SB 937

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 937 (The President, *et al.*)

Education, Energy, and the Environment Economic Matters

Electricity and Gas - Emissions Reductions, Rate Regulation, Cost Recovery, Infrastructure, Planning, Renewable Energy Portfolio Standard, and Energy Assistance Programs (Next Generation Energy Act)

This bill establishes or modifies various provisions of law affecting electricity generation, utility cost recovery, and large customer interconnections, among other related changes. The bill also establishes a process to provide two residential electric customer bill credits in fiscal 2026. **The bill takes effect June 1, 2025. Provisions establishing an expedited approval process for specified energy generation resources terminate June 30, 2030.**

Fiscal Summary

State Effect: No effect in FY 2025. Special fund expenditures for the administrative costs of the Public Service Commission (PSC) and the Office of People's Counsel (OPC) increase by at least $2.9 million annually beginning in FY 2026; special fund revenues increase correspondingly from assessments on public service companies. Special fund expenditures for PSC further increase by $200 million in FY 2026, and potentially in future years, to provide residential electric customer bill credits. The FY 2026 budget as passed by the General Assembly authorizes the Governor to transfer up to $200 million from the Strategic Energy Investment Fund (SEIF) to PSC in FY 2026 for that purpose, contingent on enactment of this bill or its cross file. General/special fund expenditures for the Department of Natural Resources (DNR) increase by $0.8 million in FY 2026 and by at least $1.2 million annually thereafter. Assumptions and other effects are discussed below.

($ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	$3.0	$2.9	$2.9	$3.0	$3.0
GF Expenditure	-	-	-	-	-
SF Expenditure	$203.3	$2.9	$2.9	$3.0	$3.0
GF/SF Exp.	$0.8	$1.2	$1.2	$1.2	$1.3
Net Effect	($201.1)	($1.2)	($1.2)	($1.2)	($1.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government finances and operations, including municipal electric utilities, are significantly affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: Broadly, the bill:

- authorizes the Department of Housing and Community Development (DHCD) to issue loans, in addition to grants, for specified energy conservation and renewable energy projects under a program required by the Climate Solutions Now Act (CSNA) of 2022 and expands the sources of savings that DHCD may procure or provide when calculating the achievement of greenhouse gas (GHG) emissions reduction targets under the EmPOWER Maryland Program;
- establishes requirements for investor-owned gas and electric companies to demonstrate the reasonableness of the use of internal labor in comparison to contractual labor in a base rate proceeding;
- alters the purpose of the process for authorizing gas infrastructure replacement (“STRIDE”) surcharges, requires gas companies to submit additional information in proposed gas infrastructure replacement plans to PSC, and adds additional criteria necessary for PSC to approve such plans;
- requires, by September 1, 2026, each investor-owned electric company and each electric cooperative to submit to PSC for approval a specific rate schedule for large load customers so that retail electric customers do not bear the financial risks associated with their interconnection (municipal electric utilities must submit a schedule for approval upon receipt of an application for service);
- establishes requirements for PSC approval of multi-year rate plans and related cost or revenue variance reconciliations for electric, gas, and combination gas and electric companies;
- establishes requirements for investor-owned gas companies to recover costs for planned gas infrastructure investments;
- prohibits investor-owned electric, gas, or combination gas and electric companies from recovering specified costs through rates;
- clarifies the applicability of certain contracts entered into by investor-owned gas, electric, or combination gas and electric companies for underground infrastructure work;
- establishes that it is the policy of the State to encourage the development of nuclear power;

- requires the Maryland Energy Administration (MEA), in coordination with PSC and DNR, to pursue regional nuclear cost-sharing agreements with neighboring states and agreements with federal agencies regarding the siting of small modular reactors and establishes a related reporting requirement;
- establishes two rounds of applications and approvals by PSC for 150 megawatts of distribution-connected front-of-the-meter energy storage devices;
- authorizes PSC to apply specified costs to behind-the-meter co-located commercial or industrial customers and generating stations and modifies related definitions;
- establishes a solicitation, evaluation, and approval process for a minimum of approximately 3,100 megawatts of dispatchable energy generation and large capacity energy resources for expedited Certificates of Public Convenience and Necessity (CPCN);
- establishes an application process for new nuclear energy procurement overseen by PSC and a related reporting requirement;
- establishes two rounds of applications and approvals by PSC for 1,600 megawatts of front-of-the-meter transmission energy storage devices;
- authorizes fast-track procurements for specified consultants;
- establishes a process to provide two residential electric customer bill credits in fiscal 2026, funded by Alternative Compliance Payment (ACP) revenues;
- removes waste-to-energy and refuse-derived fuel from eligibility for inclusion in the State Renewable Energy Portfolio Standard (RPS);
- establishes that a presently existing obligation or contract right may not be impaired in any way by the bill;
- establishes the General Assembly’s support of the extension or renewal of the federal license for the Calvert Cliffs Nuclear Power Plant; and
- requires the Department of Human Services (DHS) to report to the Governor and the General Assembly on any legislative or regulatory changes necessary to combine all energy assistance programs operated by the State into one program.

Department of Housing and Community Development Energy Programs

Energy Conservation and Renewable Energy Projects in Multifamily Residential Buildings

DHCD may issue loans, in addition to grants, for specified energy conservation and renewable energy projects under a program required CSNA. Other program requirements are unchanged.

EmPOWER Maryland Program

When calculating the achievement of GHG emissions reduction targets under the EmPOWER Maryland Program, DHCD may procure or provide savings that are achieved through all funding sources, to the extent that the savings from those funding sources are achieved (1) in a manner consistent with requirements of the U.S. Department of Energy or (2) in a manner otherwise consistent with the energy savings requirements applicable to those funding sources.

Investor-owned Utilities Internal versus Contractual Labor Justification

In a base rate proceeding to set just and reasonable rates, each investor-owned gas company and investor-owned electric company must demonstrate to PSC the reasonableness of the use of internal labor in comparison to contractual labor. To do so, the company must provide to PSC, at a minimum:

- a comparison of the costs of internal labor and contractual labor;
- a demonstration of the reasonableness of the decision to use contractual labor;
- a justification for the use of contractual labor when used instead of internal labor, including a cost-based rationale; and
- any other information that PSC requires.

Strategic Infrastructure Development and Enhancement Surcharge

It is the intent of the General Assembly that the purpose of the STRIDE surcharge process is to *allow for the appropriate acceleration of* gas infrastructure improvements in the State, *when necessary to ensure safety and improve reliability and consistent with State policy*. (Italics indicates change from current law.)

In addition to other existing requirements, a plan filed by a gas company with PSC must include:

- a description of each eligible infrastructure replacement project, including the project's expected useful life;
- a demonstration that the gas company has selected and given priority to projects based on risk to the public and cost-effectiveness;
- an analysis that compares the costs of proposed replacement projects with alternatives to replacement, including leak detection and repair; and
- a plan, subject to specified requirements, for notifying customers affected by proposed projects at least six months in advance of construction.

The plan must be filed separately from a base rate proceeding.

For a gas company to recover costs associated with eligible infrastructure replacement projects, a plan must demonstrate customer benefits and that the gas company has (1) analyzed available cost-effective options to defer, reduce, or remove the need to replace, construct, or upgrade components of the company's distribution infrastructure and (2) met any other requirements established by PSC, as specified.

In addition to other current criteria, PSC may approve a gas company's plan if it finds that the investments and estimated costs of eligible infrastructure replacement projects are required to improve the safety of the gas system after consideration of alternatives to replacement.

PSC may authorize a gas company to use a mechanism to promptly recover reasonable and prudent costs of investments for eligible infrastructure replacement projects that (1) are part of an approved plan or implemented as otherwise authorized under the STRIDE surcharge process and (2) accelerate gas infrastructure improvements in the State.

Specific Rate Schedules for Large Load Customers

Timing and Applicability

It is the intent of the General Assembly that residential retail electric customers in the State should not bear the financial risks associated with large load customers interconnecting to the electric system serving the State. "Large load customer" means a commercial or industrial customer for retail electric service that has or is projected to have an aggregate monthly demand of at least 100 megawatts and a load factor of over 80%.

By September 1, 2026, each investor-owned electric company and each electric cooperative must submit to PSC for approval a specific rate schedule for large load customers that accomplishes the above-described intent of the General Assembly. Each municipal electric utility that receives an application for retail electric service from a large load customer must also submit a specific rate schedule for approval.

Service under a specific rate schedule must be available to large load customers that will use, within the initial contract term, either (1) a monthly maximum demand of more than 100 megawatts at a single location or (2) an aggregated contract capacity in the electric company's service territory of more than 100 megawatts.

