SB 853

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 853 (Senator Pipkin, *et al.*)
Finance

Maryland Energy Independence Act of 2007

This bill requires that 100% of the electricity used in the State to supply an electric company's standard offer service (SOS) be generated within the State from the electric company's own generating facilities by 2017. The Public Service Commission (PSC) must develop regulations for enactment of the legislation and provide for appropriate cost recovery for the construction of electric generation and transmission infrastructure.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An investor-owned electric company is required to construct, acquire, or lease and operate its own peak-load or other generating facilities located within the State to supply a certain percentage of their SOS load; ranging from 10% in 2008 to 100% in 2017. Any electricity generated in the State in excess of the required percentages may be offered for trade through markets operated by PJM Interconnection.

By January 31, 2008, PSC must determine the statewide electricity usage level for calendar 2007, this amount will be the baseline usage level. Starting January 1, 2009, all electricity that is supplied for distribution in the State in excess of the baseline level must be generated in the State.

By March 1, 2008, PSC must adopt regulations applicable to all electric companies and electricity suppliers to implement the bills requirements. By January 31 of each year, PSC must review and report on the amount of electricity generated and used within the State during the previous year to the Governor and to the General Assembly. Once electricity generation reaches the 100% level, PSC has up to three months to make recommendations to remove obsolete provisions regarding electricity supply imported from other states.

The bill creates the requirement that PSC must consider the need to meet existing and future demand for electric service when considering an application for a certificate of public convenience and necessity (CPCN) by a generating facility.

Current Law: In order to meet long-term anticipated demand in the State for SOS and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire or lease, and operate its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

The licensing of new electric power plants or overhead transmission lines in the State is a comprehensive two-part process involving PSC and several other State agencies, including the Department of Natural Resources and the Maryland Department of the Environment. PSC is the lead agency for licensing the siting, construction, and operation of power plants in the State. Companies wishing to construct a new power plant or an overhead transmission line must apply to PSC for a CPCN.

In an application for a CPCN, PSC must consider the recommendation of the governing body in which the generating facility or overhead transmission line may be located. PSC must also consider the effect of the generating station or overhead transmission line on: • the stability and reliability of the electric system, economics, aesthetics, historic sites, aviation safety, air and water pollution; and • the availability of means for the required timely disposal of wastes produced by any generating facility. Also, for the construction of any overhead transmission line, the commission must consider the need to meet existing and current demand for electric service.

To obtain the best price for SOS for residential and small commercial customers, PSC may require each investor-owned electric company to obtain its electricity supply through

a competitive process. PSC may also require or allow an investor-owned electric company to procure electricity for these customers directly from an electricity supplier through one or more bilateral contracts outside the competitive process.

Background: The Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. The Act required electric companies to divest themselves of generating facilities or to create a structural separation between the unregulated generation of electricity and the regulated distribution and transmission of electricity. Some electric companies created separate entities to operate unregulated and regulated businesses under a single holding company structure and other companies divested of generation facilities.

Requiring that any investor-owned electric company either own or lease and operate enough generation capacity in the State to meet SOS demand would require significant changes in the electric utilities market structure. Allegheny Power, Delmarva Power & Light, and Potomac Electric Power Company have affiliated companies with significant generation capacity. However, the majority of the generation owned by their affiliated companies is not located in the State. To meet the requirements of the bill these three companies would have to build, purchase or lease, and operate a substantial amount of generation capacity. Baltimore Gas & Electric has an affiliated company with significant generation capacity in the State. **Exhibit 1** shows the investor-owned electric companies, the total peak electric demand, the SOS peak demand, and the amount of generation capacity owned by affiliated companies in the State.

Exhibit 1
In-State Electricity Supply and Demand (Megawatts)

Electric Company	February 2007 Total Peak Demand	February 2007 SOS Peak Demand	Current In-state Affiliated Generation Capacity
Allegheny Power	1,448	1,015	116
Baltimore Gas and Electric	7,261	4,603	5,343
Delmarva Power & Light	939	672	10
Potomac Electric Power	3,483	1,935	-
Total	**13,131**	**8,225**	**5,469**

Sources: PSC, State Department of Assessments and Taxation

PSC estimates that the peak summer electricity demand is 15,000 megawatts (MW) and the current generation capacity in the State is 12,500 MW. As of February 2007, 63% of peak load obligation was consumed by SOS customers and the remaining 37% of peak load obligation was consumed by competitive electricity suppliers. Commercial and industrial customers consumed 96% of all electricity provided by competitive suppliers. Assuming that competition remains constant, peak summer demand for SOS customers would be 9,450 MW. To the extent that electricity customers switch from SOS to competitive suppliers, the peak demand for SOS will decrease.

PSC indicates that nearly 30% of electricity used in Maryland is generated from sources outside the State. Maryland's dependence on out-of-state generation resources will likely increase over the next 5 to 10 years due to potential growth in electricity demand, and the possible de-rating or retirement of existing generating units. Delaware, the District of Columbia, New Jersey, New York, and Virginia are all highly dependent on imported electricity and are located within PJM. These states compete with Maryland for access to electricity sources in the PJM western region.

Because states bordering the south, east, and north of Maryland are also significant importers of electricity, Maryland is only able to import electricity in appreciable amounts from West Virginia and Pennsylvania. The current capacity of the transmission network through which electricity is imported into Maryland can also limit the amount of electricity that can be delivered into the State during times of peak demand. Upgrades are planned, however, to help ensure reliability. PSC expects Maryland's dependence on out-of-state electricity supplies will likely increase due to the projected increases in demand by PJM and electric utilities, few new in-state electric generation scheduled to be built in the next five years, and the possibility of fossil-fired generating capacity being de-rated or retired to comply with federal and State air emission requirements.

On October 27, 2005, Constellation Energy announced its intention to apply to the Nuclear Regulatory Commission for a combined construction and operating license. The company mentioned that two of the sites under consideration include its existing Calvert Cliffs Nuclear Power Plant in Southern Maryland and the Nine Mile Point Nuclear Station in upstate New York. In summer 2006, Constellation submitted into a PJM generation queue two potential nuclear power facilities that would be located at Calvert Cliffs. The two proposed units would each have a generating capacity of 1,640 MW (3,280 MW in total) and have projected in-service dates of 2015 and 2016, respectively. *Given the lack of nuclear generation built in the United States in recent decades, it is very difficult to predict if the new Calvert Cliffs units will be built.* Under the scenario that both facilities come online as scheduled and demand remains constant, Maryland would import only 6% of total peak demand in 2015 and in 2016 would become a net exporter of electricity, exporting 5% of electricity generated in the State.

State Effect: The bill would likely require CPCN hearings and the participation of various State agencies in the licensing process. PSC, the Maryland Energy Administration, the Department of Natural Resources, and the Office of the People's Council advise that the requirements of the bill could be met with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Energy Administration, Public Service Commission, Office of People's Counsel, Department of Legislative Services

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Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510