments imposed on public service companies to fund PSC and OPC operations. Other effects are discussed below.

($ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	$1.7	$1.8	$1.9	$2.0	$2.1
SF Expenditure	$1.7	$1.8	$1.9	$2.0	$2.1
Net Effect	$0.0	$0.0	$0.0	$0.0	$0.0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Broadly, in addition to other minor and conforming changings, the bill:

- establishes an energy salesperson license and an energy vendor license, subject to specified requirements;
- updates and aligns licensing requirements for electricity and gas suppliers and enhances related penalties;
- establishes new requirements for residential electricity supplier contracts;
- establishes new reporting requirements for billing entities;
- establishes new requirements related to electric and gas company marketing and cost recovery;
- establishes additional requirements on green power marketing;
- establishes additional requirements for residential energy retailers, as defined;
- states the intent of the General Assembly that PSC establish, staff, and fund a new division focused on retail supply;
- authorizes PSC to impose a one-time $275,000 special assessment;
- increases the amount that PSC may annually assess each public service company to fund its operations;
- modifies the purposes and permissible uses of the Retail Choice Customer Education and Protection Fund, renames it the Education and Protection Fund, and allows for it to be used as a funding source for a required training and educational program; and
- requires PSC to study and make recommendations on issues related to co-located load configuration and to report its findings and recommendations to specified committees of the General Assembly by December 15, 2024.

New Licenses

The bill establishes energy salesperson and energy vendor licenses, subject to specified requirements described below. Energy salespersons and energy vendors are also generally integrated into other provisions relating to electricity and natural gas supply, such as those requiring PSC to adopt consumer protection orders or regulations and establishing civil penalties.

Energy Salesperson License

"Energy salesperson" means an individual who is licensed by PSC to sell:

- electricity or electricity supply services to residential retail electric customers on behalf of an electricity supplier as an employee or agent of the electricity supplier; or
- gas or gas supply services to residential retail gas customers on behalf of a gas supplier as an employee or agent of the gas supplier.

It does not include specified governmental entities or an employee or contractor of an electric company when the individual is performing duties specific to standard offer service (SOS).

Beginning July 1, 2025, a person may not engage in the business of an energy salesperson in the State unless the person holds a license issued by PSC. Additionally, a licensed energy salesperson may offer or sell electricity supply agreements or gas supply agreements to customers in the State only if the energy salesperson is associated with a licensed electricity supplier or licensed gas supplier, respectively.

The bill specifies application requirements for an energy salesperson license, including providing proof of association with a licensed electricity or gas supplier, as appropriate, payment of an applicable licensing fee, and proof of compliance with applicable training requirements for customer protection. PSC must also, by regulation or order, require proof of financial integrity and require the licensee to post a bond or similar instrument if, in PSC's judgement, it is necessary to insure the licensee's financial integrity. The term of the license is three years and may be renewed. Terms may be staggered by PSC. The license cannot be transferred without prior PSC approval.

Energy Vendor License

"Energy vendor" means a person that has a contract or subcontract to provide energy sales services to an electricity supplier or a gas supplier that provides electricity supply services or gas supply services, respectively, to a residential customer.

Beginning July 1, 2025, a person may not engage in the business of an energy vendor in the State unless the person holds a license issued by PSC. The bill specifies application requirements for an energy vendor license, including payment of an applicable licensing fee, and additional actions that PSC must take by regulation or order that mirror those for energy salespersons. The term of the license is three years and may be renewed. Terms may be staggered by PSC. The license cannot be transferred without prior PSC approval.

Public Service Commission Licensing and Related Enforcement Activities

Existing provisions related to PSC's authority to license electricity and gas suppliers are updated to incorporate energy salespersons and energy vendors and to authorize PSC to deny an initial license or refuse to renew a license. Additionally, PSC's authority to impose a moratorium on adding or soliciting customers by an electricity supplier for just cause on its own investigation, or on complaint of OPC, the Attorney General, or an affected party is expanded to include other specified regulatory actions: licensing, civil penalties, and ordering refunds. The expanded authority for electricity suppliers is mirrored in updated provisions regulating gas suppliers.

