

## Chapter 3

### (House Bill 226)

AN ACT concerning

#### **Maryland Offshore Wind Energy Act of 2013**

FOR the purpose of altering the Maryland renewable energy portfolio standard program to include a certain amount of energy derived from offshore wind energy; prohibiting the portion of the renewable energy portfolio standard that represents offshore wind energy from applying to certain sales in excess of a certain amount of industrial process load and certain sales in excess of a certain amount of electricity sold to certain customers who are owners of agricultural land; altering the definition of “renewable energy credit” for purposes of the renewable energy portfolio standard program; requiring an electricity supplier to exclude certain retail electricity sales before calculating the number of credits required under the renewable portfolio standard; providing that certain provisions concerning the transfer of renewable energy credits do not apply to certain offshore wind renewable energy credits; authorizing a person to submit to the Public Service Commission an application for approval of a proposed offshore wind project after the effective date of certain regulations; requiring the Commission to open a certain application period and provide certain notice under certain circumstances; authorizing the Commission to provide for additional application periods; requiring the Commission to approve, conditionally approve, or deny an application within a certain time; providing for the contents of an application; requiring the Commission to use certain criteria to evaluate and compare proposed offshore wind projects; prohibiting the Commission from approving an offshore wind project unless certain criteria are met; requiring the Commission to contract for the services of independent consultants and experts when evaluating and comparing proposed offshore wind projects and when calculating a proposed offshore wind project’s net benefits to the State; requiring the Commission to verify that representatives of the United States Department of Defense and the maritime industry have had a certain opportunity to express concerns regarding certain project siting; requiring an applicant to take certain steps if the applicant is seeking investors in a proposed offshore wind project; requiring the Governor’s Office of Minority Affairs, in consultation with the Attorney General, to provide certain assistance to potential applicants and minority investors; requiring the Commission to apply the same net cost per megawatt-hour to residential and nonresidential customers when calculating certain rate impacts; incorporating certain findings and evidence associated with a certain Minority Business Enterprise Program; requiring that approved applicants comply with the Minority Business Enterprise Program; prohibiting the Commission from approving an application until certain goals and procedures are established; requiring that an order

approving a proposed offshore wind project include certain information, restrictions, and conditions; providing that a certain order vests the owner of a qualified offshore wind project with a certain right; requiring a qualified offshore wind project to deposit a certain amount into a certain fund at certain times; requiring the Commission to determine the offshore wind energy component of the renewable portfolio standard based on certain projections and requiring electricity suppliers to purchase a certain number of offshore wind renewable energy credits; requiring the Commission to establish the renewable energy portfolio standard obligation for ORECs on a certain basis; requiring that any positive adjustment to the renewable energy portfolio standard be made on a certain basis; requiring the Commission to adopt regulations to establish the offshore wind purchase obligation at a certain time and establish a mechanism to adjust a certain renewable energy portfolio standard obligation in a certain manner; requiring the Commission to adopt regulations establishing a certain escrow account; requiring a certain overpayment to be refunded to ratepayers, subject to certain reserve requirements, under certain circumstances; requiring the calculation of an electricity supplier's OREC purchase obligation to be based on certain data; requiring a qualified offshore wind project to sell certain energy, capacity, and ancillary services into certain markets and distribute the proceeds to electric companies to be refunded or credited to ratepayers; requiring the Commission to adopt certain regulations regarding the creation of excess offshore wind renewable energy credits; authorizing the Commission to extend the term of an OREC pricing schedule for a certain amount of time under certain circumstances; stating that an OREC transaction that takes place during an extended OREC term is subject to certain provisions and regulations applicable to the original OREC order; prohibiting a certain debt, obligation, or liability from being considered a debt, obligation, or liability of the State; providing that certain provisions regarding certain compliance fees do not apply to a shortfall from the offshore wind renewable energy credit requirement; reducing a certain fee for industrial process load under certain circumstances; providing that certain provisions authorizing a delay of certain scheduled Tier 1 credits do not apply to offshore wind renewable energy credits; exempting certain energy lines from a certain prohibition on construction or installation in a beach erosion control district under certain circumstances; providing that an application for a certificate of public convenience and necessity to construct certain energy lines is subject to certain review; prohibiting the Commission from approving an application for the construction or installation of certain energy lines within a certain area; requiring the Commission to provide certain notice to the Maryland Energy Administration for certain purposes; ~~authorizing the Commission to implement a special assessment not to exceed a certain amount in certain fiscal years for certain purposes;~~ requiring the transfer of certain funds to the Commission in certain fiscal years for certain costs ~~and;~~ authorizing the Commission to implement a special assessment in certain fiscal years to recover certain costs; establishing a Maryland Offshore Wind Business Development Fund in the Maryland Energy Administration; authorizing the Fund to provide certain financial assistance, business development assistance,

and employee training opportunities; stating the purpose and providing for the administration of the Fund; establishing the Maryland Offshore Wind Business Development Advisory Committee; requiring the Advisory Committee to make certain recommendations regarding the use of money in the Fund; requiring a certain transfer from a certain fund to the Fund; adding the Fund to the list of exceptions to the requirement that the earnings of special funds accrue to the General Fund; defining certain terms; making stylistic changes; requiring the Commission to open a certain evidentiary proceeding to evaluate a certain application; establishing the Clean Energy Program Task Force; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of the Task Force; establishing the Clean Energy Technical Education Task Force; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and identify certain programs and course offerings; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of the Task Force; making the provisions of this Act severable; repealing an obsolete provision; providing for the termination of a portion of this Act under a certain circumstance; providing for the termination of certain provisions of this Act; and generally relating to the Maryland renewable energy portfolio standard program, development of offshore wind energy projects, and qualified submerged renewable energy lines.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 7–208, 7–701, 7–703, 7–704(a)(2)(i), (3), and (4), (c)(3), and (e), and 7–705(b) and (f)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Public Utilities

Section 7–704.1 and 7–704.2

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Utilities

Section 7–705(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–1102

Annotated Code of Maryland

(2012 Replacement Volume)

BY adding to

Article – State Government

Section 9–20C–01 through 9–20C–04 to be under the new subtitle “Subtitle 20C.

Maryland Offshore Wind Business Development Fund”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)69. and 70.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)71.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 7–704.1(e)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

(As enacted by Section 1 of this Act)

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

**Article – Public Utilities**

7–701.

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

(b) “Administration” means the Maryland Energy Administration.

(c) “Fund” means the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article.

**[(c–1)] (D)** “Geothermal heating and cooling system” means a system that:

(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

(2) meets or exceeds the current federal Energy Star product specification standards;

(3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a nonnatural gas fuel source;

(4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;

(5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and

(6) does not feed electricity back to the grid.

**[(d)] (E)** “Industrial process load” means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.

**(F) “OFFSHORE WIND ENERGY” MEANS ENERGY GENERATED BY A QUALIFIED OFFSHORE WIND PROJECT.**

**[(e)] (G)** “Old growth timber” means timber from a forest:

(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and

(2) that exhibits several of the following characteristics:

(i) shade-tolerant species are present in all age and size classes;

(ii) randomly distributed canopy gaps are present;

(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;

(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and

(v) pit and mound topography can be observed.

**(H) “OFFSHORE WIND RENEWABLE ENERGY CREDIT” OR “OREC” MEANS A RENEWABLE ENERGY CREDIT EQUAL TO THE GENERATION ATTRIBUTES OF 1 MEGAWATT-HOUR OF ELECTRICITY THAT IS DERIVED FROM OFFSHORE WIND ENERGY.**

**[(f)] (I)** “PJM region” means the control area administered by the PJM Interconnection, [Inc.], as the area may change from time to time.

