Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 804 (Senator Pipkin)
Finance

Ratepayer Relief Act of 2010

This bill prohibits electricity suppliers from recovering costs incurred as a result of paying a compliance fee to meet renewable energy portfolio standards (RPS) and from connecting a wind-powered electric generating facility to the grid. The bill also repeals related provisions.

Fiscal Summary

State Effect: State expenditures (all funds) for electricity may be reduced to the extent the bill prohibits costs from being passed on to electric customers. The Public Service Commission (PSC) can implement the bill with existing budgeted resources.

Local Effect: Local government expenditures for electricity may be reduced to the extent the bill prohibits costs from being passed on to electric customers.

Small Business Effect: Potential meaningful.

Analysis

Current Law: PSC may allow an electricity supplier to recover a compliance fee paid to meet RPS if (1) payment of the compliance fee is the least-cost measure to customers as compared to the purchase of a Tier 1 renewable source to comply with RPS; (2) there are insufficient Tier 1 renewable sources available to comply with RPS; or (3) a wholesale electricity supplier defaults or otherwise fails to deliver renewable energy credits (RECs) under a supply contract approved by PSC. In general, any cost recovery may be in the form of a generation surcharge payable by all electricity supply customers, except under specified conditions; must be disclosed to customers in a manner determined by PSC; and may not include specified costs.

PSC may waive the recovery of the compliance fee assessed on the load of certain industrial or nonretail commercial customers under situations of extreme economic hardship in consultation with the Department of Business and Economic Development. Any compliance fee recovery that is waived may not be assessed against other customers, and any electricity suppliers are not liable for any fee that is waived.

The Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. Under the resulting restructured electricity market, PSC no longer regulates rates charged by electricity generators or electricity suppliers, as was the case prior to restructuring.

RPS is a policy that requires suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. An electricity supplier must meet RPS by accumulating RECs created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources, with a specified portion coming from solar sources. Examples of Tier 1 sources include solar; wind; qualifying biomass; methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents, and thermal differences; a fuel cell that produces electricity from a Tier 1 renewable source; and a small hydroelectric plant of less than 30 megawatts and poultry litter-to-energy. Examples of Tier 2 sources include hydroelectric and waste-to-energy.

Background: Maryland's RPS was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers' cost for electricity generated from renewable sources.

Electricity suppliers are required to file annual RPS compliance reports with PSC indicating how each supplier met RPS in the prior year. The 2009 RPS compliance reports are not due to PSC until April 1, 2010. As a result, the most recent data available is from compliance year 2008. **Exhibit 1** provides a summary of electric supplier RPS filings in 2006, 2007, and 2008. Calendar 2008 marked the third compliance year for Maryland's RPS program and the first compliance year of the solar RPS carve-out. Based on the Supplier Annual Reports filed with PSC, electricity suppliers have generally been able to fulfill required RPS requirements by purchasing RECs. However, electricity suppliers were not able to comply with solar RPS. In 2008, less than 8.0% of solar RPS were met through the purchase of solar RECs; the rest were met through paying the alternative compliance fee. Because enough solar RECs were not available to meet solar

RPS, electricity suppliers paid $1.2 million in compliance fees to the Maryland Strategic Energy Investment Fund.

Exhibit 1
RPS Supplier Annual Report Results
(MWh)

	RPS Obligation			RECs Retired		
Compliance Year	**Tier 1 Nonsolar**	**Tier 1 Solar**	**Tier 2**	**Tier 1 Nonsolar**	**Tier 1 Solar**	**Tier 2**
2006	520,073	0	1,300,201	552,874	0	1,322,069
2007	553,612	0	1,384,029	553,374	0	1,382,874
2008	1,183,439	2,934	1,479,305	1,184,174	227	1,500,414

Source: Public Service Commission

Development of commercial wind-powered generating facilities in the State has been limited. However, at least five commercial facilities are in development in Garrett and Allegany counties. In addition, Bluewater Wind is proposing an offshore wind plant off Maryland's Eastern Shore adjacent to Ocean City.

State and Local Fiscal Effect/Small Business Effect: With Maryland's electricity market restructuring, generation of electricity is offered in a competitive marketplace. Prices for power supply are determined by electricity suppliers operating in the market, rather than being determined by PSC in a regulated environment. The cost of meeting RPS is considered a cost of business for electricity suppliers and is embedded in the commodity rates charged to customers. It is unclear under what circumstances PSC would allow an electricity supplier to directly recover compliance fees paid in meeting RPS under current law, since these costs are already embedded in electricity rates.

Generally speaking, in a competitive market for electricity, an individual seeking to build a wind-powered electric generating station is responsible for the cost of constructing that facility and connecting that facility to the electric grid. Depending on the location of the facility, the cost of connecting such a facility to the grid can be substantial, especially when connecting an offshore wind facility. In the event PSC were to allow such a cost to be recovered by an electricity supplier, under current law, a portion of this cost would be paid by electric customers (including the State, local governments, and small businesses) in the form of increased electricity costs. To the extent the bill prohibits PSC from allowing such a cost to be recovered, electricity costs may be reduced.

Because it is unclear to what extent PSC would allow electricity suppliers to recover the cost to meet RPS or connect a wind-powered electric generating facility to the grid under current law, the bill's impact on electric rates cannot be reasonably ascertained at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/lgc

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