The maximum civil penalty for related electricity supplier violations is increased from $10,000 to $25,000 and applicability is expanded to include energy vendors. Civil penalty and other PSC enforcement provisions for electricity suppliers are mirrored in updated provisions regulating gas suppliers, including the maximum civil penalty of $25,000. Energy salespersons are not subject to a civil penalty, but are subject, after a hearing, to specified administrative actions, such as license revocation.

Residential Electricity or Gas Supply Other Than Standard Offer Service

For residential electricity supply other than supply offered through SOS or specified governmental entities, a residential electricity supplier:

- may offer electricity, other than green power, only at a price that does not exceed the trailing 12-month average of the electric company's SOS rate in the electric company's service territory as of the date of agreement with the customer;
- may offer residential electricity supply only for a term up to 12 months at a time and without automatic renewal;
- may, for electricity supply other than green power, automatically renew the term only if the electricity supplier provides notice to the customer 90 days before and 30 days before renewal;
- may offer green power that meets specified requirements, discussed below, but may not automatically renew the term with the customer;
- may not offer a variable rate other than a rate that adjusts for seasonal variation up to two times in a single year (this does not prohibit the offer and use of time-of-use rates that establish different rates for periods within a single day); and
- may not pay a commission or other incentive-based compensation to an energy salesperson for enrolling customers.

Additionally, a residential electricity supplier may not sell to an electric company, and an electric company may not purchase from an electricity supplier, accounts receivable. The above requirements must be construed to apply to all electricity agreements and supply agreements entered into or renewed on or after January 1, 2025.

An electric company and a residential electricity supplier must establish a mechanism for a customer whose account number or customer choice identification number has been compromised to receive a replacement number on request, subject to verification in a manner approved by PSC.

Generally, as approved by PSC by regulation or order, each electric company and each residential electricity supplier must allow a customer to indicate the customer's intention to remain on SOS indefinitely and not to receive directed marketing contacts from electricity suppliers through the implementation of a "do not transfer" list onto which the customer may request to be placed.

The bill establishes parallel requirements for gas suppliers that supply gas to residential gas customers – although there are no requirements related to green power.

The requirement that PSC establish the definition of "default service" and include information on the transition of SOS to a default service in a recurring report are repealed.

Monthly Data Reporting

By the 15th day of each month, each billing entity, as defined, must submit a report to PSC on customer choice in its service territory for the preceding month, including:

- the total kilowatt-hours distributed, and supply cost charged, to customers purchasing electricity from a third-party electricity supplier, along with the total cost that would have been paid by those customers under SOS;
- the net third-party total cost compared to the net SOS cost;
- the total third-party average rate, the SOS average rate, and the difference between the two;
- various specified third-party average rates for specified customers and types of rates, and the variance between such rates and the SOS average rate; and
- other pertinent information PSC considers appropriate.

The bill establishes parallel requirements billing entities for gas customers.

Marketing and Cost Recovery

Generally, except for materials to educate or inform a retail customer about SOS, default gas commodity service, or customer choice, an electric company or gas company may not recover through its rates costs associated with marketing its services. However, PSC may adopt criteria for reviewing marketing and other communications materials to determine whether their costs may be recovered through rates.

An electric cooperative may advertise, market, and promote SOS and related products in its service territory in compliance with appropriate consumer protections consistent with those that apply to electricity suppliers under § 7-507 of the Public Utilities Article (this does not apply to Choptank Electric Cooperative). An electric cooperative may recover through its rates any costs associated with marketing its services, including the costs associated with materials that educate or inform a retail customer about SOS or customer choice.

