

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 749 (Delegate Beitzel)
Economic Matters

**Wind-Powered Electric Generating Facilities - Decommissioning and Restoration
- Surcharge, Bond or Other Security, and Fund**

This bill establishes a Maryland Wind-Powered Electric Generating Facility Decommissioning and Restoration Fund. The Public Service Commission (PSC) must establish a surcharge on wind-powered electric generating facilities to decommission the facilities once they cease to operate and to restore the former operating sites to their preoperating condition. In lieu of a surcharge, an electric company may post a bond or other accepted security.

Fiscal Summary

State Effect: Special fund expenditures increase for consultants to assist PSC in implementing a Maryland Wind-Powered Electric Generating Facility Decommissioning and Restoration Fund. Minimal increase in special fund revenues from decommissioning surcharges.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: PSC is required to establish a surcharge on wind-powered electric generating facilities to ensure that adequate funds are available to decommission the facilities once they cease to operate and to restore the former operating sites to their preoperating condition. Revenue from this surcharge must be collected by the Comptroller and placed into a special fund (Maryland Wind-Powered Electric Generating

Facility Decommissioning and Restoration Fund), which the State Treasurer will hold separately. Surcharges, bonds, or other securities paid by a wind-powered electric generating facility must be accounted for separately within the fund so that disbursements from the fund to decommission a facility or to restore a site are only paid from the account created for that facility.

PSC must establish regulations to determine the criteria for establishing the amount of the surcharge, review the surcharge amount at standard intervals, and adjust the amount of the surcharge upon review. In lieu of the surcharge, a wind-powered electric generating facility may post a bond or other security, as allowed by PSC. PSC must administer the decommissioning fund and must receive and review applications for disbursements from the fund. By February 1 of each year, PSC must report on the amounts received and disbursed by the fund in the preceding calendar year. In this report PSC must include the evaluation criteria used to make disbursements, the projected receipts of the fund in the current calendar year, and plans for the use of the fund in the current calendar year. PSC may use up to 10% of the special fund revenue for administrative expenses, including project review and oversight.

Current Law: State law does not provide for the decommissioning of wind-powered electric generation facilities.

Background: Wind-powered electric generation has been slow to develop in the State. To construct wind-powered electric generation in the State an individual may apply for a certificate of public convenience and necessity (CPCN) or, under certain conditions, may apply for an exemption from a CPCN. PSC may exempt a facility from the CPCN requirement if the capacity of the facility is land-based, does not exceed 70 megawatts, excess electricity generated is sold on the wholesale market, and PSC provides an opportunity for public comment. The Code of Maryland Regulations (COMAR 20.79.01.02) specifies that a small generating facility under 373 kilowatts does not need prior approval of PSC.

As of February 2009, PSC has only received two applications for a CPCN exemption. There are currently two potential wind energy projects in Garrett County under consideration that may come for approval in 2009. One has design capacity of 50 megawatts and the other has a capacity of 60 megawatts.

State Fiscal Effect: In order to determine a decommissioning surcharge, PSC will need to estimate the cost of decommissioning wind-powered generating facilities. Estimating the cost of decommissioning generating facilities and developing a surcharge will result in additional engineering and economic consultant costs. Administrative expenses for ongoing project review and oversight can be handled within existing budgeted resources.

The amount of special fund revenues from decommissioning surcharges cannot be reasonably ascertained at this time, but due to the limited amount of wind generation in the State are expected to be minimal. These funds may only be spent for decommissioning activities of a wind-powered electric generating facility.

Additional Information

Prior Introductions: None.

Cross File: SB 773 (Senator Edwards) - Finance.

Information Source(s): Allegany and Garrett counties, Maryland Department of the Environment, Maryland Energy Administration, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2009
mlm/rhh

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Appendix 1 Status of Maryland Wind Projects

Date Granted	Company	Location	Rated Capacity (MW)	Application Date	Exemption Application	Current Status
10-29-2008	Criterion Power Partners, LLC	Garrett County	70	1-23-2008	Yes	Exemption Approved 10/29/2008; Construction to begin in 2009
Pending	Dans Mountain Wind Force, LLC	Allegany County	69.6	11-5-2008	Yes	Public hearing and comments phase
10-30-2006 (proposed order)	Synergics Wind Energy	Garrett County	40	6-30-2004	No	CPCN withdrawn: May 2008
3-20-2003	US Wind Force LLC	Garrett and Allegany Counties	40	8-30-2002	No	Construction has not commenced; construction required to be completed by 3/20/2010
3-26-2003	Clipper Windpower, Inc.	Garrett County	110	8-26-2002	No	CPCN expired

Notes: In January 2008, Clipper – under the name Criterion Power Partners – filed a CPCN Exemption for 70 MW of wind powered energy. The U.S. Wind Force and Synergics projects were submitted before Chapter 163 of 2007, which provides qualifying wind facilities with the option of applying for a CPCN exemption, was enacted.

Source: Public Service Commission