SENATE BILL 595

C5 7lr1908

By: **Senator Garagiola**
Introduced and read first time: February 2, 2007
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 24, 2007

CHAPTER _____

AN ACT concerning

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

FOR the purpose of increasing a certain limit used to determine the availability of net energy metering to eligible customer–generators; providing that a certain portion of a certain limit shall be for eligible customer–generators that operate solar electric generating facilities; increasing the amount of generating capacity of an electric generating system that may be used by an eligible customer–generator for net metering; requiring that an eligible customer–generator has a title to certain attributes or credits associated with certain electricity produced; requiring the Public Service Commission on or before a certain date each year to report on the status of the net metering program; establishing a Tier 3 renewable portfolio energy standard for electricity derived from solar energy; providing that a Tier 3 renewable portfolio energy standard applies ~~only to electric companies under certain circumstances~~ to electricity suppliers; ~~requiring an electric company to meet the Tier 3 renewable energy portfolio standard in a certain manner;~~ repealing a provision that required an electricity supplier to receive a double credit toward meeting a certain standard derived from solar energy; allowing a renewable on–site generator to retain or transfer certain credits; requiring certain ~~electric companies~~ electricity suppliers to submit a certain report; providing for

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.

compliance fees for certain shortfalls in required Tier 3 renewable sources; allowing an ~~electric company~~ electricity supplier to request a certain delay for a certain scheduled increase under certain circumstances; providing that compliance fees paid for Tier 3 renewable sources be used for a certain support of new Tier 3 renewable sources; requiring that the duration of a certain contract be not less than 15 years; requiring the purchase of certain credits from certain systems to be made in a certain manner in accordance with rates and methods determined by the Commission; requiring the Public Service Commission to ~~appoint~~ designate a certain individual with certain duties; requiring the Commission to convene a certain workgroup to revise ~~certain~~ the State's interconnection standards and procedures to be consistent with certain standards by a certain date; requiring the Commission to investigate certain rate–making mechanisms; providing for the application and construction of certain provisions of this Act; requiring the Commission to include certain information in a report; defining a certain term and altering certain definitions; making stylistic changes; and generally relating to net energy metering, renewable portfolio energy standards, and photovoltaic power generation.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–306, 7–701, 7–703 through 7–705, 7–707, ~~and 7–709~~ 7–709, and 7–712
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–702, 7–706, and 7–708
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

BY adding to
Article – Public Utility Companies
Section 7–714
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Eligible customer–generator" means a customer that owns and operates or leases and operates a biomass, solar, or wind electric generating facility that:

(i) is located on the customer's premises;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

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

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

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

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

(d) The Commission shall require electric utilities to develop a standard contract or tariff for net energy metering and make it available to eligible customer–generators on a first–come, first–served basis until the rated generating capacity owned and operated by eligible customer–generators in the State reaches **[**34.722**]** **1,500** megawatts**, OF WHICH 1,465.28 MEGAWATTS SHALL BE FOR ELIGIBLE CUSTOMER–GENERATORS THAT OWN AND OPERATE OR LEASE AND OPERATE A SOLAR ELECTRIC GENERATING FACILITY[**, 0.2% of the State's adjusted peak–load forecast for 1998**]**.

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

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

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

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

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

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

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

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

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

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

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

(6) ANY REMAINING ACCRUED GENERATION CREDIT AT THE EXPIRATION OF THE 12–MONTH ACCRUAL PERIOD UNDER PARAGRAPH (5)(II)2 OF THIS SUBSECTION:

(I) SHALL REVERT TO THE ELECTRIC COMPANY; AND

(II) MAY NOT BE RECOVERED BY THE ELIGIBLE CUSTOMER–GENERATOR.

(g) **(1)** For an eligible customer–generator whose facility is sized to produce energy in excess of the eligible customer–generator's annual energy consumption, the Commission:

~~(1)~~ **(I)** may require the eligible customer–generator to install a dual meter that is capable of measuring the flow of electricity in two directions; and

~~(2)~~ **(II)** shall develop a credit formula that:

~~(i)~~ **1.** excludes recovery of transmission and distribution costs; and

~~(ii)~~ **2.** provides that the credit may be calculated using a method other than a kilowatt–hour basis, including a method that allows a dollar–for–dollar offset of electricity supplied by the grid compared to electricity generated by the eligible customer–generator.

(2) IN DETERMINING WHETHER TO REQUIRE AN ELIGIBLE CUSTOMER–GENERATOR TO INSTALL A DUAL METER UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE GENERATING CAPACITY OF THE CUSTOMER–GENERATOR.