Green Power Marketing

Generally, an electricity supplier that supplies electricity to residential electric customers may not market electricity as "green power" unless:

- the percentage of electricity being offered, or the equivalent number of renewable energy credits (RECs) associated with the electricity being marketed as green power, equals or exceeds the greater of 51% or 1% higher than the Renewable Energy Portfolio Standard (RPS) for the year the electricity is provided to the customer; and
- PSC approves the price of the electricity being marketed as green power, subject to specified requirements.

PSC must hold a proceeding each year to set the price per megawatt-hour for electricity marketed as green power that, generally, an electricity supplier may not exceed. However, the bill establishes a process that authorizes PSC to set a higher price for a particular electricity supplier under specified circumstances. Among other requirements, the electricity supplier must demonstrate to PSC that the actual cost for the generation or supply of electricity exceeds the general green power price set by PSC. A separate price approved by PSC may not be more than 150% of the general price unless PSC determines that the actual cost of the green power exceeds the general price; any such approval requires PSC to report to the General Assembly, as specified. PSC must annually review any specific supplier prices.

Beginning January 1, 2025, an electricity supplier must purchase RECs for each year the electricity supplier offers green power for sale to residential retail electric customers. The RECs must be retired in a PJM Generation Attribute Tracking System reserve subaccount accessible by PSC.

An electricity supplier that claims in its marketing materials for residential customers that the customer will be purchasing green power must include in those marketing materials related disclosures about the source of the green power. The bill specifies one disclosure and requires PSC to adopt regulations that explain related concepts. An annual reporting requirement for electricity suppliers is updated to include (1) the amount and types of generation associated with RECs purchased in accordance with the bill during the reporting period and (2) the amount of renewable energy certificates that do not qualify as RECs and related information.

PSC, in its discretion, may determine whether an electricity supplier is marketing electricity in accordance with these requirements.

The above requirements do not apply to specified governmental entities or a supplier when supplying electricity to commercial retail electric customers.

Residential Energy Retailer Disclosures

PSC may adopt regulations to (1) require a "residential energy retailer" to post notices and disclosures required under Title 7 of the Public Utilities Article on the retailer's website, subject to specified requirements and (2) require or prohibit the use of specific language in a residential energy retailer's marketing materials, disclaimers, disclosures, and legal documents, as specified. However, PSC must require a residential energy retailer to post on its website the terms and conditions of its residential services and products and an environmental disclosure in clear, unambiguous language. For purposes of these requirements, a "residential energy retailer" means an electricity supplier that supplies electricity to residential retail electric customers, a gas supplier that supplies gas to residential retail customers, an energy salesperson, and an energy vendor. It does not include specified governmental entities or a gas or electric supplier when supplying gas or electricity to commercial retail customers.

General Assembly Intent That the Public Service Commission Establish, Staff, and Fund a New Division

The bill establishes the intent of the General Assembly that:

- PSC establish a division with the specific responsibility to receive, investigate, and resolve complaints against electricity suppliers, gas suppliers, and energy salespersons for violations with respect to retail customers;
- (1) at least two additional Position Identification Numbers (PINs) be created and assigned to the new division, in addition to existing PSC personnel in its Consumer Affairs Division, who may be assigned to assist the new division in its

responsibilities and (2) the Department of Budget and Management (DBM) must include the two PINs in PSC's fiscal 2025 budget;

- the functions of the new division be funded by licensing and renewal fees imposed on electricity suppliers, gas suppliers, and energy salespersons; and
- the special assessment on public service companies authorized under the bill be used for initial funding of the new division.

Special Assessment

Notwithstanding any other provision of law, for fiscal 2025 only, in addition to the amounts appropriated in the budget bill for fiscal 2025, PSC may impose up to $275,000 as a special assessment using the assessment process authorized under § 2-110 of the Public Utilities Article. The assessment must be imposed proportionally, as specified, on the electric companies, electricity suppliers, gas companies, and gas suppliers otherwise subject to PSC's annual assessment. The statutory limit of public service company revenues that applies to PSC's annual assessment does not apply to the bill's special assessment.

The amounts collected under the special assessment may be expended for fiscal 2025 for the support of PSC with an approved budget amendment. Unexpended funds at the end of fiscal 2025 are considered encumbered by PSC and may not be deducted from the fiscal 2026 appropriation.