Generally, large load customers that qualify for the specific rate schedule after the effective date of the schedule must take service under that schedule and may not be allowed to take service under any other existing schedule. However, a specific rate schedule does not apply to an existing large load customer that has signed a service agreement before the effective date of the schedule in limited specified circumstances.

Before signing a contract for service under the schedule, a large load customer must (1) submit a request for a load study to determine the necessary contract capacity for the customer and pay any applicable fees associated with the study; (2) designate a specific site where the customer's project will be constructed and served by the electric company (the customer must own or have exclusive right to use the land); and (3) meet any other requirements specified under the rate schedule.

Requirements for Approval by the Public Service Commission

In making a determination on whether to approve a specific rate schedule for large load customers, PSC must consider whether the rate schedule:

- requires a large load customer to cover the just and reasonable costs associated with any electric transmission or distribution system buildout required to (1) interconnect the customer to the electric system serving the State or (2) serve the customer;
- protects residential retail electric customers from the financial risks associated with large load customers through the use of (1) load ramp periods; (2) minimum billing demand for electric distribution and transmission service, as specified; (3) long-term contractual commitments and exit fees; (4) guarantee or collateral requirements; and (5) penalties and reimbursement requirements; and
- sufficiently ensures that the allocation of costs to large load customers under the schedule does not result in other customers unreasonably subsidizing the costs of large load customers.

Regulations

By June 1, 2026, PSC must adopt regulations to carry out the above requirements, which must (1) establish minimum notice requirements and deadlines related to load study requests and contract terminations and adjustments; (2) specify common forms of acceptable collateral to satisfy the requirements described above, if considered necessary by PSC; and (3) establish deadlines related to completion of load studies and payment of fees.

Multi-year Rate Plan Requirements

Unless otherwise authorized by law, PSC may approve the use of a multi-year rate plan for distribution base rates for a gas, electric, or combination gas and electric company only if the plan:

- demonstrates the customer benefits of the investment; and
- does not allow for the company to file for reconciliation of cost or revenue variances of the approved revenue component used by PSC to establish just and reasonable rates.

A gas, electric, or combination gas and electric company that files or has filed an application for a multi-year rate plan may not subsequently file for reconciliation of cost or revenue variances of the approved revenue component used by PSC to establish the multi-year rates unless the filing for reconciliation was made on or before January 1, 2025.

Existing provisions authorizing PSC to regulate the regulated services of an electric company through alternative forms of regulation are subject to these requirements.

Recovery of Planned Gas Infrastructure Investments

An investor-owned gas company may recover reasonable and prudent costs associated with a planned gas infrastructure investment if the company demonstrates at a rate setting proceeding:

- the customer benefits of the investment;
- that the company analyzed cost-effective options available to defer, reduce, or eliminate the need to replace, upgrade, or construct new components, including an analysis of (1) for new investments unrelated to safety, nonpipeline alternatives, as defined, and (2) leak detection and repair; and
- the estimated risk reduction associated with a safety-related investment, if applicable.

Nothing in this provision may be construed to restrict an investor-owned gas company's ability to make improvements to its gas system to ensure the safe and reliable operation of the system.

Prohibited Cost Recovery through Rates

An investor-owned gas, electric, or combination gas and electric company may not recover through rates any cost associated with:

- membership, dues, sponsorships, or contributions to an industry trade association, group, or related entity exempt from taxation under § 501(c)(6) of the Internal Revenue Code; or
- the acquisition, use, or allocation of costs associated with a private plane that is owned or leased by the company or its holding company.

Applicability of Certain Contracts for Underground Utility Infrastructure Work

The bill clarifies an existing requirement for an investor-owned gas, electric, or combination gas and electric company to require contractors and subcontractors to pay their employees at least the applicable prevailing wage rate in certain circumstances. More specifically, a contract entered into after March 1, 2024, by a company for specified underground utility work and related traffic control activities includes a contract that has been executed, amended, or altered after that date.

Policy of the State to Encourage Nuclear Power

The General Assembly finds and declares that it is the policy of the State to encourage the development of clean, carbon-free nuclear power, including development through innovative designs.

Nuclear Energy Generation Stations – Regional Planning and Cost Sharing

MEA, in coordination with PSC and DNR, must pursue (1) cost-sharing agreements with neighboring states in the PJM Interconnection (PJM) region to mitigate the risks of developing new nuclear energy generating stations and (2) agreements with federal agencies regarding the siting of small modular reactors on federal land or on or near federal facilities.

By December 1, 2026, MEA must report to the General Assembly on the status of the efforts made in pursuing the above agreements, including an assessment of any opportunities to participate with other states, federal agencies, and public or private partners in a multistate procurement of new nuclear energy technology. MEA must also report on an evaluation and status of the nuclear energy procurement process established under the bill (described below).

Distribution Connected Energy Storage Devices

The General Assembly finds and declares that the State has a goal of reaching 150 megawatts of distribution-connected front-of-the-meter energy storage devices. PSC must notify each investor-owned electric company of its proportion of the goal by July 1, 2025, and by July 1, 2026, based on the company's service load or other criteria established by PSC.

Subject to specified requirements, the bill establishes two rounds of applications and related approval and construction timelines. For the first round, by November 1, 2025, PSC must require each investor-owned electric company to submit a plan to achieve up to one-third of its share of the overall goal. By May 1, 2026, PSC must evaluate each plan, accept public comments, and issue an order approving, modifying, or rejecting the plan. The energy storage devices that are constructed or procured under the plan must be operational by November 1, 2027. The deadlines for the second round, which covers the remaining balance of the electric company's share of the overall goal, are one year later. PSC may extend a deadline for good cause.

PSC must require each plan to demonstrate that the construction or procurement of each energy storage device (1) is cost-effective in consideration of a cost-benefit analysis, including a demonstration of specified avoided costs and emissions; (2) can be completed within 18 months after the plan is approved; and (3) complies with any other factors determined by PSC. Each project must include a proposed decommissioning plan, which may be subsequently updated, as specified. The bill also establishes various wage and labor requirements for third parties and electric companies that construct and/or own energy storage devices under the above provisions.

Behind-the-meter Co-location – Authorization to Apply Specified Costs

In specified co-location arrangements between a commercial or industrial customer and a generating station, PSC may apply:

- any direct or indirect costs, fees, and obligations that are normally applied to retail electric customers in the service territory in which the commercial or industrial customer or generating station is located or interconnected, if PSC determines that they should be attributable to the customer and generating station; and
- any avoided wholesale costs that PSC determines have been or may be shifted inappropriately to other retail electric customers as a result of the provision of the direct supply of electricity through the co-location arrangement, including costs associated with transmission, energy, capacity, and ancillary services.

Generally, the provision applies only to those entities when they enter into a contract for the provision of electricity in a way that bypasses (1) interconnection of the load with the electric transmission and distribution systems or (2) the distribution services of an electric company. However, the provision does not apply to the use of electricity from an on-site generating station that has been approved under the CPCN exemption process.

The bill makes related changes to the definitions of electric company and electricity supplier to specify that a person who provides electricity to a commercial or industrial customer in accordance with a co-location arrangement described above is an electricity supplier.

Dispatchable Energy Generation and Large Capacity Energy Resources

Generally

The bill establishes a solicitation, evaluation, and approval process for a minimum of 3,109 megawatts of dispatchable energy generation and large capacity resources, beginning no later than October 1, 2025. Generally, PSC may approve up to 10 projects. An approved project is eligible to undergo an expedited CPCN process established under the bill through June 30, 2030. Generally, PSC may not approve or develop a financial commitment for the costs related to the construction or operation of a project approved under the procurement process, although an approved project may participate in other processes under which ratepayer funds are awarded to dispatchable energy generation or large capacity energy projects.

"Dispatchable energy generation" means a generating station or energy storage device, as defined in current law, with (1) an effective load carrying capability of at least 65%, as determined by PJM's most recent Effective Load Carrying Capability Class Ratings and (2) a lower GHG emissions profile than coal or oil energy generating stations. "Effective load carrying capability" means the expected capacity contribution of an energy resource during PJM's operating hours when there is high electricity demand and low resource output. "Large capacity energy resource" means a 20 megawatt or larger generating station or energy storage device that, by January 1, 2025, had applied to or been approved by PJM for interconnection.

Determination of Capacities

The combined total capacity of dispatchable energy generation projects and large capacity energy resource projects approved by PSC must be more than the combined summer peak capacity profile of coal and oil energy generating stations in the State as outlined under Table 9 of PSC's *Ten-Year Plan (2024-2033) of Electric Companies in Maryland* (*i.e.*, 3,109 megawatts). However, the combined total capacity of *natural gas* dispatchable energy generation projects and large capacity energy resource projects approved by PSC may not exceed that amount.