**[(g)] (J)** “Poultry litter” means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.

**(K) “QUALIFIED OFFSHORE WIND PROJECT” MEANS A WIND TURBINE ELECTRICITY GENERATION FACILITY, INCLUDING THE ASSOCIATED TRANSMISSION-RELATED INTERCONNECTION FACILITIES AND EQUIPMENT, THAT:**

**(1) IS LOCATED ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC OCEAN IN AN AREA THAT:**

**(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF 2005; AND**

**(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE STATE;**

**(2) INTERCONNECTS TO THE PJM INTERCONNECTION GRID AT A POINT LOCATED ON THE DELMARVA PENINSULA; AND**

**(3) THE COMMISSION APPROVES UNDER § 7-704.1 OF THIS SUBTITLE.**

**[(h)] (L)** (1) “Qualifying biomass” means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:

(i) waste material that is segregated from inorganic waste material and is derived from sources including:

1. except for old growth timber, any of the following forest-related resources:

A. mill residue, except sawdust and wood shavings;

B. precommercial soft wood thinning;

C. slash;

D. brush; or

E. yard waste;

2. a pallet, crate, or dunnage;

3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues; or

4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or

(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

(2) “Qualifying biomass” includes biomass listed in paragraph (1) of this subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.

(3) “Qualifying biomass” does not include:

(i) unsegregated solid waste or postconsumer wastepaper; or

- (ii) an invasive exotic plant species.

**[(h-1)] (M)** “Thermal biomass system” means a system that:

- (1) uses:
  - (i) primarily animal manure, including poultry litter, and associated bedding to generate thermal energy; and
  - (ii) food waste or qualifying biomass for the remainder of the feedstock;
- (2) is used in the State; and
- (3) complies with all applicable State and federal statutes and regulations, as determined by the appropriate regulatory authority.

**[(i)] (N)** “Renewable energy credit” or “credit” means a credit equal to the generation attributes of 1 megawatt-hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

- (1) in the PJM region; **[or]**
- (2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region; **OR**

**(3) ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC OCEAN IN AN AREA THAT:**

**(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF 2005; AND**

**(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE STATE.**

**[(j)] (O)** “Renewable energy portfolio standard” or “standard” means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7-703(b) of this subtitle.



**[(k)] (P)** “Renewable on-site generator” means a person who generates electricity on site from a Tier 1 renewable source or a Tier 2 renewable source for the person’s own use.

**[(k-1)] (Q)** (1) “Solar water heating system” means a system that:

(i) is comprised of glazed liquid-type flat-plate or tubular solar collectors as defined and certified to the OG-100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) “Solar water heating system” does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

**[(l)] (R)** “Tier 1 renewable source” means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass;

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;

(6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;

(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

(9) poultry litter-to-energy;

- (10) waste-to-energy;
- (11) refuse-derived fuel; and
- (12) thermal energy from a thermal biomass system.

**[(m)] (S)** “Tier 2 renewable source” means hydroelectric power other than pump storage generation.

7-703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under **[paragraph (2)] PARAGRAPHS (2) AND (3)** 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.

**(3) THE PORTION OF A RENEWABLE ENERGY PORTFOLIO STANDARD THAT REPRESENTS OFFSHORE WIND ENERGY MAY NOT APPLY TO ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER IN EXCESS OF:**

**(1) 75,000,000 KILOWATT-HOURS OF INDUSTRIAL PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR; AND**

**(II) 3,000 KILOWATT-HOURS OF ELECTRICITY IN A MONTH TO A CUSTOMER WHO IS AN OWNER OF AGRICULTURAL LAND AND FILES AN INTERNAL REVENUE SERVICE FORM 1040, SCHEDULE F.**

- (b) 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 0.05% 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 0.1% 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 0.25% 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 0.35% 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 0.5% 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 0.7% derived from solar energy, and 2.5% from Tier 2 renewable sources;
  - (12) in 2017[,]:
    - (I)** 13.1% from Tier 1 renewable sources, including:
      - 1.** at least 0.95% derived from solar energy[, and]; **AND**

**2. AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND**

(II) 2.5% from Tier 2 renewable sources;

(13) in 2018[,]:

(I) 15.8% from Tier 1 renewable sources, including:

1. at least 1.4% derived from solar energy[, and]; AND

**2. AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND**

(II) 2.5% from Tier 2 renewable sources;

(14) in 2019, 17.4% from Tier 1 renewable sources, including:

(I) at least 1.75% derived from solar energy[, and 0% from Tier 2 renewable sources]; AND

**(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY;**

(15) in 2020, 18% from Tier 1 renewable sources, including:

(I) at least 2.0% derived from solar energy[, and 0% from Tier 2 renewable sources]; AND

**(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY;**

(16) in 2021, 18.7% from Tier 1 renewable sources, including:

(I) at least 2.0% derived from solar energy[, and 0% from Tier 2 renewable sources]; and

**(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND**

(17) in 2022 and later, 20% from Tier 1 renewable sources, including:

(I) at least 2% derived from solar energy[, and 0% from Tier 2 renewable sources]; **AND**

(II) **AN AMOUNT SET BY THE COMMISSION UNDER § 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY.**

(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) **AND (3)** of this section.

(d) Subject to subsections (a) and (c) of this section **AND IN ACCORDANCE WITH § 7-704.2 OF THIS SUBTITLE**, 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.

7-704.

(a) (2) (i) [1. Except as provided in subparagraph 2 of this subparagraph, energy] **ENERGY** from a Tier 1 renewable source under [§ 7-701(l)(1)] **§ 7-701(R)(1)**, (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland.

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

(3) Energy from a Tier 1 renewable source under § [7-701(l)(8)] **7-701(R)(8)** of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

(4) Energy from a Tier 2 renewable source under § [7-701(m)] **7-701(S)** of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(c) (3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § ~~[7-701(l)(4)]~~ **7-701(R)(4)** of this subtitle.

(e) (1) In this subsection, “customer” means:

- (i) an industrial electric customer that is not on standard offer service; or
- (ii) a renewable on-site generator.

**(2) THIS SUBSECTION DOES NOT APPLY TO OFFSHORE WIND RENEWABLE ENERGY CREDITS.**

~~[(2)]~~ **(3)** (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer’s load, including credits created by a renewable on-site generator.

(ii) Credits that a customer transfers to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.

~~[(3)]~~ **(4)** A renewable on-site generator may retain or transfer at its sole option any credits created by the renewable on-site generator, including credits for the portion of its on-site generation from a Tier 1 renewable source or a Tier 2 renewable source that displaces the purchase of electricity by the renewable on-site generator from the grid.

~~[(4)]~~ **(5)** A customer that satisfies the standard applicable to the customer’s load under this subsection may not be required to contribute to a compliance fee recovered under § 7-706 of this subtitle.