Annual Assessment on Public Service Company Gross Operating Revenues

The amount that PSC may assess each public service company to fund its operations each year is increased, from 0.25% to 0.5%, of each company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year. The amount that PSC may assess to fund OPC is unchanged.

Retail Choice and Customer Education Fund

The Retail Choice Customer Education and Protection Fund is renamed the Education and Protection Fund. The purposes and permissible uses of the fund are expanded to include (1) educating customers on energy choices that help meet the State's climate commitments, as specified; (2) protecting customers from unfair, false, misleading, or deceptive practices by energy salespersons and energy vendors (currently, this is only for electricity and gas suppliers); and (3) developing a training and educational program for electricity and gas suppliers, energy salespersons, and energy vendors.

Conforming changes are made to allow funding for the currently required supplier training and educational program to include the Education and Protection Fund as a funding source and to include energy salespersons and energy vendors.

By December 31, 2024, PSC must develop the training and education program and report to the General Assembly on the status of program development.

Staggered Licenses with Maximum Three-year Duration

All new and renewed licenses for electricity suppliers, gas suppliers, and energy salespersons must be for a term of no more than three years.

The licenses of electricity suppliers and gas suppliers that are licensed by PSC as of July 1, 2024, must expire on a staggered basis as determined by PSC such that equal numbers of licenses expire throughout each of the following three years, but not later than June 30, 2027.

The licenses of energy salespersons who are licensed by PSC on or before June 30, 2027, must expire on a staggered basis as determined by PSC such that equal numbers of licenses expire each year.

Co-located Load Configuration Study

PSC must study and make recommendations on issues related to the utilization of end-use electricity customer load that is physically connected to the facilities of an existing or planned electric generation facility, also known as co-located load configuration, including:

- any potential cost impacts to Maryland ratepayers related to co-located load configurations;
- any potential impacts to the wholesale capacity, energy, and ancillary markets, or the planning function overseen by PJM Interconnection, LLC related to co-located load configurations;
- any potential impacts to the reliability of the electric distribution or transmission systems serving Maryland related to co-located load configurations; and
- means to manage or mitigate the impacts specified above.

By December 15, 2024, PSC must report its findings and recommendations to the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee.

Current Law:

Retail Customer Choice

Generally

The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a customer's electric company (*e.g.*, Baltimore Gas and Electric Company or Pepco). Competitive electric supply is provided by competitive electricity suppliers. In either case, the electric company delivers the electricity and recovers the costs for delivery through distribution rates. Gas supply and delivery are similarly restructured, with gas suppliers and gas companies.

In practice, to provide SOS, electric companies solicit bids for electricity through a series of rolling auctions every six months. At any one time, the SOS rate reflects the average of four separate auctions held over two years, which has a moderating effect on rate changes.

Supplier Licensing and Related Enforcement Activities

An electricity supplier must be licensed by PSC before doing business in the State. PSC must adopt regulations or issue orders to protect consumers, electric companies, and electricity suppliers from anticompetitive and abusive trade practices and to establish related consumer safeguards, such as procedures for contracting with customers.

An electricity supplier or person selling or offering to sell electricity in the State in violation of supplier licensing requirements, after notice and an opportunity for a hearing, is subject to a civil penalty of up to $10,000 or license revocation or suspension.

PSC is required to license gas suppliers and has the same regulatory authority as it does for electricity suppliers. PSC must adopt licensing requirements and procedures for gas suppliers that protect consumers, the public interest, and the collection of all State and local taxes. Penalties for gas suppliers or persons selling or offering to sell natural gas are not separately specified.

Electricity and gas supplier licenses do not expire under current law.

Limitation on Supply Offers to Households Receiving Energy Assistance

Effective July 1, 2023, unless PSC has approved the supply offer, a retail supplier may not offer to provide electricity or gas to households in the State that have received energy assistance from Office of Home Energy Programs within the Department of Human Services during the previous fiscal year or take other similar actions. An approved supply offer must include a commitment to charging at or below SOS for the duration of the offer.