Procurement Timelines

By October 1, 2025, PSC must issue one or more solicitations for proposals for the construction or expansion of dispatchable energy generation and large capacity energy resources. PSC must set the closing date for the solicitation period to be no sooner than 30 days after issuing the request for proposals. PSC may provide for an additional solicitation period if the 3,109-megawatt capacity minimum has not been met during the initial solicitation period. Within 45 days after the closing date, the Power Plant Research Program (PPRP) in DNR must recommend proposals, based on specified criteria, to be authorized to utilize the expedited CPCN process. Generally, after consideration of PPRP's recommendations, subject to specified evaluation criteria, PSC must approve, conditionally approve, or deny a proposal; however, PSC may grant an extension for good cause.

Project Specifications

PSC must include specifications in the solicitations that require each proposal for a dispatchable energy generation project and large capacity energy resource project to:

- if the project is a natural gas energy generating station, ensure that the project can be converted to use only hydrogen or a zero-emissions biofuel as the energy source when PSC determines that the conversion is feasible (an approved operational project must submit a report to PSC every five years regarding the feasibility of conversion);
- include a detailed description of the timeline for construction of the project and the location of the project site, as specified;
- if applicable, include a description of (1) the type and amount of co-located energy generation from Tier 1 renewable sources, as defined in current law, that would be used with the project; (2) the amount of co-located energy storage that would be used with the project; (3) the use of carbon capture or sequestration technology to mitigate GHG emissions from the project; and (4) the amount of hydrogen or zero-emissions biofuels that the project will mix with natural gas for energy generation; and
- state the emissions intensity of the generation output over the life of the project.

Evaluation and Approval

Generally, PSC may approve up to 10 proposals to be eligible to undergo the expedited CPCN process. PSC may approve more than 10 proposals if it has sufficient resources to complete that number of expedited CPCN application reviews and the number of expedited reviews is in the public interest. If 10 or fewer projects respond to a solicitation, PSC must approve all projects that apply, subject to the 3,109-megawatt capacity limit for natural gas projects.

Generally, PSC must approve 4 non-emissions-emitting projects to every 1 emissions-emitting project (transmission energy storage is considered non-emitting). PSC may waive that requirement if insufficient applications are received.

PSC must determine which proposals to approve based on the project specifications described above and, if PSC receives more than 10 proposals or determines that more than 10 proposals may be approved, must base the approvals on (1) which projects will provide the highest capacity value to the State; (2) the timeliness of a project to begin construction;

(3) the timeliness of a project to begin operation; and (4) which projects have the lowest emissions intensity. PSC may contract for the services of independent consultants and experts in evaluating and comparing proposals. PSC must determine when the proceedings for an expedited CPCN will begin for a proposal approved under the above process.

An approval or conditional approval of a project under the above process does not guarantee that the project will be issued a CPCN – expedited or otherwise. A proposal that is not approved to be eligible to undergo an expedited CPCN process may still apply for a standard CPCN.

Expedited Certificate of Public Convenience and Necessity

Notwithstanding any other provision in § 7-207 of the Public Utilities Article, a CPCN for the construction of a generating station that is part of a proposal approved by PSC through the above process (a "qualifying project") must be issued in accordance with the requirements for an expedited CPCN described below. A person may not construct a qualifying project without a CPCN – including an energy storage device that is part of an approved proposal.

For a qualifying project, PSC must expedite all proceedings for CPCN review and approval and, except in limited circumstances, take final action within 295 days after the application is determined to be complete by PPRP. In order to meet the required timelines, PSC may also review and determine whether to approve decommissioning plans for a qualifying project after a CPCN has been issued. The bill specifies other minor process-related requirements. PSC may prioritize the review of qualifying projects over other CPCN applications, and, in doing so, may extend standard CPCN review timelines.

Generally, the timelines associated with the normal pre-application requirements, including those under COMAR 20.79.01.04 and COMAR 20.79.01.05, must be shortened to 45 days. However, if the proposed location of the project is in an overburdened or underserved community, the COMAR timelines remain at 90 days.

An expedited CPCN bestows the same rights as a standard CPCN.

These provisions terminate June 30, 2030.

Nuclear Energy Procurement

The bill establishes a minimum of three rounds of applications and related requirements for PSC approval of one or more proposed nuclear energy generation projects funded through electric distribution rates.

Applications

After the effective date of PSC regulations implementing the provisions described below, a person may submit an application to PSC for approval of a proposed nuclear energy generation project, subject to specified requirements. PSC must adopt regulations, as specified, by July 1, 2027.

On receipt of an application, PSC must (1) open an application period of at least 90 days where other interested persons may submit applications for approval of a proposed nuclear energy generation project and (2) provide notice that PSC is accepting applications. PSC must provide at least two additional application periods before January 1, 2031, and may provide additional application periods. Generally, PSC must approve, conditionally approve, or deny an application within one year of the close of the application period. PSC may extend that time period for good cause.

The bill specifies what an application must include, such as (1) a detailed description and financial analysis; (2) a cost-benefit analysis, as specified, including an analysis of ratepayer and long-term energy market impacts; (3) a proposed long-term pricing schedule; (4) a decommissioning and waste storage plan; (5) a commitment to abide by a community benefit agreement, as further specified; (6) a description of the applicant's plan for engaging small businesses; and (7) if applicable, a statement that includes information on minority investors interviewed and whether they have invested in the project.

An applicant seeking investors must make serious, good-faith efforts to solicit and interview a reasonable number of minority investors and take other related actions. The Governor's Office of Small, Minority, and Women Business Affairs (GOSBA), in consultation with the Office of the Attorney General (OAG), must provide assistance to potential applications to satisfy the requirements.

Evaluation and Approval

The bill specifies the criteria that PSC must use to evaluate and compare applications, such as (1) the lowest cost impact on ratepayers and potential changes in related electricity market prices; (2) the extent to which the cost-benefit analysis demonstrates positive net economic, environmental, and health benefits to the State; (3) the extent to which the plan for engaging small businesses meets the State's goal for small business contracting; (4) the extent to which the applicant's plan provides for various specified labor considerations; and (5) the extent to which the project would require transmission or distribution infrastructure improvements in the State.

Subject to specified processes and requirements, including that PSC must keep any determined amounts confidential, PSC may not approve an application unless:

- the project is connected to the electric system serving the State;
- over the duration of the proposed long-term pricing schedule, projected net rate impacts for residential and nonresidential customers do not exceed amounts determined by PSC; and
- the price specified in the proposed long-term pricing schedule does not exceed an amount determined by PSC.

Additionally, PSC may not issue an order to facilitate the financing of a nuclear energy generation project unless the project is subject to a community benefit agreement, which has various specified requirements.

A PSC order approving a proposed project must (1) specify the long-term pricing schedule and its duration, up to 30 years; (2) provide that a payment may not be made under a long-term pricing schedule until electricity supply is generated from the project; (3) provide that ratepayers and the State must be held harmless for any cost overruns associated with the system; and (4) require that any debt issued in connection with the project include language specifying that the debt instrument does not establish a debt, an obligation, or a liability of the State. An order approving a project vests the owner with the right to receive payments according to the terms in the order. The long-term pricing schedule must be based only on any new generation proposed in the application, including new generation at an existing nuclear energy generating station.

The findings and evidence relied on by the General Assembly for the continuation of the State's Minority Business Enterprise (MBE) Program are incorporated into the bill. To the extent practicable and authorized by the U.S. Constitution, an applicant approved for a nuclear energy generation project must comply with the State's MBE Program. Within six months after the issuance of a PSC order approving a project, GOSBA, in consultation with OAG and the applicant, must establish a clear plan for setting reasonable and appropriate MBE goals, as specified.

Cost Recovery

PSC must adopt regulations that:

- establish the nuclear energy long-term pricing purchase obligation sufficiently in advance to allow an electric company to reflect nuclear energy long-term pricing costs as a nonbypassable surcharge that is added to the electric company's base distribution rate on customer bills;
- define rules that facilitate and ensure the secure and transparent transfer of revenues and long-term pricing payments among parties;

- define the terms and procedures of the nuclear energy long-term pricing schedule obligations, as specified, by establishing a formula and process to adjust the value of the schedule every two years and a per-megawatt-hour cap;
- require PSC to establish an escrow account; and
- to meet the total statewide long-term pricing purchase obligation for all approved applications, require PSC to annually establish each electric company's zero-emission credit (ZEC) purchase obligation, based on specified electricity sales data and each electric company's proportional share of statewide electricity load.

A ZEC is defined as the difference between the price that a nuclear energy generating station with a long-term pricing schedule approved in a PSC order under the bill may receive on the wholesale market and the cost of constructing the nuclear energy generating station.