~~[(5)]~~ **(6)** The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

### **7-704.1.**

**(A) (1) AFTER THE EFFECTIVE DATE OF COMMISSION REGULATIONS IMPLEMENTING THIS SECTION AND § 7-704.2 OF THIS SUBTITLE, A PERSON MAY SUBMIT AN APPLICATION TO THE COMMISSION FOR APPROVAL OF A PROPOSED OFFSHORE WIND PROJECT.**

**(2) (I) ON RECEIPT OF THE APPLICATION FOR APPROVAL OF A QUALIFIED OFFSHORE WIND PROJECT, THE COMMISSION SHALL:**

**1. OPEN AN APPLICATION PERIOD WHEN OTHER INTERESTED PERSONS MAY SUBMIT APPLICATIONS FOR APPROVAL OF QUALIFIED OFFSHORE WIND PROJECTS; AND**

**2. PROVIDE NOTICE THAT THE COMMISSION IS ACCEPTING APPLICATIONS FOR APPROVAL OF QUALIFIED OFFSHORE WIND PROJECTS.**

**(II) THE COMMISSION SHALL SET THE CLOSING DATE FOR THE APPLICATION PERIOD TO BE NO SOONER THAN 90 DAYS AFTER THE NOTICE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

**(3) IN ITS DISCRETION, THE COMMISSION MAY PROVIDE FOR ADDITIONAL APPLICATION PERIODS.**

**(B) UNLESS EXTENDED BY MUTUAL CONSENT OF THE PARTIES, THE COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY AN APPLICATION WITHIN 180 DAYS AFTER THE CLOSE OF THE APPLICATION PERIOD.**

**(C) AN APPLICATION SHALL INCLUDE:**

**(1) A DETAILED DESCRIPTION AND FINANCIAL ANALYSIS OF THE OFFSHORE WIND PROJECT;**

**(2) THE PROPOSED METHOD OF FINANCING THE OFFSHORE WIND PROJECT, INCLUDING DOCUMENTATION DEMONSTRATING THAT THE APPLICANT HAS APPLIED FOR ALL CURRENT ELIGIBLE STATE AND FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER PROGRAMS AVAILABLE TO OFFSET THE COST OF THE PROJECT OR PROVIDE TAX ADVANTAGES;**

**(3) A COST-BENEFIT ANALYSIS THAT SHALL INCLUDE AT A MINIMUM:**

**(I) A DETAILED INPUT-OUTPUT ANALYSIS OF THE IMPACT OF THE OFFSHORE WIND PROJECT ON INCOME, EMPLOYMENT, WAGES, AND TAXES IN THE STATE WITH PARTICULAR EMPHASIS ON IN-STATE MANUFACTURING EMPLOYMENT;**

(II) DETAILED INFORMATION CONCERNING ASSUMED EMPLOYMENT IMPACTS IN THE STATE, INCLUDING THE EXPECTED DURATION OF EMPLOYMENT OPPORTUNITIES, THE SALARY OF EACH POSITION, AND OTHER SUPPORTING EVIDENCE OF EMPLOYMENT IMPACTS;

(III) AN ANALYSIS OF THE ANTICIPATED ENVIRONMENTAL BENEFITS, HEALTH BENEFITS, AND ENVIRONMENTAL IMPACTS OF THE OFFSHORE WIND PROJECT TO THE CITIZENS OF THE STATE;

(IV) AN ANALYSIS OF ANY IMPACT ON RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL RATEPAYERS OVER THE LIFE OF THE OFFSHORE WIND PROJECT;

(V) AN ANALYSIS OF ANY LONG-TERM EFFECT ON ENERGY AND CAPACITY MARKETS AS A RESULT OF THE PROPOSED OFFSHORE WIND PROJECT; ~~AND~~

(VI) AN ANALYSIS OF ANY IMPACT ON BUSINESSES IN THE STATE; AND

~~(VI)~~ (VII) OTHER BENEFITS, SUCH AS INCREASED IN-STATE CONSTRUCTION, OPERATIONS, MAINTENANCE, AND EQUIPMENT PURCHASE;

(4) A PROPOSED OREC PRICING SCHEDULE FOR THE OFFSHORE WIND PROJECT THAT SHALL SET A PRICE FOR THE GENERATION ATTRIBUTES, INCLUDING THE ENERGY, CAPACITY, ANCILLARY SERVICES, AND ENVIRONMENTAL ATTRIBUTES;

(5) A DECOMMISSIONING PLAN FOR THE PROJECT, INCLUDING PROVISIONS FOR DECOMMISSIONING AS REQUIRED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR;

(6) A COMMITMENT TO:

(I) ABIDE BY THE REQUIREMENTS SET FORTH IN SUBSECTION (E) OF THIS SECTION; AND

(II) DEPOSIT AT LEAST \$6,000,000, IN THE MANNER REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9-20C-03 OF THE STATE GOVERNMENT ARTICLE;



**(7) A DESCRIPTION OF THE APPLICANT'S PLAN FOR ENGAGING SMALL BUSINESSES, AS DEFINED IN § 14-501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

**(8) A COMMITMENT THAT THE APPLICANT WILL:**

**(I) USE BEST EFFORTS TO APPLY FOR ALL ELIGIBLE STATE AND FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER SIMILAR BENEFITS AS THOSE BENEFITS BECOME AVAILABLE; AND**

**(II) PASS ALONG TO RATEPAYERS, WITHOUT THE NEED FOR ANY SUBSEQUENT COMMISSION APPROVAL, 80% OF THE VALUE OF ANY STATE OR FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER SIMILAR BENEFITS RECEIVED BY THE PROJECT AND NOT INCLUDED IN THE APPLICATION; AND**

**(9) ANY OTHER INFORMATION THE COMMISSION REQUIRES.**

**(D) (1) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO EVALUATE AND COMPARE PROPOSED OFFSHORE WIND PROJECTS:**

**(I) LOWEST COST IMPACT ON RATEPAYERS OF THE PRICE SET UNDER A PROPOSED OREC PRICING SCHEDULE;**

**(II) POTENTIAL REDUCTIONS IN TRANSMISSION CONGESTION PRICES WITHIN THE STATE;**

**(III) POTENTIAL CHANGES IN CAPACITY PRICES WITHIN THE STATE;**

**(IV) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL PRICING;**

**(V) POTENTIAL LONG-TERM CHANGES IN CAPACITY PRICES WITHIN THE STATE FROM THE OFFSHORE WIND PROJECT AS IT COMPARES TO CONVENTIONAL ENERGY SOURCES;**

**(VI) THE EXTENT TO WHICH THE COST-BENEFIT ANALYSIS SUBMITTED UNDER SUBSECTION (C)(3) OF THIS SECTION DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE;**

(VII) THE EXTENT TO WHICH AN APPLICANT'S PLAN FOR ENGAGING SMALL BUSINESSES MEETS THE GOALS SPECIFIED IN TITLE 14, SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(VIII) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR THE USE OF SKILLED LABOR, PARTICULARLY WITH REGARD TO THE CONSTRUCTION AND MANUFACTURING COMPONENTS OF THE PROJECT, THROUGH OUTREACH, HIRING, OR REFERRAL SYSTEMS THAT ARE AFFILIATED WITH REGISTERED APPRENTICESHIP PROGRAMS UNDER TITLE 11, SUBTITLE 4 OF THE LABOR AND EMPLOYMENT ARTICLE;

(IX) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR THE USE OF AN AGREEMENT DESIGNED TO ENSURE THE USE OF SKILLED LABOR AND TO PROMOTE THE PROMPT, EFFICIENT, AND SAFE COMPLETION OF THE PROJECT, PARTICULARLY WITH REGARD TO THE CONSTRUCTION, MANUFACTURING, AND MAINTENANCE OF THE PROJECT;

(X) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR COMPENSATION TO ITS EMPLOYEES AND SUBCONTRACTORS CONSISTENT WITH WAGES OUTLINED UNDER §§ 17-201 THROUGH 17-228 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(XI) SITING AND PROJECT FEASIBILITY;

(XII) THE EXTENT TO WHICH THE PROPOSED OFFSHORE WIND PROJECT WOULD REQUIRE TRANSMISSION OR DISTRIBUTION INFRASTRUCTURE IMPROVEMENTS IN THE STATE;

~~(XIII)~~ (XIII) ESTIMATED ABILITY TO ASSIST IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703 OF THIS SUBTITLE; AND

~~(XIII)~~ (XIV) ANY OTHER CRITERIA THAT THE COMMISSION DETERMINES TO BE APPROPRIATE.