Energy Supplier Contracts

PSC regulations specify minimum contract requirements for electricity and gas supply, which are similar but not identical. Broadly, a supply contract may only be executed by the appropriate electricity or gas supplier licensee. A supply contract must contain all material terms and conditions, a statement of contract duration and any rollover provision, a statement that the supplier and the customer may terminate the contract early, renewal procedures (if any), and the amount of any cancellation fee. Evergreen contracts are permitted, subject to certain disclosure requirements.

Renewable Energy Credits

Generally, a REC is a tradable commodity equal to one megawatt-hour of electricity generated or obtained from a renewable energy generation resource. REC generators and electricity suppliers are allowed to trade RECs using a PSC-approved system known as the Generation Attributes Tracking System, a trading platform designed and operated by PJM, that tracks the ownership and trading of RECs. Generally, to be eligible for compliance with the State RPS, RECs must be created at a facility either in the PJM region or adjacent to the PJM region if the electricity is delivered into the PJM region, and certain sources, like solar, have further geographic restrictions. For additional related information, see the **Appendix – Renewable Energy Portfolio Standard**.

Annual Assessment on Public Service Company Gross Operating Revenues

The costs and expenses of PSC and OPC must be borne by the public service companies that are subject to PSC's jurisdiction. The total amount that may be charged to a public service company for a State fiscal year, as a percentage of the company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year may not exceed 0.25% for PSC. PSC is also authorized to assess up to 0.074% for the expenses of OPC. Assessed amounts accrue to the Public Utility Regulation Fund.

Retail Choice Customer Education and Protection Fund

Chapter 134 of 2016 established the Retail Choice Customer Education and Protection Fund in PSC. The purpose of the fund is to provide resources to improve PSC's ability to (1) educate customers on retail electric and gas choice and (2) protect customers from unfair, false, misleading, or deceptive practices by electricity or gas suppliers. The fund may be used only for these purposes. Revenues from specified civil penalties assessed on energy suppliers accrue to the fund, rather than the general fund. The fund consists of (1) the revenues from the related civil penalties; (2) money appropriated in the State budget to the fund; and (3) any other money from any other source accepted for the benefit of the fund.

Supplier Training Program

Chapters 373 and 374 of 2020 required PSC to develop a training and educational program, in consultation with interested stakeholders, for any entity or individual that is licensed by PSC as an electricity supplier or a gas supplier, subject to specified requirements. The program must require that a designated representative of each licensed electricity supplier or licensed gas supplier demonstrate a thorough understanding of relevant PSC regulations. PSC must conduct an examination at the end of the training and certify that the designated representative has successfully completed the training. PSC may recover the initial costs of the program through its standard assessment and may establish reasonable fees for the program. In practice, the program has yet to be funded.

State Fiscal Effect: The fiscal effects associated with implementing the bill and the contingent provisions in the fiscal 2025 budget as passed by the General Assembly are discussed separately below.

Implementation of the Bill

Retail Energy Supply – Regulation and Enforcement

PSC advises that the incremental workload required by the bill cannot be absorbed within existing resources. PSC requires additional staff to review potentially thousands of individual licenses and to develop and enforce ongoing licensure and related requirements. Additional funds are also required for contractual services to develop automated licensing and citation platforms. There will also be extensive rulemaking as part of implementation. This estimate reflects the intent of the General Assembly that PSC establish a division with the specific responsibility to receive, investigate, and resolve complaints against electricity suppliers, gas suppliers, and energy salespersons for violations with respect to retail customers; costs may be marginally less if PSC instead hires positions directly into its existing divisions. The fiscal 2025 budget as passed by the General Assembly does not include positions specific to implementation of this bill.