Each electric company must procure the required quantity of ZECs from the escrow account to meet its obligations. The bill also establishes a process to refund or credit customers in the event of overpayments due to insufficient ZECs being available.

A debt, an obligation, or a liability of a nuclear energy generation project or of an owner or operator of a nuclear energy generation project may not be considered a debt, an obligation, or a liability of the State.

Status Update

By January 15, 2026, PSC must report to the General Assembly on the status of developing the regulations for the establishment and purchase of ZECs and whether any legislative action is necessary to implement the above provisions.

Transmission Energy Storage Devices

PSC must, by regulation or order, establish a competitive process for the procurement of projects for the construction and deployment of up to 1,600 megawatts of front-of-the-meter transmission energy storage devices in the State. PSC may end the process without selecting a proposal if PSC makes specified findings.

Subject to specified requirements, including a public hearing process, the bill establishes two rounds of applications and related approval and construction timelines for up to 800 megawatts of front-of-the-meter transmission energy storage capacity each. For the first round, PSC must issue the procurement solicitation by January 1, 2026, and issue one or more orders to select a proposal or proposals for development by October 1, 2026. The deadlines for the second round are one year later. The bill specifies various requirements for the solicitation and selection. Generally, the energy storage devices must be operational within 24 months after selection.

PSC must include specifications in the procurement solicitation that require each proposal to (1) include a proposed pricing schedule, as specified; (2) include a cost-benefit analysis, as specified; (3) ensure that the owner or operator of the project can export the electricity for sale on the wholesale market and bid into the PJM capacity market; (4) ensure that the energy storage devices can deliver their effective nameplate capacity, as further specified; (5) incorporate a community benefit agreement; (6) attest to compliance with specified labor laws; and (7) ensure a competitive bidding process. The energy storage devices may be paired with Tier 1 or Tier 2 renewable sources.

The bill specifies actions PSC must and may take in selecting a proposal. For example, PSC *must* specify (1) a 15-year pricing schedule that uses a monthly fixed price for each megawatt that represents the anticipated wholesale value of capacity for the energy storage device and other specified benefits and (2) various requirements and processes to facilitate energy storage project funding and electric company cost recovery. Projects are funded through the purchase of credits by electricity suppliers, and electric companies can recover costs through a nonbypassable surcharge. PSC must also consider other nonprice factors to ensure project deliverability after the award date, as specified. Each project must include a proposed decommissioning plan, which may be subsequently updated, as specified.

An order selecting a proposal bestows the same rights as would otherwise be granted through a CPCN. Any transmission energy storage device built in accordance with these provisions must count toward the energy storage device goals for distribution-connected energy storage devices described above.

Legislative Fast Track Procurements

PSC, OPC, MEA, the Maryland Department of the Environment (MDE), and DNR are authorized to issue competitive sealed bids higher than their designated small procurement delegation authorities (currently $100,000) only for the procurement *of consultants* that (1) are legislatively mandated with specific timeframes established in law and (2) will address issues related only to climate change, the environment, energy, and GHG emissions. Before awarding a procurement contract under this authority, the procurement officer must obtain the approval of the head of the unit and the Chief Procurement Officer (CPO) or the CPO’s designee. The CPO or designee must approve the procurement contract if it complies with the above requirements. If the CPO or designee does not approve the procurement contract within five business days after receiving the contract, the contract must be considered approved.

Ratepayer Credit from Alternative Compliance Payments

ACP revenue collected under the State RPS, which accrues to SEIF, may be used to provide grants to electric companies to be refunded or credited to each residential distribution customer based on the customer's consumption of electricity supply that is subject to the RPS. The refunded or credited amounts must be identified on customer bills as a line item and labeled a "legislative energy relief refund." An electric company awarded a grant for this purpose may not retain any of the grant funds to cover overhead expenses and must provide all of the grant funds to residential distribution customers. PSC must direct and oversee the process.

Beginning in tax year 2025, to the extent that a legislative energy relief refund is included in federal adjusted gross income, the amount is subtracted to determine Maryland adjusted gross income (*i.e.*, the credit is not considered taxable income for Maryland income tax purposes in 2025 or future years).

Notwithstanding any other provision of law, from ACPs paid into SEIF, a portion must be used to provide grant awards to electric companies, including electric cooperatives and municipal electric utilities, to be refunded or credited to residential distribution customers for electric service in fiscal 2026. The Governor may transfer by budget amendment the funds to PSC to be awarded to the electric companies. The funds must be distributed to residential electric distribution customers two times in fiscal 2026: half during a peak summer month and the other half during a peak winter month. The distribution must also be in accordance with the SEIF provisions described above.

Removal of Waste-to-energy and Refuse-derived Fuel from Renewable Energy Portfolio Standard

Waste-to-energy and refuse-derived fuel are removed from eligibility for inclusion in the State RPS. The provision generally applies to all RPS compliance years starting on or after January 1, 2025, except for a facility owned by a public instrumentality of the State (in this case, Montgomery County), which applies beginning July 1, 2026.

Support for Calvert Cliffs License

The General Assembly supports the extension or renewal of the Federal Nuclear Regulatory Commission license for the Calvert Cliffs Nuclear Power Plant's nuclear reactors in the years 2034 and 2036.

Department of Human Services Report on Energy Assistance Program Consolidation

By January 1, 2026, DHS must report to the Governor and the General Assembly on any legislative or regulatory changes necessary to implement the recommendation to combine all energy assistance programs operated by the State into one program, as discussed in the Department of Legislative Services (DLS) Office of Program Evaluation and Government Accountability's February 2025 *Evaluation of the Office of Home Energy Programs*.

Current Law/Background:

Department of Housing and Community Development Energy Programs

Energy Conservation and Renewable Energy Projects in Multifamily Residential Buildings

CSNA required the Community Development Administration in DHCD to develop and implement a program to provide grants for energy conservation projects and projects to install renewable energy generating stations in covered buildings that house primarily low- to moderate-income households. "Covered building" means a commercial or multifamily residential building in the State or a building that is owned by the State and has a gross floor area of 35,000 square feet or more, excluding the garage area. There are certain exclusions, such as a designated historic property. Statute also provides for what constitutes an energy conservation project, with different requirements for residential and commercial buildings. Examples include caulking or weather stripping, insulation, storm windows or doors, and furnace efficiency modifications.

The Governor must include in the annual budget bill an appropriation of $5.0 million in fiscal 2024 through 2026 for the purpose of providing the grants; the program is permanent, despite the cessation of mandated funding.

DHCD has implemented the CSNA grant program as the GHG Reduction Program. The department advises that many covered buildings are subsidized properties, such as Low-Income Housing Tax Credit properties, that have strict financial guidelines that prevent them from accepting grants. The ability to provide both grants and loans makes the GHG Reduction Program accessible to all eligible buildings.

EmPOWER Maryland Program

As part of the EmPOWER Maryland Program, beginning January 1, 2025, and by January 1 every three years thereafter starting in 2027, DHCD must procure or provide to low-income individuals energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services that are on a trajectory to achieve GHG reductions of at least 0.9% of a 2016 baseline after 2027, determined as specified. The requirement applies to the 2025-2033 time period. The reductions count toward the overall GHG emissions reduction targets under the EmPOWER Maryland Program.

DHCD advises that changes in eligible funding sources under Chapter 539 of 2024 preclude about half of its available funding (a mixture of federal and State funds) from counting toward its EmPOWER targets. These funding sources were previously eligible (under Chapter 572 of 2023) and are incorporated into DHCD's current EmPOWER plans. Absent the bill, additional EmPOWER surcharge revenues are required to provide the funding needed to meet the department's EmPOWER targets

Public Service Company Rates, Cost Recovery, and Operations

Just and Reasonable Rates

A public service company must charge just and reasonable rates for the regulated services that it renders. Generally, PSC has the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both. A "just and reasonable rate" means a rate that:

- does not violate any provision of the Public Utilities Article;
- fully considers and is consistent with the public good; and
- except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company's property used and useful in providing service to the public.

At any time, PSC may investigate and determine the fair value of the property of a public service company used and useful in providing service to the public.

Notwithstanding any other provision of law, PSC may regulate the regulated services of an electric company through alternative forms of regulation. PSC may adopt an alternative form of regulation if it finds, after notice and hearing, that the alternative form of regulation (1) protects consumers; (2) ensures the quality, availability, and reliability of regulated electric services; and (3) is in the interest of the public, including shareholders of the electric company. Alternative forms of regulation may include price regulation, revenue regulation, ranges of authorized return, rate of return, categories of services, or price indexing.