(2) IN EVALUATING AND COMPARING AN APPLICANT'S PROPOSED OFFSHORE WIND PROJECT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONTRACT FOR THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.

(3) THE COMMISSION SHALL VERIFY THAT REPRESENTATIVES OF THE UNITED STATES DEPARTMENT OF DEFENSE AND THE MARITIME INDUSTRY

**HAVE HAD THE OPPORTUNITY, THROUGH THE FEDERAL LEASING PROCESS, TO EXPRESS CONCERNS REGARDING PROJECT SITING.**

**(4) (I) IN THIS PARAGRAPH, "MINORITY" MEANS AN INDIVIDUAL WHO IS A MEMBER OF ANY OF THE GROUPS LISTED IN § 14-301(J)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(II) IF AN APPLICANT IS SEEKING INVESTORS IN A PROPOSED OFFSHORE WIND PROJECT, IT SHALL TAKE THE FOLLOWING STEPS BEFORE THE COMMISSION MAY APPROVE THE PROPOSED PROJECT:**

**1. MAKE SERIOUS, GOOD-FAITH EFFORTS TO SOLICIT AND INTERVIEW A REASONABLE NUMBER OF MINORITY INVESTORS;**

**2. AS PART OF THE APPLICATION, SUBMIT A STATEMENT TO THE COMMISSION THAT LISTS THE NAMES AND ADDRESSES OF ALL MINORITY INVESTORS INTERVIEWED AND WHETHER OR NOT ANY OF THOSE INVESTORS HAVE PURCHASED AN EQUITY SHARE IN THE ENTITY SUBMITTING AN APPLICATION; AND**

**3. AS A CONDITION TO THE COMMISSION'S APPROVAL OF THE OFFSHORE WIND PROJECT, SIGN A MEMORANDUM OF UNDERSTANDING WITH THE COMMISSION THAT REQUIRES THE APPLICANT TO AGAIN MAKE SERIOUS, GOOD-FAITH EFFORTS TO INTERVIEW MINORITY INVESTORS IN ANY FUTURE ATTEMPTS TO RAISE VENTURE CAPITAL OR ATTRACT NEW INVESTORS TO THE OFFSHORE WIND PROJECT.**

**(III) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, SHALL PROVIDE ASSISTANCE TO ALL POTENTIAL APPLICANTS AND POTENTIAL MINORITY INVESTORS TO SATISFY THE REQUIREMENTS UNDER SUBPARAGRAPH (II)1 AND 3 OF THIS PARAGRAPH.**

**(E) (1) THE COMMISSION MAY NOT APPROVE AN APPLICANT'S PROPOSED OFFSHORE WIND PROJECT UNLESS:**

**(I) THE PROPOSED OFFSHORE WIND PROJECT DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE, BASED ON THE CRITERIA SPECIFIED IN SUBSECTION (C)(3) OF THIS SECTION;**

**(II) THE PROJECTED NET RATE IMPACT FOR AN AVERAGE RESIDENTIAL CUSTOMER, BASED ON ANNUAL CONSUMPTION OF 12,000 KILOWATT-HOURS, COMBINED WITH THE PROJECTED NET RATE IMPACT OF**

**OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED \$1.50 PER MONTH IN 2012 DOLLARS, OVER THE DURATION OF THE PROPOSED OREC PRICING SCHEDULE;**

**(III) THE PROJECTED NET RATE IMPACT FOR ALL NONRESIDENTIAL CUSTOMERS CONSIDERED AS A BLENDED AVERAGE, COMBINED WITH THE PROJECTED NET RATE IMPACT OF OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED 1.5% OF NONRESIDENTIAL CUSTOMERS' TOTAL ANNUAL ELECTRIC BILLS, OVER THE DURATION OF THE PROPOSED OREC PRICING SCHEDULE; AND**

**(IV) THE PRICE SET IN THE PROPOSED OREC PRICE SCHEDULE DOES NOT EXCEED \$190 PER MEGAWATT-HOUR IN 2012 DOLLARS.**

**(2) (I) WHEN CALCULATING THE NET BENEFITS TO THE STATE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL CONTRACT FOR THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.**

**(II) WHEN CALCULATING THE PROJECTED NET AVERAGE RATE IMPACTS UNDER PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION, THE COMMISSION SHALL APPLY THE SAME NET OREC COST PER MEGAWATT-HOUR TO RESIDENTIAL AND NONRESIDENTIAL CUSTOMERS.**

**(F) (1) AN ORDER THE COMMISSION ISSUES APPROVING A PROPOSED OFFSHORE WIND PROJECT SHALL:**

**(I) SPECIFY THE OREC PRICE SCHEDULE, WHICH MAY NOT AUTHORIZE AN OREC PRICE GREATER THAN \$190 PER MEGAWATT-HOUR IN 2012 DOLLARS;**

**(II) SPECIFY THE DURATION OF THE OREC PRICING SCHEDULE, NOT TO EXCEED 20 YEARS;**

**(III) SPECIFY THE NUMBER OF ORECS THE OFFSHORE WIND PROJECT MAY SELL EACH YEAR; ~~AND~~**

**(IV) PROVIDE THAT:**

**1. A PAYMENT MAY NOT BE MADE FOR AN OREC UNTIL ELECTRICITY SUPPLY IS GENERATED BY THE OFFSHORE WIND PROJECT; AND**

2. RATEPAYERS, PURCHASERS OF ORECS, AND THE STATE SHALL BE HELD HARMLESS FOR ANY COST OVERRUNS ASSOCIATED WITH THE OFFSHORE WIND PROJECT; AND

(V) REQUIRE THAT ANY DEBT INSTRUMENT ISSUED IN CONNECTION WITH A QUALIFIED OFFSHORE WIND PROJECT INCLUDE LANGUAGE SPECIFYING THAT THE DEBT INSTRUMENT DOES NOT ESTABLISH A DEBT, OBLIGATION, OR LIABILITY OF THE STATE.

(2) AN ORDER APPROVING A PROPOSED OFFSHORE WIND PROJECT VESTS THE OWNER OF THE QUALIFIED OFFSHORE WIND PROJECT WITH THE RIGHT TO RECEIVE PAYMENTS FOR ORECS ACCORDING TO THE TERMS IN THE ORDER.

(G) (1) WITHIN 60 DAYS AFTER THE COMMISSION APPROVES THE APPLICATION OF A PROPOSED OFFSHORE WIND PROJECT, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT \$2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9-20C-03 OF THE STATE GOVERNMENT ARTICLE.

(2) WITHIN 1 YEAR AFTER THE INITIAL DEPOSIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT AN ADDITIONAL \$2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

(3) WITHIN 2 YEARS AFTER THE INITIAL DEPOSIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT AN ADDITIONAL \$2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

7-704.2.