Accordingly, special fund expenditures for PSC increase by $523,296 in fiscal 2025, which accounts for a 90-day startup delay. This estimate reflects the cost of hiring one program manager, one regulatory economist, one administrative specialist, and one staff attorney to administer and enforce the new licensing and related provisions in the bill. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time programming expense.

Positions	4.0
Salaries and Fringe Benefits	$282,272
Programming Costs	200,000
Other Operating Expenses	41,024
Total FY 2025 PSC Implementation Expenditures	**$523,296**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Generally, PSC is funded through an assessment each fiscal year on the public service companies that it regulates. Under the bill, PSC also (1) collects initial and renewal licensure revenue from energy salespersons and energy vendors beginning in fiscal 2026; (2) collects renewal licensure revenue from energy suppliers beginning in fiscal 2025; and (3) is authorized to impose a one-time special assessment of $275,000 in fiscal 2025. Licensure revenues, though unknown, and special assessment revenues are assumed to offset revenues generated from the standard assessment. Accordingly, special fund revenues for PSC increase correspondingly from licensure revenue and assessments imposed on public service companies.

Enhanced penalties are not anticipated to materially affect special fund revenues.

Education and Protection Fund and Education Programs

PSC can handle the bill's requirements related to the (renamed) Education and Protection Fund with existing budgeted resources. PSC advises that special funds (from retail supplier penalties under current law, plus additional penalties under the bill) in the fund will be used as they become available to fund (1) a new climate policy customer education program and (2) the currently required, but unfunded, supplier education program, with modifications for energy salespersons and energy vendors. Funding for retail customer education is expected to remain unchanged. In any particular year, special fund expenditures for PSC may be more or less than they otherwise would have been, as limited funds from retail supplier penalties are used for different purposes under the bill. Annual differences are likely modest, based on recent annual expenditures from the fund of about $450,000.

Assessment Cap Increase

Increasing the percentage of public service company revenues that PSC may assess each year does not directly affect special fund revenues or expenditures. However, it does increase the likelihood that the assessment can collect a sufficient amount of revenues to fund PSC's budget.

Co-located Load Configuration Study

PSC can conduct the study on co-located load configuration and report on its findings and recommendations with existing budgeted resources.

Contingent Funding Effectuated by Enactment of the Bill

The fiscal 2025 budget as passed by the General Assembly includes the following funding for both PSC and OPC, contingent on enactment of this bill or its cross file: $634,837 in special funds for eight positions in PSC; and $528,368 in special funds for five positions in OPC (net of a $200,000 reduction in consultant funding, described below). The budget language specifies that the amounts are to provide operating funds and positions to address capacity and workload challenges. Both PSC and OPC advise that the contingent funding provisions are to support implementation of prior-year legislation, and not this bill. Therefore, this analysis assumes that the contingent funding is in addition to, and distinct from, the administrative requirements and associated fiscal effects described above.

Public Service Commission

Special fund expenditures for PSC increase by $634,837 in fiscal 2025, which accounts for the employee turnover included in the fiscal 2025 budget associated with the new positions and generally reflects an October 1, 2024 start date. This estimate reflects the cost of hiring eight staff due to the contingency in the fiscal 2025 budget that this bill effectuates: one human resources administrator, one staff attorney, two regulatory economists, two engineers, and two senior auditors. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. According to DBM, the $72,208 budgeted for contractual services is meant to fund operating expenses associated with the positions.

Positions	8.0
Salaries and Fringe Benefits	$562,629
Other Operating Expenses	72,208
Total FY 2025 PSC Contingent Expenditures	**$634,837**

Future year expenditures, which range from $772,330 in fiscal 2026 to $875,601 in fiscal 2029, reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time costs.

Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

Office of People's Counsel

Special fund expenditures for OPC increase by $528,368 in fiscal 2025, which accounts for the lack of employee turnover included in the fiscal 2025 budget associated with the new positions and reflects a July 1, 2024 start date. This estimate reflects the cost hiring five staff due to the contingency in the fiscal 2025 budget that this bill effectuates: three assistant People's Counsel, one legislative/communications director, and one administrative specialist. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes a $200,000 reduction in OPC's consultant budget, which this analysis assumes is ongoing, based on information provided by OPC.

