

# HOUSE BILL 1534

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CF SB 1108

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By: **Delegate Hecht**

Introduced and read first time: March 8, 2010

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies – Renewable Energy Portfolio Standard for Solar Energy**

3 FOR the purpose of providing that the renewable energy portfolio standard for solar  
4 energy applies to all retail electricity delivered in the State and that the  
5 responsibility for meeting the solar renewable energy portfolio standard shall be  
6 fulfilled only by electric companies; altering the eligibility criteria for inclusion  
7 in meeting the renewable energy portfolio standard for certain energy from a  
8 certain Tier 1 source; requiring that the owner of a certain solar generating  
9 system offer certain solar renewable energy credits for sale first to a certain  
10 electric company under certain circumstances; providing that certain provisions  
11 relating to the solar renewable energy portfolio standard for solar energy apply  
12 only to electric companies; authorizing a certain electric company to request  
13 that the Public Service Commission delay a certain scheduled percentage  
14 increase of the standard for solar energy under certain circumstances;  
15 authorizing a certain electric company to request that the Commission allow a  
16 certain standard for solar energy for a certain year to apply to the electric  
17 company for the following year; altering a certain factor that the Commission is  
18 required to consider in making a certain determination; requiring a certain  
19 electric company to provide certain evidence under certain circumstances;  
20 providing that a certain delay continues for a certain period of time under  
21 certain circumstances; providing that a certain standard subject to a delay shall  
22 be increased under certain circumstances; authorizing certain electric  
23 companies to recover certain costs in the form of a surcharge payable by certain  
24 electric customers under certain circumstances; authorizing a certain electric  
25 company to enter into a long-term contract for a certain time period for the  
26 purchase of solar renewable energy credits on review and approval of the  
27 Commission under certain circumstances; altering the minimum number of  
28 years for a certain contract term for the purchase of certain solar renewable  
29 energy credits; requiring a certain electric company to purchase certain solar  
30 renewable energy credits from a certain renewable on-site generator; requiring  
31 a certain electric company to purchase certain renewable energy credits by a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



certain single initial payment under certain circumstances; requiring the Commission to require an electric company to enter into a certain mix of short-term and long-term contracts under certain circumstances; making certain clarifying changes; and generally relating to the renewable energy portfolio standard for solar energy.

BY repealing and reenacting, without amendments,  
Article – Public Utility Companies  
Section 1–101(a), (h), and (j)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Utility Companies  
Section 7–702(b), 7–703(a), 7–704(a)(2), 7–705(e), 7–706, and 7–709(c)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

### **Article – Public Utility Companies**

1–101.

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

(h) (1) “Electric company” means a person who physically transmits or distributes electricity in the State to a retail electric customer.

(2) “Electric company” does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building;

(ii) any person who generates on-site generated electricity; or

(iii) a person who transmits or distributes electricity within a site owned by the person or the person’s affiliate that is incidental to a primarily landlord-tenant relationship.

(j) (1) “Electricity supplier” means a person:

(i) who sells:

1. electricity;
2. electricity supply services;
3. competitive billing services; or
4. competitive metering services; or

(ii) who purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.

(2) “Electricity supplier” includes an electric company, an aggregator, a broker, and a marketer of electricity.

(3) “Electricity supplier” does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; or

(ii) a person who generates on-site generated electricity.

7–702.

(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, **INCLUDING ELECTRIC COMPANIES**, and consumers share an obligation to develop a minimum level of these resources in the electricity supply portfolio of the State.

7–703.

1 (a) (1) (i) The Commission shall implement a renewable energy  
2 portfolio standard that, except as provided under paragraph (2) of this subsection,  
3 applies to all retail electricity sales in the State by electricity suppliers.

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

8 **(iii) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR**  
9 **SOLAR ENERGY SHALL APPLY TO ALL RETAIL ELECTRICITY DELIVERED IN THE**  
10 **STATE AND THE RESPONSIBILITY FOR MEETING THE STANDARD FOR SOLAR**  
11 **ENERGY SHALL BE FULFILLED ONLY BY ELECTRICITY SUPPLIERS THAT ARE**  
12 **ELECTRIC COMPANIES.**

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

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

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

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

24 7-704.

25 (a) (2) (i) 1. Except as provided in subsubparagraph 2 of this  
26 subparagraph, energy from a Tier 1 renewable source under § 7-701(l)(1) or (9) of this  
27 subtitle is eligible for inclusion in meeting the renewable energy portfolio standard  
28 only if the source is connected with the electric distribution grid serving Maryland.

29 2. On or before December 31, 2011, energy from a Tier 1  
30 renewable source under § 7-701(l)(1) of this subtitle that is not connected with the  
31 electric distribution grid serving Maryland is eligible for inclusion in meeting the  
32 renewable energy portfolio standard only if offers for solar credits from Maryland grid  
33 sources are not made to the [electricity supplier] **ELECTRIC COMPANY** that would  
34 satisfy requirements under the standard and only to the extent that such offers are  
35 not made.