(A) (1) THE COMMISSION SHALL DETERMINE THE OFFSHORE WIND ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703(B)(12) THROUGH (17) OF THIS SUBTITLE BASED ON THE PROJECTED ANNUAL CREATION OF ORECS BY QUALIFIED OFFSHORE WIND PROJECTS.

(2) THE COMMISSION SHALL ESTABLISH THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION FOR ORECS ON A FORWARD-LOOKING BASIS THAT INCLUDES A SURPLUS TO ACCOMMODATE REASONABLE FORECASTING ERROR IN ESTIMATING OVERALL ELECTRICITY SALES IN THE STATE.

**(3) ANY POSITIVE ADJUSTMENT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE ON A FORWARD-LOOKING BASIS AND SUFFICIENTLY IN ADVANCE TO ALLOW OREC PURCHASERS TO REFLECT OREC COSTS IN RETAIL PRICES OFFERED TO CONSUMERS.**

**(4) THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH:**

**(I) THE OFFSHORE WIND PURCHASE OBLIGATION SUFFICIENTLY IN ADVANCE TO ALLOW OREC PURCHASERS TO REFLECT OREC COSTS IN RETAIL PRICES OFFERED TO CONSUMERS; AND**

**(II) A MECHANISM TO ADJUST THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION IN A GIVEN YEAR TO ACCOMMODATE A SHORTFALL OF ORECS IN ONE OR MORE EARLIER YEARS THAT IS THE RESULT OF THE VARIATION BETWEEN THE QUANTITY OF ORECS CALCULATED FROM THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION AND THE QUANTITY OF ORECS APPROVED IN THE COMMISSION ORDER FOR THE SAME YEARS.**

**(B) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING AN ESCROW ACCOUNT UNDER COMMISSION SUPERVISION AND DEFINING RULES THAT FACILITATE AND ENSURE THE SECURE AND TRANSPARENT TRANSFER OF REVENUES AND ORECS AMONG THE PARTIES.**

**(C) (1) EACH ELECTRICITY SUPPLIER SHALL PURCHASE FROM THE ESCROW ACCOUNT ESTABLISHED UNDER THIS SECTION THE NUMBER OF ORECS REQUIRED TO SATISFY THE OFFSHORE WIND ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703(B)(12) THROUGH (17) OF THIS SUBTITLE.**

**(2) (I) SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT THE COMMISSION ESTABLISHES, IF THERE ARE INSUFFICIENT ORECS AVAILABLE TO SATISFY THE SUPPLIERS' OREC OBLIGATION, THE OVERPAYMENT SHALL BE DISTRIBUTED TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.**

**(II) SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT THE COMMISSION ESTABLISHES, THE CALCULATION OF AN ELECTRICITY SUPPLIER'S OREC PURCHASE OBLIGATION SHALL BE BASED ON**

**FINAL ELECTRICITY SALES DATA AS REPORTED BY THE PJM INTERCONNECTION AS MEASURED AT THE CUSTOMER METER.**

**(3) FOR EACH OREC FOR WHICH A QUALIFIED OFFSHORE WIND PROJECT RECEIVES PAYMENT, A QUALIFIED OFFSHORE WIND PROJECT SHALL:**

**(I) SELL ALL ENERGY, CAPACITY, AND ANCILLARY SERVICES ASSOCIATED WITH THE CREATION OF ORECS INTO THE MARKETS OPERATED BY PJM INTERCONNECTION; AND**

**(II) DISTRIBUTE THE PROCEEDS RECEIVED FROM THE SALES TO PJM INTERCONNECTION MARKETS, UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.**

**(4) NOTWITHSTANDING § 7-709 OF THIS SUBTITLE, THE COMMISSION SHALL ADOPT REGULATIONS REGARDING THE TRANSFER AND EXPIRATION OF ORECS CREATED BY A QUALIFIED OFFSHORE WIND PROJECT IN EXCESS OF THE OREC PRICING SCHEDULE.**

**(D) (1) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN OREC TERM, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO RECEIVE PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR THE 5 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM OF THE OREC PRICING SCHEDULE, THE COMMISSION MAY EXTEND THE TERM OF THE OREC PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE THAT EQUALS ONE-HALF OF THE SUM OF:**

**(I) ANTICIPATED MARKET REVENUES GENERATED BY THE PROJECT DURING THE ADDITIONAL 5-YEAR PERIOD; AND**

**(II) ANTICIPATED PROJECT OPERATING COSTS DURING THE ADDITIONAL 5-YEAR PERIOD.**

**(2) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN ADDITIONAL 5-YEAR TERM EXTENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO RECEIVE PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR THE 5 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE ADDITIONAL 5-YEAR TERM, THE COMMISSION MAY EXTEND THE TERM OF THE OREC PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE THAT EQUALS ONE-HALF OF THE SUM OF:**

**(I) ANTICIPATED MARKET REVENUES GENERATED BY THE PROJECT DURING THE ADDITIONAL 5-YEAR PERIOD; AND**

**(II) ANTICIPATED PROJECT OPERATING COSTS DURING THE ADDITIONAL 5-YEAR PERIOD.**

**(3) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, AN OREC TRANSACTION THAT TAKES PLACE DURING AN ADDITIONAL 5-YEAR TERM IS SUBJECT TO THE PROVISIONS AND REGULATIONS APPLICABLE TO THE ORIGINAL OREC ORDER.**

**(E) A DEBT, OBLIGATION, OR LIABILITY OF A QUALIFIED OFFSHORE WIND PROJECT, OR AN OWNER OR OPERATOR OF A QUALIFIED OFFSHORE WIND PROJECT, MAY NOT BE CONSIDERED A DEBT, OBLIGATION, OR LIABILITY OF THE STATE.**

**~~(E)~~ (F) ON OR BEFORE JULY 1, 2014, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION AND § 7-704.1 OF THIS SUBTITLE.**

7-705.

(a) Each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7-703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard.

**(b) (1) THIS SUBSECTION DOES NOT APPLY TO A SHORTFALL FROM THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM OFFSHORE WIND ENERGY.**

**(2)** 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)] (I)** except as provided in item **[(2)] (II)** of this **[subsection] PARAGRAPH**, a compliance fee of:



[(i)] 1. 4 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)] 2. the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

- [1.] A. 45 cents in 2008;
- [2.] B. 40 cents in 2009 through 2014;
- [3.] C. 35 cents in 2015 and 2016;
- [4.] D. 20 cents in 2017 and 2018;
- [5.] E. 15 cents in 2019 and 2020;
- [6.] F. 10 cents in 2021 and 2022; and
- [7.] G. 5 cents in 2023 and later; and

[(iii)] 3. 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

[(2)] (II) for industrial process load:

[(i)] 1. for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

- [1.] A. 0.8 cents in 2006, 2007, and 2008;
- [2.] B. 0.5 cents in 2009 and 2010;
- [3.] C. 0.4 cents in 2011 and 2012;
- [4.] D. 0.3 cents in 2013 and 2014;
- [5.] E. 0.25 cents in 2015 and 2016; and
- [6.] F. **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,** 0.2 cents in 2017 and later; and

[(ii)] 2. nothing for any shortfall from required Tier 2 renewable sources.