Positions	5.0
Salaries and Fringe Benefits	$687,321
Consultant Costs	-200,000
Other Operating Expenses	41,047
Net FY 2025 OPC Contingent Expenditures	**$528,368**

Net future year expenditures, which range from $672,653 in fiscal 2026 to $762,396 in fiscal 2029, reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, the elimination of one-time costs, and continued annual reductions in OPC's consultant budget.

Generally, OPC is also funded through an assessment on the public service companies that PSC regulates. As a result, special fund revenues for OPC increase correspondingly from assessments imposed on public service companies.

Small Business Effect: Small electricity suppliers must comply with the bill's residential contract and price limitations, in addition to salesperson licensing, REC purchasing, green power marketing, reporting, and disclosure requirements. In particular, the contract limitations and the prohibition against the sale of residential accounts receivable to utilities likely limit the ability of many small suppliers to meaningfully participate in the retail markets in the State. For example, under current practice, many contract offerings are for longer than one year and may include rates higher than SOS. Electric companies also purchase accounts receivable from electricity suppliers and then recoup the funds directly from customers through their utility bills. Generally, prohibiting this practice shifts business risk from electric companies to electricity suppliers. Small residential gas suppliers have similar ongoing requirements related to contract and price limitations, licensing, and the sale of accounts receivable.

Finally, additional restrictions on residential electricity and gas supplier contract terms and prices may result in upward pressure on residential energy prices, which may increase costs for some small businesses that pay residential rates.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 267 (Delegate Crosby) - Economic Matters.

Information Source(s): Public Service Commission; Office of People's Counsel; Department of Human Services; Office of the Attorney General (Consumer Protection Division); Department of General Services; Department of Budget and Management; Maryland Municipal League; Department of Legislative Services

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Appendix – Renewable Energy Portfolio Standard

General Overview

Maryland's Renewable Energy Portfolio Standard (RPS) was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. There are specified eligible ("Tier 1" or "Tier 2") sources as well as carve-outs for solar, offshore wind, and geothermal. Electric companies (utilities) and other electricity suppliers must submit renewable energy credits (RECs) equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Historically, RPS requirements have been met almost entirely through RECs, with negligible reliance on ACPs; however, as discussed further below, that has not been the case recently. The Maryland Energy Administration must use ACPs for purposes related to renewable energy, as specified.

In 2024, the requirements are 33.7% from Tier 1 sources, including at least 6.5% from solar and 0.15% from post-2022 geothermal systems, plus 2.5% from Tier 2 sources.

Recent Significant Changes to Overall Percentage Requirements

- Chapter 757 of 2019 significantly increased the percentage requirements, which now escalate over time to a minimum of 50% from Tier 1 sources, including 14.5% from solar, by 2030.

- Chapter 673 of 2021 reduced the amount of solar energy required under the RPS each year from 2022 through 2029, while leaving the nonsolar requirement generally unchanged, before realigning with the previous requirements beginning in 2030. The Act also extended Tier 2 in perpetuity at 2.5%.

- Chapter 164 of 2021 created a carve-out for post-2022 geothermal systems in Tier 1 beginning in 2023.

Limited Applicability to Municipal Electric Utilities and Electric Cooperatives

As RPS percentage requirements have grown over time, legislation has been enacted to limit the effect on municipal electric utilities and electric cooperatives. Tier 1 percentage requirements for municipal electric utilities are limited to 20.4% in total beginning in 2021, including at least 1.95% from solar energy and up to 2.5% from offshore wind. Municipal electric utilities are also exempt from Tier 2 after 2021. Electric cooperatives are exempt from future increases to the solar carve-out beyond 2.5%, and the RPS does not apply to Choptank Electric Cooperative.