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

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

2. The Commission may approve a petition for use of an electric generating system with a capacity not exceeding 500 kilowatts for net

metering if the Commission finds that the project meets public safety and reliability requirements and is in the public interest.**]**

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

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

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

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

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

(I) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE NET METERING PROGRAM UNDER THIS SECTION, INCLUDING:

(1) THE AMOUNT OF CAPACITY OF ELECTRIC GENERATING FACILITIES OWNED AND OPERATED BY ELIGIBLE CUSTOMER–GENERATORS IN THE STATE BY TYPE OF ENERGY RESOURCE;

(2) BASED ON THE NEED TO ENCOURAGE A DIVERSIFICATION OF THE STATE'S ENERGY RESOURCE MIX TO ENSURE RELIABILITY, WHETHER THE RATED GENERATING CAPACITY LIMIT IN SUBSECTION (D) OF THIS SECTION SHOULD BE ALTERED FOR ELIGIBLE CUSTOMER–GENERATORS THAT OWN AND

OPERATE OR LEASE AND OPERATE A GENERATING FACILITY OTHER THAN A SOLAR ELECTRIC GENERATING FACILITY; AND

(3) OTHER PERTINENT INFORMATION.

7–701.

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

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

(c) "Fund" means the Maryland Renewable Energy Fund established under § 7–707 of this subtitle.

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

(e) "Old growth timber" means timber from a forest:

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

(2) that exhibits several of the following characteristics:

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

(ii) randomly distributed canopy gaps are present;

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

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

(v) pit and mound topography can be observed.

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

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

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

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

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

A. mill residue, except sawdust and wood shavings;

B. precommercial soft wood thinning;

C. slash;

D. brush; or

E. yard waste;

2. a pallet, crate, or dunnage;

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

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

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

(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this section that is used for co–firing, subject to § **[**7–704(e)**]** **7–704(D)** of this subtitle.

(3) "Qualifying biomass" does not include:

(i) unsegregated solid waste or postconsumer wastepaper; or

(ii) an invasive exotic plant species.

(i) "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from**:**

(1) a Tier 1 renewable source or **[**a**]** Tier 2 renewable source that is located:

[(1)**] (I)** in the PJM region or in a state that is adjacent to the PJM region; or

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

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

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

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

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

(1) **[**solar;

(2)**]** wind;

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

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

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

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

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

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

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

(1) hydroelectric power other than pump storage generation;

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

(3) waste–to–energy.

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

7–702.

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

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

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

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

(b) The General Assembly finds that:

(1) the benefits of electricity from renewable energy resources, including long–term decreased emissions, a healthier environment, increased energy

security, and decreased reliance on and vulnerability from imported energy sources, accrue to the public at large; and

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

7–703.

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

~~A. FROM TIER 1 AND TIER 2 RENEWABLE SOURCES~~ that, except as provided under paragraph (2) of this subsection, applies to all retail electricity sales in the State by electricity suppliers~~; AND~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7–704.

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

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

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

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

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

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

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

(1) receive renewable energy credits; and

(2) accumulate renewable energy credits under this subtitle.

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

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

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

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

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

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

[(f)**] (E)** (1) In this subsection, "customer" means:

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

(ii) a renewable on–site generator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7–705.

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

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

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

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

(1) except as provided in ~~paragraph~~ **ITEM** (2) of this subsection, a compliance fee of:

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

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

(2) for industrial process load:

(i) for each kilowatt–hour of shortfall from required Tier 1 **AND TIER 3** renewable sources, a compliance fee of:

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

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

(C) ~~IF AN ELECTRIC COMPANY~~ IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 3 RENEWABLE SOURCES FOR THE APPLICABLE YEAR, THE ~~ELECTRIC COMPANY~~ ELECTRICITY SUPPLIER SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND ESTABLISHED UNDER § 7–707 OF THIS SUBTITLE:

(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, FOR EACH KILOWATT–HOUR OF SHORTFALL FROM REQUIRED TIER 3 RENEWABLE SOURCES A COMPLIANCE FEE OF:

~~(1)~~ (I) 45 CENTS IN ~~2007 AND~~ 2008;

~~(2)~~ (II) 40 CENTS IN 2009 AND 2010;

~~(3)~~ (III) 35 CENTS IN 2011 AND 2012;

~~(4)~~ (IV) 30 CENTS IN 2013 AND 2014;

~~(5)~~ (V) 25 CENTS IN 2015 AND 2106; ~~AND~~

~~(6)~~ (VI) 20 CENTS IN 2017 ~~AND LATER~~ AND 2018;

(VII) 15 CENTS IN 2019 AND 2020;

(VIII) 10 CENTS IN 2021 AND 2022; AND

(IX) 5 CENTS IN 2023 AND LATER; AND

(2) FOR INDUSTRIAL PROCESS LOAD, A COMPLIANCE FEE AS PROVIDED IN SUBSECTION (B)(2)(I) OF THIS SECTION.