**(3) FOR INDUSTRIAL PROCESS LOAD, THE COMPLIANCE FEE FOR EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED TIER 1 RENEWABLE SOURCES IS:**

**(I) 0.1 CENTS IN ANY YEAR DURING WHICH SUPPLIERS ARE REQUIRED TO PURCHASE ORECS UNDER § 7-704.2 OF THIS SUBTITLE; AND**

**(II) NOTHING FOR THE YEAR FOLLOWING ANY YEAR DURING WHICH, AFTER FINAL CALCULATIONS, THE NET RATE IMPACT PER MEGAWATT-HOUR FROM QUALIFIED OFFSHORE WIND PROJECTS EXCEEDED \$1.65 IN 2012 DOLLARS.**

(f) (1) Except as provided in subsection (e) of this section, and 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 other than solar credits **OR ORECS** in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, the greater of the applicable Tier 1 percentage or 10% 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 Tier 1 credits under § 7-703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for Tier 1 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 Tier 1 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 Tier 1 credits other than solar credits **OR ORECS** is greater than or equal to, or is anticipated to be greater than or equal

to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for Tier 1 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 Tier 1 credits other than solar credits **OR ORECS** is less than, or is anticipated to be less than, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

### Article – Natural Resources

8-1102.

(a) (1) **[For] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, FOR** the purposes of maintaining the Atlantic Coast beaches of the State and the Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance of the beaches, Beach Erosion Control District, and dunal system, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited.

(2) This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control; beach erosion and sediment control; maintenance projects designed to benefit the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to an additional 40 feet to the east between South Second Street and the south side of Worcester Street and from the south side of Somerset Street to the southerly terminus of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east between the south side of Worcester Street and the south side of Somerset Street to include associated appurtenances and construction of one restroom facility in an easterly direction between South Second Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the purpose of public health, safety, and welfare; and a planned public utility pipeline carrying treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition to the approvals required by all other applicable federal and local laws and regulations, it is approved by the Board of Public Works as essential to the public health, safety, and welfare of the citizens of Worcester County, after having received the permission of the Secretaries of the Environment and Natural Resources, and the Director of Planning, including a guarantee that in any contract under this provision a person will not make any significant permanent environmental disruption to the area, and the construction area for the purpose of laying a single pipe with a diameter not exceeding 36 inches is

limited to a single 100 foot wide area perpendicular eastward from the west crest of the natural dune line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and Natural Resources and the Director of Planning find that there is no economically and environmentally feasible alternative, and that there is insufficient capacity at the existing Ocean City wastewater treatment facility and discharge pipe.

**(3) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THIS PROHIBITION DOES NOT APPLY TO THE CONSTRUCTION AND INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN § 7-208 OF THE PUBLIC UTILITIES ARTICLE, IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS DETERMINED BY THE DEPARTMENT.**

**(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN § 7-208 OF THE PUBLIC UTILITIES ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT, AS PROVIDED IN § 3-306 OF THIS ARTICLE.**

**(III) THE PUBLIC SERVICE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE TO BE CONSTRUCTED OR INSTALLED WITHIN THE ASSATEAGUE NATIONAL SEASHORE PARK OR THE ASSATEAGUE STATE PARK.**

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Director of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

#### **Article – State Government**

### **SUBTITLE 20C. MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.**

#### **9-20C-01.**

**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(B) “ADVISORY COMMITTEE” MEANS THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT ADVISORY COMMITTEE ESTABLISHED UNDER § 9-20C-02 OF THIS SUBTITLE.**

(C) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

(D) "DIRECTOR" MEANS THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION.

(E) "EMERGING BUSINESS" MEANS A BUSINESS THAT IS AT LEAST 51% OWNED AND CONTROLLED BY AN INDIVIDUAL OR INDIVIDUALS WHO ARE CERTIFIED TO HAVE A PERSONAL NET WORTH, AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THAT DOES NOT EXCEED \$6,500,000 AS ADJUSTED EACH YEAR FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX.

(F) "FUND" MEANS THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9-20C-03 OF THIS SUBTITLE.

(G) "MINORITY" MEANS AN INDIVIDUAL WHO IS A MEMBER OF ANY OF THE GROUPS LISTED IN § 14-301(J)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

**9-20C-02.**

(A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT ADVISORY COMMITTEE.

(B) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE ADMINISTRATION ON THE MOST EFFECTIVE MANNER TO USE MONEY IN THE FUND CONSISTENT WITH THE PURPOSES OF THE FUND.

(C) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) ~~ONE MEMBER~~ TWO MEMBERS OF THE SENATE OF MARYLAND, ONE FROM EACH OF THE PRINCIPAL POLITICAL PARTIES, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ~~ONE MEMBER~~ TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM EACH OF THE PRINCIPAL POLITICAL PARTIES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE;

(4) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE SPECIAL SECRETARY OF THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, OR THE SPECIAL SECRETARY'S DESIGNEE; AND

(6) THE FOLLOWING ~~11~~ 12 MEMBERS, APPOINTED BY THE GOVERNOR:

(I) 1 REPRESENTATIVE OF A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE;

(II) 1 REPRESENTATIVE OF A HISTORICALLY BLACK OR AFRICAN AMERICAN UNIVERSITY IN THE STATE;

(III) 1 REPRESENTATIVE OF THE STATE'S COMMUNITY COLLEGES;

(IV) 1 REPRESENTATIVE OF THE MARYLAND INDEPENDENT COLLEGES AND UNIVERSITIES ASSOCIATION;

~~(IV)~~ (V) 1 REPRESENTATIVE OF THE MARYLAND SMALL BUSINESS DEVELOPMENT CENTER NETWORK;

~~(V)~~ (VI) 1 REPRESENTATIVE OF THE MARYLAND BUSINESS COALITION FOR OFFSHORE WIND;

~~(VI)~~ (VII) 1 REPRESENTATIVE OF A BUSINESS INCUBATOR IN THE STATE WITH EXPERIENCE IN PROVIDING SERVICES TO MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR TO EMERGING BUSINESSES, INCLUDING EMERGING BUSINESSES OWNED BY MINORITIES;

~~(VII)~~ (VIII) 1 INDIVIDUAL WITH EXPERIENCE IN PROVIDING BUSINESS FINANCING TO MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR TO EMERGING BUSINESSES, INCLUDING EMERGING BUSINESSES OWNED BY MINORITIES;

~~(VIII)~~ (IX) 1 REPRESENTATIVE OF AN OFFSHORE WIND DEVELOPER;

~~(IX)~~ (X) 1 REPRESENTATIVE OF AN ORIGINAL EQUIPMENT MANUFACTURER;

~~(X)~~ (XI) 1 INDIVIDUAL WHO IS A MINORITY BUSINESS ADVOCATE; AND

~~(XI)~~ (XII) 1 INDIVIDUAL WITH EXPERIENCE IN OFFSHORE WIND SUPPLY CHAIN ISSUES.

(D) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE ADVISORY COMMITTEE.

(E) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY COMMITTEE.

(F) A MEMBER OF THE ADVISORY COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) (1) ON OR BEFORE DECEMBER 31, 2013, THE ADVISORY COMMITTEE SHALL PROVIDE WRITTEN RECOMMENDATIONS TO THE ADMINISTRATION REGARDING THE MOST EFFECTIVE USE OF MONEY IN THE FUND IN ORDER TO MAXIMIZE OPPORTUNITIES FOR EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, TO PARTICIPATE IN THE OFFSHORE WIND INDUSTRY.