Strategic Infrastructure Development and Enhancement Surcharge

Overview and Purpose: Chapter 161 of 2013 established an application and review process for gas infrastructure replacement plans with an associated monthly surcharge on customer bills (typically known as the "STRIDE" surcharge). The Act established the intent of the General Assembly that the purpose of the STRIDE surcharge process is to accelerate gas infrastructure improvements in the State by establishing a mechanism for gas companies to promptly recover reasonable and prudent costs of investments in eligible infrastructure replacement projects separate from base rate proceedings. To that end, the surcharge is collected at the same time as the eligible infrastructure expenditures occur, as opposed to subsequent to the expenditures as authorized in a base rate proceeding.

Subject to PSC review and approval, the fixed annual surcharge may not exceed $2 per month for each residential natural gas customer. The fixed annual surcharge for nonresidential customers may not be less than the fixed annual surcharge for residential customers but also must be capped. To create a surcharge cap for all customer classes, costs must be allocated between residential and nonresidential customers consistent with the proportions of total distribution revenues that those classes bear, as determined in the gas company's most recent base rate filing.

All three of Maryland's major gas companies – BGE, Washington Gas, and Columbia Gas – have filed with PSC and received approval for gas infrastructure replacement plans since the surcharge was created. However, only Washington Gas and Elkton Gas have active STRIDE plans. As of 2024, BGE conducts its infrastructure replacement work under its multi-year rate plan.

Eligible Infrastructure, Company Plans, Approval Criteria: "Eligible infrastructure replacement" is defined as the replacement or improvement in the existing infrastructure of a gas company that is (1) made on or after June 1, 2013; (2) designed to improve public safety or infrastructure reliability; (3) does not increase the revenue of a gas company by connecting an improvement directly to new natural gas customers; (4) reduces or has the potential to reduce GHG emissions through a reduction in natural gas system leaks; and (5) is not included in the current rate base of the gas company as determined by the gas company's most recent base rate proceeding.

A plan for an eligible infrastructure replacement project must include (1) a timeline for completion of each eligible project; (2) the estimated cost of each project; (3) a description of customer benefits under the plan; and (4) any other information PSC considers necessary to evaluate the plan.

PSC must take final action to approve or deny a plan within 180 days after a gas company files a plan. PSC may approve a plan if it finds that the investments and estimated costs of eligible infrastructure replacement projects are reasonable and prudent and designed to improve public safety or infrastructure reliability over the short and long term. PSC must approve the cost recovery schedule associated with a plan at the same time that it approves a plan.

The surcharge applies for five years from the date of initial implementation of an approved plan. Costs are reviewed by PSC each year and the surcharge is adjusted to account for any difference between actual and recovered costs (unless PSC determines higher costs were reasonably and prudently incurred, in which case PSC must authorize an increase in the surcharge to recover the difference). In a base rate proceeding subsequent to the approval of a plan, PSC must take into account any benefits realized by the gas company as a result of an approved surcharge.

Specific Rate Schedules for Large Load Customers

Electric Company Rates and Customer Connections with Excess Costs: PSC must, by regulation or order, require the unbundling of electric company rates, charges, and services into standardized categories determined by the commission, including distribution and transmission, customer charges, and taxes. PSC regulations require each electric company to file a copy of its tariff with the commission, which must include:

- each schedule of rates for service, together with applicable riders; and
- the company's rules, or terms and conditions, describing its policies and practices in rendering service.

The policies and practices must include, among other information, the company's plan for the installation of main and service lines where these facilities are in excess of those included in the regular rates for service and for which the customer must be required to pay all or part of the cost. The customer's payments should be related to the investment that the company prudently can make in consideration of the probable revenue.

Rate Discrimination Generally Prohibited: Except in limited specified circumstances, for any service rendered or commodity furnished, a public service company may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds:

- charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances;
- extend a privilege or facility to a person, except those privileges and facilities that are extended uniformly to all persons under substantially similar circumstances;
- discriminate against a person, locality, or particular class of service; or

- give undue or unreasonable preference to or cause undue or unreasonable prejudice to a person, locality, or particular class of service.

For example, an exemption applies to electricity or gas service provided to eligible limited-income customers through a PSC-approved limited income mechanism.

Prohibited Cost Recovery through Rates

Under PSC regulations, charitable contributions, penalties, and lobbying expenses are not allowed for rate-making purposes. Additionally, expenses classified as promotional, community affairs, and institutional must be excluded as an expense for rate-making purposes unless a utility demonstrates during a rate case proceeding that a particular item of advertising or promotional expenditure was directly beneficial to the ratepayer and in the public interest.

"Promotional" means directed toward selling services or promoting the addition of new customers or seeking additional use of utility service. "Community affairs" means directed toward influencing public opinion on a controversial issue, or the result of any legislative or administrative matter that would justify the utility civic and community position. "Institutional" means directed toward establishing a favorable image of the utility company or its employees and which serves to identify the sponsor.

Wage and Labor Requirements for Utility Contractors

Chapters 12 and 21 of the 2021 special session required an investor-owned gas company, electric company, or gas and electric company to require contractors and subcontractors on specified underground infrastructure projects to pay their employees at least the applicable prevailing wage rate. Chapter 336 of 2023 required the Maryland Department of Labor to enforce the requirement and specified that the applicable prevailing wage rate is the one solely determined by the Commissioner of Labor and Industry, in a process substantially similar to the process for determining prevailing wage rates on public works contracts. Chapter 595 of 2024 specified that the requirements must be construed to apply retroactively and must be applied to and interpreted to affect contracts entered into on or after March 1, 2024.

Public Service Commission

Generally

PSC must supervise and regulate public service companies, which includes electric companies, subject to its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. In doing so, PSC must consider the public safety, the economy of the State, the maintenance of fair and stable labor standards for affected workers, the conservation of natural resources, the preservation of environmental quality, the achievement of the State's climate commitments for reducing GHG emissions, and the protection of a public service company's infrastructure against cybersecurity threats. PSC must also enforce compliance with legal requirements by public service companies.

Long-term Electricity Supply

In order to meet long-term, anticipated demand in the State for standard offer service and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

Power Plant Siting

PSC is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through CPCNs. For general information on the CPCN process, see the **Appendix – Certificate of Public Convenience and Necessity**.

Under COMAR 20.79.01.07, unless otherwise directed by PSC, a decision on CPCN application for the construction of an electric generating station must be rendered within 365 days from the date a complete application is filed. A decision on an application for modification or an existing generating station must be made within 150 days.

Co-location

Chapter 537 of 2024 required PSC to study and make recommendations on issues related to the utilization of end-use electricity customer load that is physically connected to the facilities of an existing or planned electric generation facility, also known as co-located load configuration or co-location. PSC was required to report its findings and recommendations to the Senate Committee on Education, Energy, and the Environment and the House Economic Matters Committee by December 15, 2024. PSC established Public Conference 61 to address these topics and requested comments from relevant stakeholders, which, along with several Federal Energy Regulatory Commission proceedings, informed the final report.

The report focuses on an emerging co-location arrangement in which a load co-locates with a generator that is interconnected to the grid but is situated behind the generator's meter. Under this arrangement, a load (such as a data center) sets up its facilities to offtake electricity directly from the generator instead of interconnecting directly with the electric grid. In this scenario, some or all of the generator’s capacity could be reserved for the exclusive use of the co-located load, in which case it would not be considered available to serve the wider electric grid. The report labels this arrangement a “Type B” configuration, in contrast to a “Type A” configuration that still interconnects to the grid.

The report addresses the various impacts on reliability, rates, and regional energy market of co-location and concludes that “some forms of co-location represent novel approaches to connecting load to the grid. However, certain other co-location proposals have the potential to create immediate and significant challenges to the grid, impacting overall resource adequacy and rates charged to customers. These approaches may warrant changes in the [Public Utilities Article] and future consideration as variations on those approaches develop.” Specific recommendations in the report include the following.

- The General Assembly should confirm in statute that the load in a co-location arrangement is a retail electric customer, addressing the arrangement as a retail electric sale subject to PSC jurisdiction.
- The General Assembly should clarify whether generators that engage in a “Type B” (generally, “behind-the-meter”) co-location arrangement violate utility franchise agreements under the definition of electric company, or if they should be granted an exception and what the terms of that exception may be.
- The General Assembly should clarify the distinction between retail net metering and a Type-B co-location arrangement.
- The General Assembly should make clear whether the electric company, through which tariffs can be assigned, is the utility in whose territory the load resides. Additionally, or alternatively, the General Assembly should make clear whether any co-location party is an electric company or an electricity supplier, thereby requiring it to meet State renewable energy requirements.
- The General Assembly should require costs for programs like the Electric Universal Service Program and EmPOWER Maryland, as well as other costs that may be deemed appropriate, be allocated to large co-located loads.
- The General Assembly should ensure that there are rules in place to impose penalties on a co-location arrangement at which load unexpectedly comes onto the grid to preclude the risk of reliability challenges, along with related cybersecurity requirements.
- The General Assembly should define the degree of control the State should exercise over co-location arrangements in Maryland, such as a review process similar to CPCNs for determining whether each proposed co-location instance is in the public interest before it is allowed to proceed.