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

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

(F) (1) NOTWITHSTANDING THE TIER 3 RENEWABLE ENERGY PORTFOLIO STANDARD REQUIREMENTS UNDER § 7–703(B) OF THIS TITLE, IF THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS ~~INCURRED~~ INCURRED OR TO BE INCURRED BY AN ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 3 RENEWABLE ENERGY CREDITS IN ANY ONE YEAR IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ~~ANNUAL ELECTRICITY SALES~~ ~~REVENUE FOR AN ELECTRIC~~

~~COMPANY, THE ELECTRIC COMPANY~~ **ELECTRIC SUPPLIER'S TOTAL ANNUAL ELECTRICITY SALES REVENUES IN MARYLAND, THE ELECTRICITY SUPPLIER MAY REQUEST THAT THE COMMISSION ~~DELAY A SCHEDULED INCREASE THAT APPLIES TO THE ELECTRIC COMPANY IN TIER 3 REQUIREMENTS FOR 1 YEAR~~:**

(I) DELAY BY 1 YEAR EACH OF THE SCHEDULED PERCENTAGES UNDER § 7–703(B) OF THIS SUBTITLE THAT WOULD APPLY TO THE ELECTRICITY SUPPLIER IN TIER 3; AND

(II) ALLOW THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 3 FOR THAT YEAR TO CONTINUE TO APPLY TO THE ELECTRICITY SUPPLIER FOR THE FOLLOWING YEAR.

(2) IN MAKING ITS DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COMPLIANCE COSTS OF OTHER ~~ELECTRIC COMPANIES~~ ELECTRICITY SUPPLIERS.

(3) IF AN ELECTRICITY SUPPLIER MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON PROJECTED COSTS, THE ELECTRICITY SUPPLIER SHALL PROVIDE VERIFIABLE EVIDENCE OF THE PROJECTIONS TO THE COMMISSION AT THE TIME OF THE REQUEST.

(4) IF THE COMMISSION ALLOWS A DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 3 APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY CONTINUES FOR EACH SUBSEQUENT CONSECUTIVE YEAR THAT THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 3 RENEWABLE ENERGY CREDITS IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND; AND

(II) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 3 APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY IS INCREASED TO THE NEXT SCHEDULED PERCENTAGE INCREASE UNDER § 7–703(B) OF THIS SUBTITLE FOR EACH YEAR IN WHICH THE ACTUAL OR

PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 3 RENEWABLE ENERGY CREDITS IS LESS THAN, OR IS ANTICIPATED TO BE LESS THAN, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND.

7–706.

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

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

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

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

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

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

(c) Any cost recovery under this section:

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

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

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

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

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

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

7–707.

(a) There is a Maryland Renewable Energy Fund.

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

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

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

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

(e) The Fund consists of:

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

(2) payments received in repayment of a loan;

(3) investment earnings of the Fund; and

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

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

(2) COMPLIANCE FEES PAID UNDER § 7–705 OF THIS SUBTITLE:

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

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

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

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

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

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

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

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

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

7–708.

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

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

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

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

(i) available renewable energy credits; and

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

1. the creation and application of renewable energy credits;

2. the number of renewable energy credits sold or transferred; and

3. the price paid for the sale or transfer of renewable energy credits.

(2) (i) The registry shall provide current information to electricity suppliers and the public on the status of renewable energy credits created, sold, or transferred in the State.

(ii) Registry information shall be available by computer network access through the Internet.

7–709.

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard, including credits created by a renewable on–site generator.

(b) A renewable energy credit may be sold or otherwise transferred.

(C) (1) IF AN ~~ELECTRIC COMPANY~~ ELECTRICITY SUPPLIER PURCHASES TIER 3 RENEWABLE ENERGY CREDITS DIRECTLY FROM A RENEWABLE ON–SITE GENERATOR TO MEET THE TIER 3 RENEWABLE ENERGY PORTFOLIO STANDARD, THE DURATION OF THE CONTRACT TERM FOR THE TIER 3 RENEWABLE ~~SOURCE~~ ENERGY CREDITS MAY NOT BE LESS THAN 15 YEARS.

(2) (I) AN ELECTRICITY SUPPLIER THAT PURCHASES TIER 3 RENEWABLE ENERGY CREDITS FROM A RENEWABLE ON–SITE GENERATOR WITH A CAPACITY NOT EXCEEDING 10 KILOWATTS SHALL PURCHASE THE CREDITS WITH A SINGLE INITIAL PAYMENT REPRESENTING THE FULL ESTIMATED PRODUCTION OF THE SYSTEM FOR THE LIFE OF THE CONTRACT.

