

Chapter 494

(Senate Bill 277)

AN ACT concerning

Renewable Energy Portfolio Standard – Solar Energy

FOR the purpose of altering a certain renewable energy portfolio standard in certain years for electricity derived from solar energy; altering certain compliance fees for a shortfall from the requirement for solar energy in meeting a certain standard; ~~requiring the Public Service Commission for certain years to grant a waiver of up to certain percentages of the total Tier 1 solar energy requirement of the renewable energy portfolio standard to a certain electric cooperative in a certain manner;~~ requiring the Public Service Commission to include certain information in certain reports to the General Assembly; providing for the application of this Act; providing for the effective date of this Act; and generally relating to the renewable energy portfolio standard and solar energy.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–703 and 7–705(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–705(e)
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

7–703.

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

(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 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,~~ 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;

(3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(6) in 2011, 5.0% from Tier 1 renewable sources, including at least [0.04%] **0.05%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, 6.5% from Tier 1 renewable sources, including at least [0.06%] ~~0.12%~~ 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, 8.2% from Tier 1 renewable sources, including at least [0.1%] ~~0.22%~~ 0.2% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, 10.3% from Tier 1 renewable sources, including at least ~~[0.15%] 0.36%~~ 0.3% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, 10.5% from Tier 1 renewable sources, including at least ~~[0.25%] 0.5%~~ 0.4% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, 12.7% from Tier 1 renewable sources, including at least ~~[0.35%] 0.7%~~ 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017, 13.1% from Tier 1 renewable sources, including at least ~~[0.55%] 0.9%~~ derived from solar energy, and 2.5% from Tier 2 renewable sources;

(13) in 2018, 15.8% from Tier 1 renewable sources, including at least ~~[0.9%] 1.15%~~ derived from solar energy, and 2.5% from Tier 2 renewable sources;

(14) in 2019, 17.4% from Tier 1 renewable sources, including at least ~~[1.2%] 1.4%~~ derived from solar energy, and 0% from Tier 2 renewable sources;

(15) in 2020, 18% from Tier 1 renewable sources, including at least ~~[1.5%] 1.65%~~ derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, 18.7% from Tier 1 renewable sources, including at least 1.85% derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, 20% from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

~~(C) (1) THIS SUBSECTION APPLIES TO RETAIL ELECTRICITY SALES BY ANY ELECTRICITY SUPPLIER TO A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(2) IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION SHALL GRANT A WAIVER TO AN ELECTRIC COOPERATIVE OF UP TO THE FOLLOWING PERCENTAGES OF THE TOTAL TIER 1 SOLAR ENERGY REQUIREMENT UNDER SUBSECTION (B)(6) THROUGH (15) OF THIS SECTION IN THE MANNER SPECIFIED UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION:~~

~~(I) IN 2011, 0.01%;~~

~~(II) IN 2012, 0.06%;~~

~~(III) IN 2013, 0.12%;~~

~~(IV) IN 2014, 0.21%;~~

~~(V) IN 2015, 0.25%;~~

~~(VI) IN 2016, 0.35%;~~

~~(VII) IN 2017, 0.45%;~~

~~(VIII) IN 2018, 0.20%;~~

~~(IX) IN 2019, 0.2%; AND~~

~~(X) IN 2020, 0.15%.~~

~~(3) THE COMMISSION SHALL GRANT AN ELECTRIC COOPERATIVE THE WAIVER SPECIFIED IN PARAGRAPH (2) OF THIS SECTION TO THE EXTENT THE ELECTRIC COOPERATIVE HAS DEMONSTRATED THAT THE ELECTRIC COOPERATIVE HAS:~~

~~(I) INVESTED IN ANY TIER 1 RENEWABLE SOURCE, AS SELECTED BY THE ELECTRIC COOPERATIVE; OR~~

~~(II) PURCHASED ENERGY FROM A TIER 1 RENEWABLE SOURCE, AS SELECTED BY THE ELECTRIC COOPERATIVE, UNDER A CONTRACT WITH A TERM OF AT LEAST 10 YEARS.~~

~~(4) THE RENEWABLE ENERGY PORTFOLIO STANDARD PERCENTAGE THAT THE COMMISSION WAIVES UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE EQUAL TO THE MEGAWATT HOURS OF ENERGY THAT THE ELECTRIC COOPERATIVE PURCHASED DURING THE PARTICULAR YEAR FROM:~~

~~(I) A TIER 1 RENEWABLE GENERATION FACILITY IN WHICH IT HAS INVESTED; OR~~

~~(II) UNDER A CONTRACT WITH A TERM OF AT LEAST 10 YEARS.~~

~~(e) (D)~~ (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) (E)~~ (d) Subject to subsections (a) and ~~(e) (D)~~ (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 percentages required under this section.

7-705.

(b) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article:

(1) except as provided in item (2) of this subsection, a compliance fee of:

(i) 2 cents for each kilowatt-hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy;

(ii) the following amounts for each kilowatt-hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

1. 45 cents in 2008;
2. 40 cents in 2009 [and 2010] **THROUGH 2014**;
- [3. 35 cents in 2011 and 2012;
4. 30 cents in 2013 and 2014;]
- [5.] **3.** [25] **35** cents in 2015 and 2016;
- [6.] **4.** [20] **30** cents in 2017 and 2018;
- [7.] **5.** [15] **25** cents in 2019 and 2020;
- [8.] **6.** [10] **20** cents in 2021 and 2022; ~~[and]~~
- [9.] **7.** [5] **15** cents in 2023 and ~~[later; and]~~ **2024**;
- ~~**8.** 10 CENTS IN 2025 AND 2026; AND~~
- ~~**9.** 5 CENTS IN 2027 AND LATER; AND~~

(iii) 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 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.

(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 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 total annual electricity sales revenues in Maryland, the electricity supplier 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; and

(ii) allow the renewable energy portfolio standard for solar energy 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 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 solar energy 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 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 total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for solar energy 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 solar 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.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Public Service Commission shall include, in the report required under § 7-211(k) of the Public Utility Companies Article due on March 1, 2012, and March 1, 2015, the effect of this Act on the State's anticipated compliance with per capita peak demand and per capita electricity consumption targets under § 7-211 of the Public Utility Companies Article.

(b) The Commission also shall include in those reports:

(1) the effects, if any, of deploying of solar electricity generating equipment in compliance with the solar Tier 1 renewable energy portfolio standard and the use of alternative compliance fees to support Tier 1 projects in the State; and

(2) recommendations for alterations, if any, that the Commission and the Maryland Energy Administration consider desirable to the solar Tier 1 percentage requirements of the renewable energy portfolio standard in § 7-703(b) of the Public Utility Companies Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract existing before the effective date of this Act.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2011.

Approved by the Governor, May 20, 2010.