Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1296 (Delegates Wilson and Crosby)

Economic Matters Education, Energy, and the Environment

Electricity - Offshore Wind Projects - Alterations

This bill requires the Public Service Commission (PSC), on June 1, 2024, to open a revised Round 2 offshore wind project proceeding that is limited to evaluating revised project schedules, sizes, or pricing for a previously approved Round 2 project. The bill also allows any Round 1 offshore wind project to seek PSC approval to amend its previously approved Round 1 project order to increase the maximum amount of offshore wind renewable energy credits (ORECs) and modify its project schedule. Both processes are subject to existing ratepayer protections, although the Round 1 process requires consideration of changes in economic conditions since the Round 1 project awards. An existing requirement for the Department of General Services (DGS) to issue a procurement for offshore wind energy is modified to (1) remove the 5.0 million megawatt-hour annual limit and (2) establish a process for a potential second procurement. PSC must also, with the assistance of specified State entities, develop a plan for achieving a total of 8,500 megawatts of offshore wind energy capacity by 2031 and submit a report on the plan to the General Assembly by January 1, 2025. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: PSC can likely handle the bill's requirements with existing budgeted resources; if not, special fund expenditures (and corresponding revenues) increase minimally due to additional consultant costs in FY 2024 and/or 2025. General/special fund expenditures for the Department of Natural Resources (DNR) increase by up to $350,000 in FY 2025 for consultant costs. The net effect on State expenditures due to modifying the existing DGS offshore wind energy procurement process is unknown, but potentially significant, as discussed below. The effect on electricity rates is discussed in the Additional Comments section below.

Local Effect: The bill does not directly affect local government finances or operations. The effect on electricity rates is discussed in the Additional Comments Section below.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Revised Round 2 Offshore Wind Project Proceeding

On June 1, 2024, PSC must open a revised Round 2 offshore wind project proceeding that is limited to evaluating revised project schedules, sizes, or pricing, including OREC pricing, for a previously approved Round 2 offshore wind project.

Any previously approved Round 2 offshore wind project may submit a revised plan for the project by filing an application with PSC. The application for a revised Round 2 offshore wind project must be limited to addressing revised project schedules, sizes, or pricing, including OREC pricing.

On receipt of an application for approval of a revised Round 2 offshore wind project, PSC must conduct an expedited review of the application. Unless extended by mutual consent of the parties, PSC must approve, conditionally approve, or deny an application within 90 days after the application is filed and found by PSC to be administratively complete.

Generally, an application for a revised Round 2 offshore wind project must be subject to all criteria in current law for Round 2 offshore wind projects. However, an application for a revised Round 2 offshore wind project is not subject to the requirement to provide $6.0 million to the Maryland Offshore Wind Business Development Fund upon PSC approval.

If, in a revised Round 2 offshore wind project proceeding, PSC reviews multiple reasonable proposals meeting the requirements for Round 2 offshore wind projects, PSC must issue orders approving the revised Round 2 offshore wind projects necessary to facilitate as much energy capacity as is consistent with the Round 2 offshore wind project ratepayer protections under current law, including at least 800 megawatts of capacity from revised Round 2 offshore wind projects, if practicable. PSC must do so even if the revised Round 2 offshore wind project applications may result in lower total energy capacity awarded than was previously awarded to the revised Round 2 offshore wind project in its previously approved application.

Round 1 Offshore Wind Project Order Amendment

In order to maximize the amount of renewable energy generated by a Round 1 offshore wind project, any Round 1 offshore wind project may seek approval from PSC to amend its previously approved Round 1 offshore wind project order to (1) increase the maximum amount of ORECs sold under the previous order, consistent with the Round 1 offshore wind project ratepayer protections under current law, and (2) modify its project schedule.

PSC may approve a request for an increased amount of ORECs sold under a previously approved Round 1 offshore wind project order on a showing that:

- the unit pricing of the additional ORECs does not exceed the pricing under the previously approved Round 1 offshore wind project order; and
- the Round 1 offshore wind project is in compliance with the ratepayer protection provisions required for Round 1 offshore wind projects, taking into consideration changes in economic conditions since the original Round 1 offshore wind project awards.

Offshore Wind Procurement by Department of General Services

An existing requirement for DGS to issue a procurement for offshore wind energy is modified to (1) remove the 5.0 million megawatt-hour annual limit and (2) establish a process for a potential second procurement. More specifically, if no qualified offshore wind projects are submitted during the initial procurement, the State may evaluate and revise the conditions of the procurement and must issue a second procurement for offshore wind energy by December 31, 2025. The State may enter into a contract or contracts for the procurement by March 31, 2027, although the State may modify that date if an unforeseen circumstance adversely affects the procurement submission process.

Plan for Achieving 8,500 Megawatts of Offshore Wind Capacity

PSC, with the assistance of the Maryland Energy Administration (MEA), the Maryland Department of the Environment (MDE), DNR, and other interested State units, must develop a plan for achieving a total of 8,500 megawatts of offshore wind energy capacity by 2031. PSC must submit a report on the plan to the General Assembly by January 1, 2025.