Renewable Energy Credits

Generally, a REC is a tradable commodity equal to one megawatt-hour of electricity generated or obtained from a renewable energy generation resource. In other words, a REC represents the "generation attributes" of renewable energy – the lack of carbon emissions, its renewable nature, etc. A REC has a three-year life during which it may be transferred, sold, or redeemed. REC generators and electricity suppliers are allowed to trade RECs using a Public Service Commission (PSC) approved system known as the Generation Attributes Tracking System, a trading platform designed and operated by PJM Environmental Information Services, Inc., that tracks the ownership and trading of RECs.

Eligible Sources

Tier 1 sources include wind (onshore and offshore); solar (photovoltaic and certain water-heating systems); qualifying biomass; methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents, and thermal differences; a fuel cell that produces electricity from specified sources; a small hydroelectric plant of less than 30 megawatts; poultry litter-to-energy; waste-to-energy; refuse-derived fuel; thermal energy from a thermal biomass system; and raw or treated wastewater used as a heat source or sink for heating or cooling. Tier 2 includes only large hydroelectric power plants.

Chapter 673 of 2021 excluded black liquor, or any product derived from black liquor, from Tier 1 beginning in 2022.

Trends in Compliance Costs, Renewable Energy Credit Prices, and Resources Used

Compliance costs for electricity suppliers totaled $438.8 million in 2022: $332.7 million for 15.2 million RECs; and $77.1 million in ACPs. Costs and RECs are shown in **Exhibit 1**. This continues a multi-year trend of increasing compliance costs and, generally, average REC prices.

In 2021, wind (50.8%), solar (13.2%), black liquor (12.5%), small hydroelectric (8.0%), and municipal solid waste (6.4%) were the primary energy sources used for Tier 1 RPS compliance. This continues a multi-year trend of increasing reliance on wind and solar energy. Maryland facilities generated 5.0 million RECs in 2021: approximately 2.9 million Tier 1 RECs; and 2.1 million Tier 2 RECs. Many RECs can be used for compliance in both Maryland and other surrounding states, although there are geographic and energy source restrictions.

Exhibit 1
RPS Compliance Costs and REC Prices
2017-2022

	2017	2018	2019	2020	2021	2022
Compliance Costs ($ Millions)						
Tier 1 Nonsolar RECs	$50.0	$56.4	$79.3	$99.8	$187.3	$246.5
Tier 1 Solar RECs	21.3	27.4	55.2	122.9	144.4	101.4
Tier 2 RECs	0.7	1.0	0.06	0.4	1.0	4.4
ACPs	0.1	0.1	7.7	0.1	77.1	86.6
Total	**$72.1**	**$84.9**	**$142.3**	**$223.2**	**$409.8**	**$438.8**
Average REC Price ($)						
Tier 1 Nonsolar	$7.14	$6.54	$7.77	$8.24	$14.36	$17.80
Tier 1 Solar	38.18	31.91	47.26	66.10	72.59	57.80
Tier 2	0.48	0.66	1.05	1.06	6.45	7.42

ACP: alternative compliance payment
REC: renewable energy credit
RPS: Renewable Energy Portfolio Standard

Note: Numbers may not sum to total due to rounding. The vast majority of ACPs in 2021 and 2022 ($76.9 million and $85.9 million, respectively) were due to a shortfall of solar RECs.

Source: Public Service Commission

Related Studies and Reports

PSC must submit an RPS compliance report to the General Assembly each year. The most recent report, which contains historical data through 2022, can be found here.

The Power Plant Research Program (PPRP) in the Department of Natural Resources has frequently been required to conduct RPS studies. PPRP submitted a final report on a comprehensive RPS study in December 2019, which can be found here. PPRP also submitted a related required study on nuclear energy at that time, which can be found here. A supplemental study on the overall costs and benefits of increasing the RPS to a goal of 100% by 2040 was due by January 1, 2024, but has been delayed.

The Department of Legislative Services also issued a report on the RPS in 2023, which can be found here. The report contains additional detail on the program, significant statutory changes, and visualizations of planned and actual RPS percentage requirements over time.