

Chapter 578

(Senate Bill 526)

AN ACT concerning

Electricity—Offshore Wind Renewable Energy Portfolio Standard and Renewable Energy Credits – Offshore Wind

FOR the purpose of ~~altering the process for purchasing offshore wind renewable energy credits to satisfy the offshore wind energy component of the renewable energy portfolio standard; requiring the Public Service Commission to adopt regulations establishing a certain cost recovery mechanism~~ altering the application of the offshore wind energy component of the renewable energy portfolio standard to apply only to distribution sales of electric companies; altering the manner in which an electric company may reflect and recover offshore wind renewable energy credit costs; altering certain compliance fees for shortfalls from the offshore wind energy component of the renewable energy portfolio standard; and generally relating to offshore wind and the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,

Article – Public Utilities

Section 7–701(a) and (g)

Annotated Code of Maryland

(2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section ~~7–704.2(e)~~ 7–703(a)(3) and (d), 7–704.2(a) and (c), and 7–705(b)

Annotated Code of Maryland

(2020 Replacement Volume and 2021 Supplement)

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

Article – Public Utilities7–701.

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

(g) “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.

7–703.

(a) (3) The portion of a renewable energy portfolio standard that represents offshore wind energy:

(I) APPLIES ONLY TO THE DISTRIBUTION SALES OF ELECTRIC COMPANIES; AND

(II) may not apply to [electricity sales at retail] DISTRIBUTION SALES by any [electricity supplier] ELECTRIC COMPANY in excess of:

[(i)] 1. 75,000,000 kilowatt-hours of industrial process load to a single customer in a year; and

[(ii)] 2. 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.

(d) (1) 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 FOR ALL TIER 1 AND TIER 2 RENEWABLE SOURCES EXCEPT OFFSHORE WIND by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

(2) AN ELECTRIC COMPANY SHALL MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR OFFSHORE WIND IN ACCORDANCE WITH § 7-704.2 OF THIS SUBTITLE.

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 (25) 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] AN ELECTRIC COMPANY to reflect OREC costs [in retail prices offered] AS A NONBYPASSABLE SURCHARGE to [consumers] DISTRIBUTION CUSTOMERS.

(4) The Commission shall adopt regulations that establish:

(i) the offshore wind purchase obligation sufficiently in advance to allow [OREC purchasers] AN ELECTRIC COMPANY to reflect OREC costs [in retail prices offered to consumers] AS A NONBYPASSABLE SURCHARGE PAID BY ALL DISTRIBUTION CUSTOMERS OF THE ELECTRIC COMPANY; [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; AND

(III) A NONBYPASSABLE SURCHARGE THAT ALLOWS AN ELECTRIC COMPANY TO RECOVER ALL COSTS ASSOCIATED WITH THE PURCHASE OF ORECS FROM ALL DISTRIBUTION CUSTOMERS OF THE ELECTRIC COMPANY.

(c) (1) Each [electricity supplier] **ELECTRIC COMPANY** shall purchase from the escrow account established under this section the number of ORECs required ~~ACT AS AN AGENT ON BEHALF OF ELECTRICITY SUPPLIERS TO FACILITATE THE TRANSFER OF OREC FUNDING PAYMENTS FROM RATEPAYERS TO OFFSHORE WIND DEVELOPERS~~ to satisfy the offshore wind energy component of the renewable energy portfolio standard under § 7-703(b)(12) through (25) 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'~~ **ELECTRIC COMPANIES'** OREC obligation, the overpayment shall be distributed to electric companies to be refunded or credited to each ~~ratepayer~~ **DISTRIBUTION CUSTOMER** based on the ~~ratepayer's~~ **CUSTOMER'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~~ **ELECTRIC COMPANY'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 item (i) of this paragraph to electric companies to be refunded or credited to each ~~ratepayer~~ **DISTRIBUTION CUSTOMER** based on the ~~ratepayer's~~ **CUSTOMER'S** consumption of electricity supply that is subject to the renewable energy portfolio standard.

~~(4) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH A COST RECOVERY MECHANISM THAT ALLOWS EACH ELECTRIC COMPANY TO ACT AS AN AGENT ON BEHALF OF ELECTRICITY SUPPLIERS FOR OREC FUNDING PAYMENTS FROM RATEPAYERS.~~

~~(4)~~ (5) 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.

7-705.

(b) (1) This subsection does not apply to a shortfall from the required Tier 1 renewable sources that is to be derived from [:

- (i) offshore wind energy; or
- (ii) post-2022 geothermal systems.

(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:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. the following amounts 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:

- A. 4 cents through 2016;
- B. 3.75 cents in 2017 and 2018;
- C. 3 cents in 2019 through 2023;
- D. 2.75 cents in 2024;
- E. 2.5 cents in 2025;
- F. 2.475 cents in 2026;
- G. 2.45 cents in 2027;

H. 2.25 cents in 2028 and 2029; and

I. 2.235 cents in 2030 and later;

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

A. 45 cents in 2008;

B. 40 cents in 2009 through 2014;

C. 35 cents in 2015 and 2016;

D. 19.5 cents in 2017;

E. 17.5 cents in 2018;

F. 10 cents in 2019;

G. 10 cents in 2020;

H. 8 cents in 2021;

I. 6 cents in 2022;

J. 6 cents in 2023;

K. 6 cents in 2024;

L. 5.5 cents in 2025;

M. 4.5 cents in 2026;

N. 3.5 cents in 2027;

O. 3.25 cents in 2028;

P. 2.5 cents in 2029; and

Q. 2.25 cents in 2030 and later; and

3. 1.5 cents for each kilowatt-hour of shortfall from required Tier 2 renewable sources; or

(ii) for industrial process load;

1. for each kilowatt-hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

A. 0.8 cents in 2006, 2007, and 2008;

B. 0.5 cents in 2009 and 2010;

C. 0.4 cents in 2011 and 2012;

D. 0.3 cents in 2013 and 2014;

E. 0.25 cents in 2015 and 2016; and

F. except as provided in paragraph (3) of this subsection, 0.2 cents in 2017 and later; and

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 Round 1 offshore wind projects exceeded \$1.65 in 2012 dollars.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.