36 (ii) If the owner of a solar generating system in this State  
37 chooses to sell solar renewable energy credits from that system, the owner must first

offer the credits for sale to an [electricity supplier or] electric company that shall apply them toward compliance with the renewable energy portfolio standard under § 7-703 of this subtitle.

7-705.

(e) (1) Notwithstanding the requirements of § 7-703(b) of this subtitle, if the actual or projected dollar-for-dollar cost incurred or to be incurred by an [electricity supplier] **ELECTRIC COMPANY** solely for the purchase of Tier 1 renewable energy credits derived from solar energy in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, 1% of the [electricity supplier's] **ELECTRIC COMPANY'S** total annual electricity sales revenues [in Maryland], the [electricity supplier] **ELECTRIC COMPANY** may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for solar energy under § 7-703(b) of this subtitle that would apply to the [electricity supplier] **ELECTRIC COMPANY**; and

(ii) allow the renewable energy portfolio standard for solar energy for that year to continue to apply to the [electricity supplier] **ELECTRIC COMPANY** 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 [electricity suppliers] **ELECTRIC COMPANIES**.

(3) If an [electricity supplier] **ELECTRIC COMPANY** makes a request under paragraph (1) of this subsection based on projected costs, the [electricity supplier] **ELECTRIC COMPANY** 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 solar energy applicable to the [electricity supplier] **ELECTRIC COMPANY** 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] **ELECTRIC COMPANY** solely for the purchase of solar 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] **ELECTRIC COMPANY'S** total annual retail electricity sales revenues [in Maryland]; and

(ii) the renewable energy portfolio standard for solar energy applicable to the [electricity supplier] **ELECTRIC COMPANY** 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] **ELECTRIC COMPANY** solely for the purchase of solar renewable energy credits is less than, or is anticipated to be less than, 1% of the [electricity supplier's] **ELECTRIC COMPANY'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) **(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM**, 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(e) of this subtitle; **AND**

**(II) FOR ELECTRIC COMPANIES RECOVERING COSTS ASSOCIATED WITH COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR SOLAR ENERGY, MAY BE IN THE FORM OF A SURCHARGE**

**PAYABLE BY ALL CURRENT ELECTRIC CUSTOMERS, EXCEPT AS OTHERWISE PROVIDED IN § 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.

7-709.

(c) (1) (i) **ON REVIEW AND APPROVAL OF THE COMMISSION, AN ELECTRIC COMPANY MAY ENTER INTO A LONG-TERM CONTRACT OF UP TO 20 YEARS FOR THE PURCHASE OF SOLAR RENEWABLE ENERGY CREDITS.**

(II) If an [electricity supplier] **ELECTRIC COMPANY** purchases solar renewable energy credits directly from a renewable on-site generator to meet the solar component of the Tier 1 renewable energy portfolio standard, the duration of the contract term for the solar renewable energy credits may not be less than [15] **10** years.

[(ii)] (III) The minimum required term under subparagraph [(i)] (II) of this paragraph does not affect the ability of the parties to negotiate a price for a solar renewable energy credit that varies over time in any manner.

(2) (i) [An electricity supplier that purchases solar 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.] **EACH ELECTRIC COMPANY SHALL PURCHASE ANY AVAILABLE SOLAR RENEWABLE ENERGY CREDITS PRODUCED FROM A RENEWABLE ON-SITE GENERATOR WITH A CAPACITY NOT EXCEEDING 10 KILOWATTS.**

1                   **(II) AN ELECTRIC COMPANY SHALL PURCHASE THE SOLAR**  
2 **RENEWABLE ENERGY CREDITS FROM A RENEWABLE ON-SITE GENERATOR WITH**  
3 **A CAPACITY NOT EXCEEDING 10 KILOWATTS BY A SINGLE INITIAL PAYMENT**  
4 **REPRESENTING THE FULL ESTIMATED PRODUCTION OF THE SYSTEM FOR THE**  
5 **LIFE OF THE CONTRACT.**

6                   **[(ii)] (3)**     The Commission shall:

7                   **[1.] (I)**       develop a method for estimating annual  
8 production from the type of system described in **[subparagraph (i)] PARAGRAPH (2)** of  
9 this **[paragraph] SUBSECTION** and allocating the credits to the **[electricity supplier]**  
10 **ELECTRIC COMPANY** in a manner that is consistent with the duration of the contract;  
11 **[and**

12                   **2.] (II)**       determine the rate for a payment made to a  
13 renewable on-site generator under **[subparagraph (i)] PARAGRAPH (2)** of this  
14 **[paragraph] SUBSECTION; AND**

15                   **(III) REQUIRE EACH ELECTRIC COMPANY TO ENTER INTO A**  
16 **PRUDENT MIX OF SHORT-TERM AND LONG-TERM CONTRACTS THAT ARE**  
17 **APPROPRIATELY ENCOURAGING THE CONSTRUCTION OF SOLAR GENERATING**  
18 **FACILITIES OF ALL SIZES.**

19               SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2010.