(2) IN MAKING A RECOMMENDATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADVISORY COMMITTEE SHALL CONSIDER OPPORTUNITIES TO MAXIMIZE LEVERAGING OPPORTUNITIES, MENTORING AND PROTEGE MODELS, INNOVATION CLUSTERS, EXISTING INCUBATOR AND BUSINESS DEVELOPMENT PROGRAMS, AND THE APPROPRIATE ROLE OF PARTNERSHIPS WITH THE STATE'S UNIVERSITIES AND COMMUNITY COLLEGES.

(3) ON OR BEFORE DECEMBER 31, 2014, THE ADVISORY COMMITTEE SHALL PROVIDE UPDATED RECOMMENDATIONS TO THE ADMINISTRATION.

(H) ON COMPLETION AND SUBMISSION OF THE WRITTEN RECOMMENDATIONS REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, THE ADVISORY COMMITTEE SHALL TERMINATE ITS OPERATION AND CEASE TO MEET.

**9-20C-03.**

**(A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND IN THE ADMINISTRATION.**

**(B) THE PURPOSES OF THE FUND ARE TO:**

**(1) PROVIDE FINANCIAL ASSISTANCE, BUSINESS DEVELOPMENT ASSISTANCE, AND EMPLOYEE TRAINING OPPORTUNITIES FOR THE BENEFIT OF EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, TO PREPARE THOSE BUSINESSES TO PARTICIPATE IN THE EMERGING OFFSHORE WIND INDUSTRY; AND**

**(2) ENCOURAGE EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, TO PARTICIPATE IN THE EMERGING OFFSHORE WIND INDUSTRY.**

**(C) THE ADMINISTRATION MAY USE THE FUND TO:**

**(1) CARRY OUT THE PURPOSES OF THE FUND; AND**

**(2) PAY THE COSTS OF IMPLEMENTING THIS SUBTITLE.**

**(D) THE DIRECTOR SHALL MANAGE AND SUPERVISE THE FUND.**

**(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

**(F) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY.**

**(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.**

**(G) THE FUND CONSISTS OF:**

**(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;**

**(2) MONEY PAID TO THE FUND BY A QUALIFIED OFFSHORE WIND PROJECT UNDER § 7-704.1(G) OF THE PUBLIC UTILITIES ARTICLE;**



(3) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;

(4) REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE FROM THE FUND;

(5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE ADMINISTRATION OF COLLATERAL RELATED TO FINANCING THAT THE ADMINISTRATION PROVIDES UNDER THIS SUBTITLE;

(6) INVESTMENT EARNINGS OF THE FUND; AND

(7) ANY OTHER MONEY MADE AVAILABLE TO THE ADMINISTRATION FOR THE FUND.

(H) (1) IN FISCAL YEARS 2014 AND 2015, \$1,500,000 SHALL BE TRANSFERRED FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE FUND.

(2) IN FISCAL YEAR 2016, \$1,000,000 SHALL BE TRANSFERRED FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE FUND.

9-20C-04.

(A) WHEN DETERMINING HOW MOST EFFECTIVELY TO USE THE MONEY IN THE FUND, THE ADMINISTRATION SHALL CONSIDER THE ~~RECOMMENDATION~~ RECOMMENDATIONS OF THE ADVISORY COMMITTEE.

(B) IN CARRYING OUT THIS SUBTITLE, AND CONSISTENT WITH THE PURPOSES OF THE FUND, THE ADMINISTRATION MAY CONTRACT WITH:

(1) EXPERTS IN THE AREA OF OFFSHORE WIND ENERGY; ~~AND~~

(2) THE SMALL BUSINESS DEVELOPMENT CENTER NETWORK IN THE UNIVERSITY OF MARYLAND; AND

~~(2)~~ (3) ENTITIES EXPERIENCED IN ASSISTING EMERGING BUSINESSES, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, IN ACCESSING MARKET OPPORTUNITIES.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT

**ARTICLE DOES NOT APPLY TO A SERVICE THAT THE ADMINISTRATION OBTAINS UNDER THIS SECTION.**

**(2) THE ADMINISTRATION IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES UNDER THIS SECTION.**

**Article – State Finance and Procurement**

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

69. the Maryland Legal Services Corporation Fund; [and]

70. Mortgage Loan Servicing Practices Settlement Fund;

**AND**

**71. MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Public Utilities**

7–208.

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “QUALIFIED OFFSHORE WIND PROJECT” HAS THE MEANING STATED IN § 7–701 OF THIS TITLE.**

**(3) “QUALIFIED SUBMERGED RENEWABLE ENERGY LINE” MEANS:**

**(I) A LINE CARRYING ELECTRICITY SUPPLY AND CONNECTING A QUALIFIED OFFSHORE WIND PROJECT TO THE TRANSMISSION SYSTEM; AND**

**(II) A LINE IN WHICH THE PORTIONS OF THE LINE CROSSING ANY SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL DISTRICT ARE BURIED OR SUBMERGED.**

**[(a)] (B)** This section applies to any person:

(1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts; **[or]**

(2) exercising the right of condemnation in connection with the construction; **OR**

**(3) CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE.**

**[(b)] (C)** (1) To obtain the certificate of public convenience and necessity required under § 7–207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2–year requirement on a showing of good cause.

**[(c)] (D)** The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

**[(d)] (E)** (1) On the receipt of an application under this section, together with any additional information requested under subsection **[(c)(2)] (D)(2)** of this section, the Commission shall provide notice to:

(i) all interested persons;

(ii) the Department of Agriculture;

(iii) the Department of Business and Economic Development;

- (iv) the Department of the Environment;
- (v) the Department of Natural Resources;
- (vi) the Department of Transportation; [and]
- (vii) the Department of Planning; AND

**(VIII) THE MARYLAND ENERGY ADMINISTRATION.**

(2) The Commission shall hold a public hearing on the application as required by § 7–207 of this subtitle[,] after:

- (i) the receipt of any additional information requested under subsection [(c)(2)] **(D)(2)** of this section that the Commission considers necessary; and
- (ii) any publication of notice the Commission considers to be proper.

(3) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit’s areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit’s initial recommendations.

[(e)] **(F)** Within 90 days after the conclusion of the hearing on an application under this section, the Commission shall:

- (1) (i) grant a certificate of public convenience and necessity unconditionally;
- (ii) grant the certificate, subject to conditions the Commission determines to be appropriate; or
- (iii) deny the certificate; and
- (2) notify all interested parties of its decision.

[(f)] **(G)** (1) The Commission shall include in each certificate it issues under subsection [(e)] **(F)** of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

**[(g)] (H)** (1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

**[(h)] (I)** The grant of a certificate by the Commission to any person under subsection **[(e)] (F)** of this section constitutes:

(1) authority for the person to dredge and construct bulkheads in the waters or private wetlands of the State and to appropriate or use the waters; and

(2) registration and a permit to construct, as required under Title 2, Subtitle 4 of the Environment Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### **Article – Public Utilities**

7-704.1.

**(e)** (1) The Commission may not approve an applicant's proposed offshore wind project unless:

(i) the proposed offshore wind project demonstrates positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section;

(ii) the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt-hours, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed \$1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

(iii) the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed 1.5% of nonresidential customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

(iv) the price set in the proposed OREC price schedule does not exceed \$190 per megawatt-hour in 2012 dollars.

(2) (i) When calculating the net benefits to the State under paragraph (1)(i) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts under paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the same net OREC cost per megawatt-hour to residential and nonresidential customers.