- Large co-located loads should be encouraged to bring new, clean energy generation with them.

Maryland Energy Storage Program

Chapter 570 of 2023 required PSC to establish the Maryland Energy Storage Program and establish targets for the cost-effective deployment of new energy storage devices in the State with a goal of achieving at least a cumulative total of 750 megawatts by the end of the 2027 PJM delivery year, 1,500 megawatts by the end of the 2030 PJM delivery year, and 3,000 megawatts by the end of the 2033 PJM delivery year. If a target cannot be met cost effectively, the target must be reduced to the maximum cost-effective amount for the relevant delivery year. The program must be implemented by July 1, 2025, as specified.

Chapter 427 of 2019 required PSC to establish an Energy Storage Pilot Program by June 1, 2019. Under the program, each of the State's four investor-owned electric companies was required to request proposals for two energy storage projects and apply for PSC approval. The cumulative size of the pilot projects under the program must be between 5 megawatts and 10 megawatts.

Renewable Energy Portfolio Standard

Waste-to-energy and refuse-derived fuel are eligible Tier 1 resources under the State RPS. The terms are not further defined in statute or regulation. Annual RPS compliance reports by PSC categorize "waste-to-energy" in statute as "municipal solid waste." There are two such facilities located in Maryland: a privately owned incinerator in Baltimore City and a county owned incinerator in Montgomery County.

ACP revenues have been significant in recent years, with total ACPs of $320.4 million from compliance year 2023, mostly due to a shortfall in Tier 1 renewable energy credits (RECs) that year.

For additional information, see the **Appendix – Renewable Energy Portfolio Standard**.

State Agency Procurements

Generally

Subject to specified exceptions, the Board of Public Works (BPW) controls procurement for Executive Branch agencies, but statute authorizes BPW to delegate its authority to other agencies. The Code of Maryland Regulations delegates some of BPW's procurement authority, with the Office of State Procurement within the Department of General Services (DGS) given oversight of procurements for construction, construction-related services, commodities, services, and more. However, procurements valued at more than $200,000 still require BPW approval. DGS further delegates authority for small procurements – those valued at less than $100,000 – to individual agencies.

Competitive sealed bids are an authorized procurement method under State procurement law and are generally used for procurements in which lowest bid price is the sole criteria used in determining an award. DLS notes that competitive sealed *proposals*, also an authorized procurement method under State law, are more frequently used when factors other than price (such as the qualifications of a consultant) are to be used in determining an award.

Minority Business Enterprise Program

The State's MBE Program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The goal has been 29% since 2014. The Maryland Department of Transportation (MDOT) is designated in State regulations as the State's MBE certification agency. An MBE is a legal entity, other than a joint venture, that is:

- organized to engage in commercial transactions;
- at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and
- managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

State Fiscal Effect: Significant effects of the bill are discussed separately below, organized by State agency. This analysis assumes no substantive fiscal effect in fiscal 2025, despite the bill's June 1, 2025 effective date. Operational effects on any agencies not discussed below are assumed to be generally minimal and absorbable within existing budgeted resources, although there may be minor or incidental costs not captured due to the extent of the bill. The effect on State expenditures for electricity is discussed in the Additional Comments section below.

Department of Housing and Community Development

DCHD advises that it expects to provide loans under the bill for certain covered buildings through its GHG Reduction Program. Typical terms of similar loans are 0% interest, with deferred repayments, and maturities ranging from 15 to 40 years. DHCD also advises that it expects most loans to not be repaid. However, in limited circumstances when repayments do occur (such as at maturity, or when a property is no longer used as a rental housing project), those amounts accrue to DHCD and are made available for other purposes under the same program. The amount of annual funding provided through the State budget is not affected by the bill. DHCD can also handle any additional administrative requirements with existing staff. Accordingly, this provision does not materially affect State finances or operations, particularly through fiscal 2030.

Expanding eligible funding sources for GHG savings allows existing federal and State funding to count toward meeting DHCD's GHG reductions targets under the EmPOWER Maryland Program. Absent the bill, DHCD must amend its implementation plan with PSC and request additional EmPOWER ratepayer funds to make up the savings from the funding sources that no longer count toward the targets. Those ratepayer funds are collected by electric companies and remitted to DHCD as special funds. Accordingly, the bill significantly reduces special fund revenues and expenditures for DHCD, most likely beginning in fiscal 2026, from what they would otherwise be. While actual amounts are unknown at this time, DHCD advises that about half of its EmPOWER program is funded through ratepayer funds – approximately $60 million in fiscal 2026.

Public Service Commission

Administrative Costs

The bill creates significant new and incremental requirements for PSC that cannot be absorbed within existing resources. Generally, PSC must implement and/or administer the energy programs established by the bill: those for distribution-connected energy storage devices, transmission energy storage devices, expedited CPCNs, nuclear energy, and, in at least fiscal 2026, ratepayer refunds. The bill also establishes other one-time and ongoing responsibilities for PSC related to utility ratemaking and regulation.

PSC advises that it requires eight staff to implement the various requirements, plus ongoing consultant technical assistance of approximately $1.5 million annually through at least fiscal 2030. Consultant costs should be considered an approximate annual average and may vary significantly depending on PSC needs in a particular fiscal year.

Accordingly, special fund expenditures for PSC increase by $2,467,805 in fiscal 2026, which accounts for a 30-day startup delay. This estimate reflects the cost of hiring three program managers, three attorneys, one engineer, and one climate policy analyst to implement the various programs and regulatory requirements. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $1.5 million in consultant costs.

Positions	8.0
Salaries and Fringe Benefits	$882,645
Contractual Services	1,500,000
Other Operating Expenses	85,160
Total FY 2026 PSC Administrative Expenditures	**$2,467,805**

Future year expenditures of $2.4 million to $2.5 million annually reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and ongoing consultant costs.

Generally, PSC is funded through an assessment on the public service companies that it regulates. As a result, special fund revenues for PSC increase correspondingly from assessments imposed on public service companies.

Ratepayer Credit from Alternative Compliance Payments

The bill specifies that a portion of ACP revenues in SEIF must be used to provide grant awards to electric companies to be refunded or credited to residential distribution customers for electric service in fiscal 2026. The fiscal 2026 budget as passed by the General Assembly *authorizes* the Governor to transfer by budget amendment up to $200 million from ACP revenues in SEIF to PSC to be awarded to electric companies, including electric cooperatives and municipal electric utilities, for that purpose, contingent on enactment of this bill or its cross file. This analysis assumes that the maximum amount of funding is transferred.

Accordingly, special fund expenditures for PSC increase by $200 million in fiscal 2026 as ACP revenues are allocated to electric companies to provide residential ratepayer bill credits. There are approximately 2.4 million residential electric customers in the State; $200 million allocated evenly across those customers would provide $82 per account, split equally between a $41 summer bill credit and a $41 winter bill credit. DLS notes that the State RPS does not apply to Choptank Electric Cooperative.

Additionally, provisions altering SEIF to allow for grants to electric companies for residential ratepayer credits are permanent; special fund expenditures for PSC increase in future years to the extent that additional funds are used for that purpose.

Office of People's Counsel

OPC reviews all matters in front of PSC for ratepayer impacts; the new and complex energy programs administered by PSC under the bill require a commensurate increase in OPC staff and consultant services beginning in fiscal 2026. OPC anticipates requiring two dedicated attorneys to represent OPC in the numerous resulting regulatory proceedings and ongoing consultant assistance of up to $250,000 annually to assist in evaluating ratepayer impacts. Consultant costs should be considered an approximate annual average and may vary from this estimate depending on OPC's caseload in a particular fiscal year.

Accordingly, special fund expenditures for OPC increase by $527,541 in fiscal 2026, which accounts for a 30-day startup delay. This estimate reflects the cost of hiring two attorneys to participate in the PSC procurement processes and other regulatory proceedings required by the bill. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $250,000 in consultant costs.

Positions	2.0
Salaries and Fringe Benefits	$262,251
Contractual Services	250,000
Other Operating Expenses	15,290
Total FY 2026 OPC Expenditures	**$527,541**

Future year expenditures of approximately $0.5 million annually reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and ongoing consultant costs.