Current Law: Pursuant to Chapter 3 of 2013, under the State Renewable Energy Portfolio Standard (RPS), State electricity sales must include an amount derived from offshore wind energy beginning in 2017. The amount is set by PSC each year, based on the projected annual creation of ORECs by qualified offshore wind projects, and may not exceed 2.5% of total retail sales. Chapter 757 of 2019 bifurcated the application and approval process for offshore wind into "Round 1" (the process established by Chapter 3) and a "Round 2" process to allow for new applications with different specifications. PSC may also provide for additional application periods.

Ratepayer impacts in Round 1 were limited to $1.50 per month (in 2012 dollars) for residential customers and 1.5% for nonresidential customers over the duration of the OREC pricing schedule. Ratepayer impacts in Round 2 were limited to $0.88 per month (in 2018 dollars) for residential customers and 0.9% for nonresidential customers over the duration of the OREC pricing schedule.

Chapter 95 of 2023 established a State goal of reaching 8,500 megawatts of offshore wind energy by 2031. The Act also:

- required PSC to take specified actions related to regional transmission system upgrades for offshore wind;
- required DGS to issue a competitive sealed procurement solicitation and authorized the department to enter into at least one contract for a power purchasing agreement (PPA) to procure up to 5.0 million megawatt-hours annually of offshore wind energy and associated renewable energy credits (RECs) from one or more qualified offshore wind projects; and
- authorized Round 1 and Round 2 developers to apply to PSC for a full or partial exemption from the requirement to pass along 80% of certain federal benefits to ratepayers.

DGS must issue the offshore wind energy procurement by July 31, 2024. The State may enter into a contract or contracts for the procurement by September 1, 2025, although the State may modify that date if an unforeseen circumstance adversely affects the procurement submission process. Each PPA must have a minimum term of 20 years.

The State must use the energy procured under Chapter 95 to meet the State's energy needs and retire the associated RECs to meet its obligations under the State's RPS and the Climate Solutions Now Act. After those requirements have been met, the State must offer for sale any energy or RECs remaining on the competitive wholesale power market operated by PJM, through bilateral sales to credit-worthy counterparties, or into REC markets.

State Fiscal Effect: PSC can likely handle the bill's requirements with existing budgeted resources; if not, special fund expenditures increase minimally for additional consultant costs in fiscal 2024 and/or 2025 – and special fund revenues increase correspondingly from assessments imposed on public service companies. General/special fund expenditures for DNR increase by up to $350,000 in fiscal 2025 for additional consultant costs to assist PSC with developing the offshore wind capacity plan; DNR costs may be less than that amount, depending on the scope of the plan and other resources available from the other affected agencies. MEA and MDE can assist PSC with existing budgeted resources.

The net effect on State expenditures (all funds) for electricity due to modifying the existing DGS offshore wind energy procurement process is unknown, but potentially significant. The bill removes the overall annual limit on energy that may be procured, although the current 5.0 million megawatt-hour annual limit is more than three times the State government's annual energy usage, so any energy and RECs procured under the bill in excess of the current limit are assumed to be resold by DGS. The bill also requires a second procurement in the event that no qualified offshore wind projects are submitted during the initial procurement, increasing the likelihood of the State ultimately entering into one or more PPAs for offshore wind energy. Still, the possibility remains that DGS does not enter into a PPA, even under the bill. Nevertheless, the size of the potential PPAs and their minimum 20-year duration means that State finances may be significantly affected. The effect, if any, likely occurs no earlier than fiscal 2026.

In any case, DGS advises that additional staff will not be hired until one or more PPAs are entered into and require ongoing oversight, both under current law and the bill. The fiscal and policy note for Chapter 95 already accounted for additional DGS staff.

Additional Comments: A PSC fact sheet contains relevant information on Round 1 and Round 2 project approvals, costs, and timelines under the implementation of the two Acts. However, one of the two developers, Orsted, announced in January 2024 that it has withdrawn from PSC orders approving its Skipjack 1 and 2 projects.

PSC advises that there are three potential ratepayer impact scenarios based off recent events (the Skipjack/Orsted withdrawal) and the bill, two resulting in a decrease in ratepayer impact and one resulting in no change.

- Scenario 1: If no changes are made to the ORECs awards, then the ratepayer impacts will decrease from what was anticipated from the original Round 1 and Round 2 OREC awards.
- Scenario 2: If a revised application is approved and it requires the same ratepayer impact cap as what was vacated by Skipjack/Orsted, then ratepayer impacts will remain at the same level as what was anticipated with the original Round 1 and Round 2 OREC awards.
- Scenario 3: If a revised application is approved and it requires less ratepayer impact cap space than the original Round 1 and Round 2 OREC awards, then ratepayer impacts will decrease from what was anticipated from the original Round 1 and Round 2 OREC awards.

The Department of Legislative Services also notes that PSC is authorized to open additional application periods under current law, subject to all existing requirements.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 1161 (Senators Feldman and Hester) - Rules.

Information Source(s): Public Service Commission; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Maryland Energy Administration; Office of People's Counsel; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2024
js/lgc Third Reader - March 20, 2024
Revised - Amendment(s) - March 20, 2024
Revised - Updated Information - March 20, 2024

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510