(II) THE COMMISSION SHALL:

1. DETERMINE THE RATE FOR A PAYMENT MADE TO THE RENEWABLE ON–SITE GENERATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

2. DEVELOP A METHOD FOR ESTIMATING ANNUAL PRODUCTION FROM THE TYPE OF SYSTEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND ALLOCATING THE TIER 3 RENEWABLE ENERGY CREDITS TO THE ELECTRICITY SUPPLIER IN A MANNER THAT IS CONSISTENT WITH A MINIMUM 15–YEAR PRODUCTION PERIOD.

[(c)**] (D)** (1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 3 years from the date created.

(2) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

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

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

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

(2) for later years must:

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

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

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

7–712.

Subject to § 2–1246 of the State Government Article, on or before February 1 of each year the Commission shall report to the General Assembly on the status of implementation of this subtitle, including the availability of Tier 1 **AND TIER 3** renewable sources, projects supported by the Fund, and other pertinent information.

7–714.

THE COMMISSION SHALL ~~APPOINT~~ DESIGNATE AN INDIVIDUAL ~~WHO SHALL~~ TO BE ~~SOLELY~~ RESPONSIBLE FOR:

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

(2) THE DEVELOPMENT OF PROGRAMMATIC CHANGES, OUTREACH, AND POLICY RECOMMENDATIONS TO ENSURE THE SUCCESS OF THE RENEWABLE ENERGY PORTFOLIO REQUIREMENTS FOR TIER 3 RENEWABLE SOURCES; AND

(3) THE DEVELOPMENT OF CLEAR, SIMPLE, AND STRAIGHTFORWARD FORMS, REQUIREMENTS, AND PROCEDURES TO FACILITATE PARTICIPATION OF HOMEOWNERS AND SMALL BUSINESSES IN THE DEPLOYMENT OF TIER 3 RENEWABLE ENERGY GENERATION IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, ~~That, on or before November 1, 2007, the Public Service Commission shall revise Maryland's interconnection standards and procedures to be consistent with the interconnection standards of any state in the PJM region with more than 1,000 interconnected renewable on–site generators~~ That, in recognition of the value of small distributed generation to the reliable and cost–effective operation of the grid, the Public Service Commission shall:

(1) form a small generator interconnections working group to develop interconnection standards and procedures for on–site generator facilities operating in Maryland that are consistent with nationally adopted interconnection standards and procedures; and

(2) on or before November 1, 2007, by regulation or order, revise Maryland's interconnection standards and procedures:

(i) to be consistent with nationally adopted interconnection standards and procedures; and

(ii) to facilitate and encourage a simplified connection of small distributed generators to the grid in a manner that ensures the safe and reliable operation of the grid.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall investigate the benefits to residential customers of using a regulatory rate–making mechanism that separates electric company distribution sales from electric company distribution profits, including a mechanism that allows electric companies to recover fixed distribution costs on a flat rate basis instead of on a consumption rate basis.

SECTION 4. AND BE IT FURTHER ENACTED, That the requirement under § 7–306(h)(5) of the Public Utility Companies Article, as enacted by Section 1 of this Act, for an eligible customer–generator to own and have title to all renewable energy

attributes or renewable energy credits associated with any electricity produced by its electric generating system shall apply prospectively and may not be construed to:

(1) impair contracts that were entered into before the effective date of this Act; or

(2) prohibit contracts between an eligible customer–generator and another entity entered into after the effective date of this Act that explicitly transfers ownership of the renewable energy attributes or renewable energy credits from the eligible customer–generator to another entity.

SECTION 5. AND BE IT FURTHER ENACTED, That, as part of its annual report due February 1, 2014 under § 7–712 of the Public Utility Companies Article, the Public Service Commission shall report its findings and recommendations for modification, if any, to the renewable energy portfolio standard provisions under Title 7, Subtitle 7 of the Public Utility Companies Article based on a thorough study of the implementation of the renewable energy portfolio standard requirements since 2006. The study conducted by the Commission shall:

(1) be based on the results of the renewable energy portfolio standard requirements effective through 2013;

(2) determine whether the intended goals of the renewable energy portfolio standard provisions are being met and are anticipated to be met in the future;

(3) consider the impact of the renewable energy portfolio standard requirements in developing renewable energy in the State; ~~and~~

(4) consider the cost implications to residential consumers of continuing the renewable energy portfolio standard requirements beyond 2014;

(5) determine the realized and projected availability of solar renewable energy credits in Maryland;

(6) consider the ability of a regional market to lower the cost impact of the solar requirements of the renewable portfolio standard on customers;

(7) consider the ability of a regional market, in complying with the solar requirements, to develop solar energy in Maryland; and

(8) determine the appropriate use of the funds that are paid into the Maryland Renewable Energy Fund from compliance fees, including specific criteria for making loans and grants, to achieve the intended goals of the renewable energy portfolio provisions.

SECTION ~~3.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved:

_____

Governor.

_____

President of the Senate.

_____

Speaker of the House of Delegates.