OPC is also funded through assessments on public service companies; thus, any additional special fund expenditures are funded through a corresponding increase in special fund revenues from assessments imposed on public service companies.

Department of Natural Resources

The bill creates significant new and incremental requirements for DNR's PPRP that cannot be absorbed within existing resources. PPRP requires additional technical and legal staff as well as funding for consultants to meet anticipated workloads associated with the various energy programs and other administrative requirements established by the bill.

In general, special funds from the Environmental Trust Fund are used to fund PPRP's operations. However, general funds may be required to cover part or all of the expenses that PPRP incurs under the bill because the department anticipates a special fund revenue shortfall.

Accordingly, general/special fund expenditures for DNR increase by $822,795 in fiscal 2026, which accounts for a 120-day startup delay. This estimate reflects the cost of hiring five power plant siting assessors and one attorney, primarily to assist with additional CPCN analyses. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and $250,000 in consultant costs.

Positions	6.0
Salaries and Fringe Benefits	$528,582
Contractual Services	250,000
Other Operating Expenses	44,213
Total FY 2026 DNR Expenditures	**$822,795**

Future year expenditures of $1.2 million to $1.3 million annually reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and ongoing consultant costs of $500,000.

Maryland Energy Administration

Administrative Costs

MEA advises that it requires the assistance of consultants with its responsibilities under the bill related to nuclear cost-sharing and siting agreements and the associated reporting requirement, at a one-time cost of $150,000. Costs are assumed to be paid for using SEIF in fiscal 2026. Accordingly, special fund expenditures for MEA (specifically, SEIF) increase by $150,000 in fiscal 2026.

Ratepayer Credit from Alternative Compliance Payments

As described above, the bill specifies that a portion of ACP revenues in SEIF must be used to provide grant awards to electric companies to be refunded or credited to residential distribution customers for electric service in fiscal 2026. The fiscal 2026 budget authorizes the Governor to transfer by budget amendment up to $200 million from ACP revenues in SEIF to PSC for that purpose, contingent on enactment of this bill or its cross file. This analysis assumes that the maximum amount of funding is transferred.

Based on the size of the assumed transfer, special fund expenditures for SEIF decrease in future years as those funds are no longer available for MEA programs. Examples of such programs include the Solar Resiliency Hubs Program, the Solar Energy Equity Program, the Decarbonizing Public Schools Program, and the Customer-Sited Solar Grant Program.

Additionally, provisions altering SEIF to allow for grants to electric companies for residential ratepayer credits are permanent; special fund expenditures for SEIF are affected in future years to the extent that additional funds are used for that purpose.

Department of General Services

DGS advises that provisions in the bill authorizing legislative fast-track procurements for specified agencies have an operational and fiscal impact. More specifically, while those five agencies may conduct larger procurements in certain circumstances instead of DGS, the department must still oversee the procurement, and CPO or the CPO's designee must approve each procurement contract within five business days, or the contract is considered approved. DLS notes that any procurement with a value of at least $200,000 requires approval by BPW; the bill does not exempt "fast-track" procurements that exceed that level from BPW's review and approval process. Based on its assessment for a potentially significant number of legislative fast-track procurements each year, DGS advises that it requires five additional procurement officers to meet the bill's requirements, with total annual costs of approximately $500,000 to $650,000.

DLS cannot independently verify the need for five additional procurement officers at this time. The number of future affected consultant procurements is unknown, and DGS would otherwise be responsible for any of those procurements not directly caused by the bill. However, to the extent that the department requires additional staff, general fund expenditures for DGS increase by approximately $100,000 to $130,000 annually per staff, beginning as early as fiscal 2026.

Maryland Department of the Environment

While the bill does not directly assign responsibilities to MDE, the various energy programs likely result in increased workload for the department as, among other things, proposed projects seek required permits from the department. This estimate assumes existing staff and permitting processes can generally handle these requirements. Revenues from affected permits issued by MDE accrue to at least the Maryland Clean Air Fund and the Maryland Clean Water Fund. Accordingly, special fund revenues for MDE increase by an unknown, but likely modest, amount beginning in fiscal 2026.

Maryland Department of Transportation

To comply with the bill's requirement that GOSBA establish a clear plan for setting MBE participation goals, MDOT, as the State's MBE certification agency, must conduct a disparity study to determine whether and how much a disparity exists in the use of MBEs by nuclear power facilities. Although a new statewide disparity study is due to be completed in September 2025, it likely does not include the analysis necessary for this bill. To the extent that a separate disparity analysis must be completed and based on costs for similar studies in the past, Transportation Trust Fund expenditures likely increase by approximately $150,000 for MDOT to conduct a disparity study on the use of MBEs by nuclear facilities. This estimate assumes those costs are incurred in fiscal 2026, although costs may be incurred in subsequent years.

Local Fiscal Effect: The bill has many potential effects on local government operations and finances. Among the potential effects:

- The State's five municipal electric utilities are generally not exempt from any provisions in the bill and are, therefore, affected like any other electric company (*i.e.*, providing funding for eligible projects under the programs through various incentive structures and distributing rate refunds or credits). The five municipal electric utilities are located in Berlin (Worcester County), Easton (Talbot County), Hagerstown (Washington County), Thurmont (Frederick County), and Williamsport (Washington County). The bill specifically prohibits the use of ratepayer refund monies from being used for administrative expenses.
- Local governments likely have administrative requirements associated with project siting and permitting.
- Local governments may receive less funding from ACP-funded programs, such as from MEA's Decarbonizing Public Schools Program.
- Waste-to-energy and refuse derived fuel are removed from eligibility for inclusion in the State RPS for public-owned facilities, effective July 1, 2026. Montgomery County, the only local government that currently owns a waste-to-energy facility, must sell the associated RECs to other states for compliance in other states, rather than Maryland, to continue receiving revenue. To the extent there are no other buyers for these RECs, or other state REC prices are lower than Maryland's, county revenues decrease. Whether any other state RPS programs accept, or will accept, Maryland waste-to-energy RECs going forward is unknown, although it does not appear to be a common eligible source in the region. The county estimates its revenues decrease by $12.2 million annually beginning in fiscal 2027 due to the change.
- Local governments, as electric customers, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

Small Business Effect: The bill establishes several new clean energy and energy storage incentive programs but also reduces funding for ACP-backed clean energy programs – the net effect on a particular small business in the affected industries is unknown but could be significant. Additionally, all small businesses, and particularly small businesses with significant electricity use, are affected by any change in electricity rates, as discussed in the Additional Comments section below.

Additional Comments: The overall effect on electricity rates due to the bill is unclear, although the size of the potential programs – multiple thousands of megawatts, the capacity equivalent of several Calvert Cliffs Nuclear Power Plants – means there is potential for a significant rate effect. Broadly, the effects of the ratepayer-funded incentives established for new nuclear and energy storage will be offset, at least in part, by the savings attributable to the resulting local energy generation and storage capacity created. Also, in the near-term, the more than 3,100 megawatts of new capacity potentially approved through expedited CPCNs would likely alleviate, at least in part, energy constraints on the local region's electric grid. Additionally, the bill's requirements for large-load customers and co-location arrangements, along with changes to multi-year rate plans and cost recovery under the STRIDE program, may mitigate future distribution rate increases.

Specific to the removal of waste-to-energy and refuse-derived fuel from RPS eligibility, the associated RECs are not substantially cheaper than average, and average REC prices are near ACPs. The provision likely has a minimal impact on compliance costs and, by extension, a minimal impact on electricity rates.

Specific to residential customers, the residential rate credit required by the bill in fiscal 2026, if $200 million is provided as authorized in the fiscal 2026 budget, would provide an average of $82 per account, split equally between a $41 summer bill credit and a $41 winter bill credit. There is also the potential for additional refunds in future years, as the relevant provisions altering SEIF are permanent. Additionally, the bill significantly reduces ratepayer funds that would be required to be collected by electric companies and remitted to DHCD to fund its EmPOWER programs. DHCD programs are typically funded through residential rates.

In any case, the State, local governments, and all businesses, including small businesses, are affected by the potential significant change in electricity rates due to the bill.

Additional Information

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

Designated Cross File: HB 1035 (The Speaker and Delegate Wilson) **-** Economic Matters.