**(3) (I) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AS ENACTED BY CHAPTER 253 OF THE ACTS OF 2011 AND CHAPTER 154 OF THE ACTS OF 2012, ARE INCORPORATED IN THIS PARAGRAPH.**

**(II) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES CONSTITUTION, APPROVED APPLICANTS FOR A PROPOSED OFFSHORE WIND PROJECT SHALL COMPLY WITH THE STATE'S MINORITY BUSINESS ENTERPRISE PROGRAM.**

**(III) 1. THE COMMISSION MAY NOT APPROVE AN APPLICATION UNTIL THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, AND THE APPLICANT HAVE ESTABLISHED A CLEAR PLAN FOR SETTING REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS AND PROCEDURES FOR EACH PHASE OF THE QUALIFIED OFFSHORE WIND PROJECT.**

**2. TO THE EXTENT PRACTICABLE, THE GOALS AND PROCEDURES SPECIFIED IN SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE BASED ON THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE REGULATIONS IMPLEMENTING THAT SUBTITLE.**

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) (1) Notwithstanding any other law, the following amounts shall be transferred from money derived from the Exelon–Constellation merger approved by the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012, and deposited into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article to the Public Service Commission in order to contract the services of independent consultants and experts as necessary to carry out this Act:

- (i) for fiscal year 2014, \$1,000,000; and
- (ii) for fiscal year 2015, \$2,000,000.

(2) The sum transferred under paragraph (1) of this subsection is in addition to any amounts transferred to the Maryland Offshore Wind Business Development Fund under § 9–20C–03(h) of the State Government Article, as enacted by this Act, from money derived from the Exelon–Constellation merger approved by the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012.

(3) Subject to paragraph (4) of this subsection, any funds received by the Public Service Commission under paragraph (1) of this subsection and not encumbered at the end of the fiscal year shall be carried forward to the next fiscal year.

(4) Any funds received by the Public Service Commission under paragraph (1) of this subsection and not encumbered by June 30, 2019, shall be transferred to the Maryland Strategic Energy Investment Fund.

~~(b) (1) Subject to subsection (a) of this section, and, notwithstanding any other law, the Public Service Commission may implement a special assessment using the assessment process authorized under § 2–110 of the Public Utilities Article in order to contract for the services of independent consultants and experts as necessary to carry out this Act.~~

~~(2) The cumulative special assessment under this subsection may not exceed \$3,000,000 less the net amount transferred to the Commission under subsection (a) of this section.~~

~~(3) The assessment shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2–110 of the Public Utilities Article.~~

~~(4) The limit imposed under § 2–110(e)(12) of the Public Utilities Article does not apply to any assessment made under this section.~~

(b) (1) Subject to paragraph (2) of this subsection, beginning in fiscal year 2020, in any fiscal year in which the Public Service Commission requires funding to

contract the services of independent consultants and experts to carry out this Act, money shall be transferred from the Maryland Strategic Energy Investment Fund to the Public Service Commission to contract the services of independent consultants and experts.

(2) The cumulative amount transferred to the Public Service Commission under this subsection may not exceed \$3,000,000 less the net amount transferred to the Public Service Commission under subsection (a) of this section.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other law, for any fiscal year during which an OREC obligation exists to meet a renewable portfolio standard derived from offshore wind energy set by the Public Service Commission under § 7-703(b)(12) through (17) of the Public Utilities Article, as enacted by Section 1 of this Act, the Commission may implement a special assessment using the assessment process authorized under § 2-110 of the Public Utilities Article in order to employ staff and recover administrative costs necessary to carry out this Act.

(b) (1) The cumulative special assessment under this section shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2-110 of the Public Utilities Article.

(2) The limit imposed under § 2-110(c)(12) of the Public Utilities Article does not apply to any assessment made under this section.

SECTION 6. AND BE IT FURTHER ENACTED, That on receipt of all applications submitted under § 7-704.1 of the Public Utilities Article, as enacted by Section 1 of this Act, the Commission shall promptly open an evidentiary proceeding to allow open and transparent evaluation of applications to the maximum extent possible consistent with applicable confidentiality laws.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) There is a Clean Energy Program Task Force.

(b) The Task Force consists of the following 11 members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the President of Bowie State University, or the President's designee;



(4) the President of Coppin State University, or the President's designee;

(5) the President of Morgan State University, or the President's designee;

(6) the President of the University of Maryland Eastern Shore, or the President's designee;

(7) the Secretary of Higher Education, or the Secretary's designee;

(8) the Director of the Maryland Energy Administration, or the Director's designee; and

(9) the following three members, appointed by the Governor:

(i) one representative of the American Association of Blacks in Energy; and

(ii) two representatives of the clean energy industry.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Higher Education Commission and the Maryland Energy Administration shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the feasibility of establishing a terminal degree or certificate program in clean energy at one or more of the following colleges and universities:

(i) Bowie State University;

(ii) Coppin State University;

(iii) Morgan State University; and

(iv) the University of Maryland Eastern Shore; and

(2) make recommendations regarding the feasibility of establishing a terminal degree or certificate program in clean energy at one or more of the colleges and universities listed in paragraph (1) of this subsection.

(g) On or before July 31, 2014, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) There is a Clean Energy Technical Education Task Force.

(b) The Task Force consists of the following eight members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Director of the Maryland Energy Administration, or the Director's designee;

(4) the Secretary of the Department of Labor, Licensing, and Regulation, or the Secretary's designee; and

(5) the following four members appointed by the Governor:

(i) two representatives of community colleges in the State; and

(ii) two representatives of the clean energy industry.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Higher Education Commission, the Maryland Energy Administration, and the Maryland Association of Community Colleges jointly shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall study the programs and course offerings currently being offered in the area of clean energy, with a particular emphasis on wind energy, and identify areas in which additional programs and course offerings should be offered at one or more of the following community colleges:

- (1) Allegany College of Maryland;
- (2) Anne Arundel Community College;
- (3) Baltimore City Community College;
- (4) Community College of Baltimore County;
- (5) Carroll Community College;
- (6) Cecil College;
- (7) Chesapeake College;
- (8) College of Southern Maryland;
- (9) Frederick Community College;
- (10) Garrett College;
- (11) Hagerstown Community College;
- (12) Harford Community College;
- (13) Howard Community College;
- (14) Montgomery College;
- (15) Prince George's Community College; and
- (16) Wor-Wic Community College.

(g) On or before July 31, 2014, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION ~~7~~ 8 9. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the

invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~9.~~ 10. AND BE IT FURTHER ENACTED, That § 7-705(f) of the Public Utilities Article, as enacted by Section 1 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 4 of Chapters 125 and 126 of the Acts of the General Assembly of 2008. If that termination provision takes effect, § 7-705(f) of the Public Utilities Article, as enacted by Section 1 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION ~~9.~~ ~~10.~~ 11. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2013. It shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2016, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no force and effect.

SECTION ~~10.~~ ~~11.~~ 12. AND BE IT FURTHER ENACTED, That Section 7 Sections 7 and 8 of this Act shall take effect June 1, 2013. ~~It~~ They shall remain effective for a period of 1 year and 2 months and, at the end of July 31, 2014, with no further action required by the General Assembly, Section 7 Sections 7 and 8 of this Act shall be abrogated and of no further force and effect.

SECTION ~~12.~~ 13. AND BE IT FURTHER ENACTED, That ~~except as provided in Section 9 of this Act,~~ this Act shall take effect June 1, 2013.

**Approved by the Governor, April 9, 2013.**