Information Source(s): Public Service Commission; Department of Natural Resources; Maryland Department of Transportation; Maryland Energy Administration; Office of People's Counsel; Maryland Department of the Environment; Department of Housing and Community Development; Department of General Services; Maryland Department of Labor; Governor's Office of Small, Minority, and Women Business Affairs; Department of Commerce; Office of the Attorney General; Comptroller's Office; Department of Human Services; Board of Public Works; Harford and Montgomery counties; Department of Legislative Services

Fiscal Note History:	First Reader - February 27, 2025
caw/mcr	Third Reader - April 3, 2025
	Revised - Amendment(s) - April 3, 2025
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	Revised - Other - April 24, 2025
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	Revised - Correction - August 13, 2025

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Appendix – Certificate of Public Convenience and Necessity

General Overview

The Public Service Commission (PSC) is the lead agency for licensing the siting, construction, and operation of power plants and related facilities in the State through Certificates of Public Convenience and Necessity (CPCN). The CPCN process is comprehensive and involves several other State agencies, including the Department of Natural Resources (and its Power Plant Research Program), and the Maryland Department of the Environment. Subject to limited exemptions described below, a person may not begin construction in the State of a generating station, overhead transmission line, or qualified generator lead line unless a CPCN is first obtained from PSC.

State law provides that a "generating station" excludes:

- a facility used for electricity production with a capacity of up to 2 megawatts that is installed with equipment that prevents the flow of electricity to the electric grid during time periods when the grid is out of service;
- a combination of two or more co-located or adjacent facilities used for electricity production from solar photovoltaic systems or specified eligible customer-generators that have a maximum cumulative capacity of 14 megawatts, including maximum individual capacities of 2 megawatts (subject to satisfying other requirements); and
- a facility, or a combination of two or more facilities, used for electricity production for the purpose of onsite emergency backup for critical infrastructure when service from the electric company is interrupted and conducting necessary test and maintenance operations (subject to satisfying other requirements).

The CPCN process, detailed further below, involves the notification of specified stakeholders, the holding of public hearings, the consideration of recommendations by State and local government entities, and the consideration of the project's effects on various aspects of the State infrastructure, economy, and environment.

In December 2020, PSC initiated a rulemaking (RM 72) to revise regulations governing CPCNs for generating stations. Updated regulations became effective in September 2021. Among other changes, the regulations contain additional information requirements – to assist in project evaluation – and allow for electronic submission and distribution of application materials.

Notification Process

Upon receipt of a CPCN application, PSC – or the CPCN applicant, if required by PSC – must immediately provide notice to specified recipients, including the executive and governing body of affected local governments, affected members of the General Assembly, and other interested persons. When providing the notice, PSC must also forward the CPCN application to each appropriate unit of State and local government for review, evaluation, and comment and to each member of the General Assembly who requests a copy.

Public Hearing and Comment

PSC must provide an opportunity for public comment and hold a public hearing on a CPCN application in each county and municipality in which any portion of the construction of a generating station, overhead transmission line, or qualified generator lead line is proposed to be located. PSC must hold the hearing jointly with the governing body of the county or municipality and must provide weekly notice during the four weeks prior to the hearing, both in a newspaper and online, and must further coordinate with each local government to identify additional hearing notification options. PSC must ensure presentation and recommendations from each interested State unit and must allow representatives of each State unit to sit during the hearing of all parties. PSC must then allow each State unit 15 days after the conclusion of the hearing to modify the unit's initial recommendations.

Public Service Commission Considerations

PSC must take final action on a CPCN application only after due consideration of (1) recommendations of the governing body of each county or municipality in which any portion of the project is proposed to be located; (2) various aspects of the State infrastructure, economy, and environment; and (3) the effect of climate change on the project. For example, PSC must consider the effect of the project on the stability and reliability of the electric system and, when applicable, air and water pollution. There are additional considerations specifically for a generating station or an overhead transmission line. For example, PSC must consider the impact of a generating station on the quantity of annual and long-term statewide GHG emissions and must consider alternative routes and related costs for the construction of a new overhead transmission line.

Generating Station Exemptions

There are three general conditions under which a person constructing a generating station may apply to PSC for an exemption from the CPCN requirement:

- the facility is designed to provide onsite generated electricity, the capacity is up to 70 megawatts, and the excess electricity can be sold only on the wholesale market pursuant to a specified agreement with the local electric company;
- at least 10% of the electricity generated is consumed onsite, the capacity is up to 25 megawatts, and the excess electricity is sold on the wholesale market pursuant to a specified agreement with the local electric company; or
- the facility is wind-powered and land-based, the capacity is up to 70 megawatts, and the facility is no closer than a PSC-determined distance from the Patuxent River Naval Air Station, among other requirements.

However, PSC must require a person who is exempted from the CPCN requirement to obtain approval from the commission before the person may construct a generating station as described above. The application must contain specified information that PSC requires, including proof of compliance with all applicable requirements of the independent system operator.

Appendix – Renewable Energy Portfolio Standard

General Overview

Maryland's Renewable Energy Portfolio Standard (RPS) was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. There are specified eligible ("Tier 1" or "Tier 2") sources as well as carve-outs for solar, offshore wind, and geothermal. Electric companies (utilities) and other electricity suppliers must submit renewable energy credits (RECs) equal to a percentage of their retail electricity sales specified in statute each year or else pay an alternative compliance payment (ACP) equivalent to their shortfall. Historically, RPS requirements have been met almost entirely through RECs, with negligible reliance on ACPs; however, as discussed further below, that has not been the case more recently. Generally, the Maryland Energy Administration must use ACPs for purposes related to renewable energy, as specified.

In 2025, the requirements are 35.5% from Tier 1 sources, including at least 7.0% from solar and 0.25% from post-2022 geothermal systems, plus 2.5% from Tier 2 sources.

Recent Significant Changes to Overall Percentage Requirements

- Chapter 757 of 2019 significantly increased the percentage requirements, which now escalate over time to a minimum of 50% from Tier 1 sources, including 14.5% from solar, by 2030.

- Chapter 673 of 2021 reduced the amount of solar energy required under the RPS each year from 2022 through 2029, while leaving the nonsolar requirement generally unchanged, before realigning with the previous requirements beginning in 2030. The Act also extended Tier 2 in perpetuity at 2.5%.

- Chapter 164 of 2021 created a carve-out for post-2022 geothermal systems in Tier 1 beginning in 2023.

Limited Applicability to Municipal Electric Utilities and Electric Cooperatives

As RPS percentage requirements have grown over time, legislation has been enacted to limit the effect on municipal electric utilities and electric cooperatives. Tier 1 percentage requirements for municipal electric utilities are limited to 20.4% in total beginning in 2021, including at least 1.95% from solar energy and up to 2.5% from offshore wind. Municipal electric utilities are also exempt from Tier 2 after 2021. Electric cooperatives are exempt from future increases to the solar carve-out beyond 2.5%, and the RPS does not apply to Choptank Electric Cooperative.

Renewable Energy Credits

Generally, a REC is a tradable commodity equal to one megawatt-hour of electricity generated or obtained from a renewable energy generation resource. In other words, a REC represents the "generation attributes" of renewable energy – the lack of carbon emissions, its renewable nature, etc. A REC has a five-year life during which it may be transferred, sold, or redeemed. REC generators and electricity suppliers are allowed to trade RECs using a Public Service Commission (PSC) approved system known as the Generation Attributes Tracking System, a trading platform designed and operated by PJM Environmental Information Services, Inc., that tracks the ownership and trading of RECs.

Eligible Sources

Tier 1 sources include wind (onshore and offshore); solar (photovoltaic and certain water-heating systems); qualifying biomass; methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents, and thermal differences; a fuel cell that produces electricity from specified sources; a small hydroelectric plant of less than 30 megawatts; poultry litter-to-energy; waste-to-energy; refuse-derived fuel; thermal energy from a thermal biomass system; and raw or treated wastewater used as a heat source or sink for heating or cooling. Tier 2 includes only large hydroelectric power plants.

Chapter 673 excluded black liquor, or any product derived from black liquor, from Tier 1 beginning in 2022, although some black liquor RECs remain eligible through the duration of certain contracts.

Trends in Compliance Costs, Renewable Energy Credit Prices, and Resources Used

Compliance costs for electricity suppliers totaled $564.2 million in 2023: $243.8 million for 7.9 million RECs and $320.4 million in ACPs. This continues a multi-year trend of increasing overall compliance costs, reliance on ACPs, and REC prices. Of note, 2023 was the first time that ACPs have been used in a significant way for general Tier 1 compliance. In fact, electricity suppliers retired the lowest number of general Tier 1 RECs since 2013 – and made $262.4 million in ACPs for the remaining obligation. Compliance costs and REC prices for the most recent five-year period are shown in **Exhibit 1**.

In 2023, solar (27.5%), wind (19.9%), black liquor (16.1%), municipal solid waste (14.2%), and small hydroelectric (7.5%) were the primary energy sources used for Tier 1 RPS compliance. Maryland facilities generated 5.2 million RECs in 2023: 1.3 million Tier 1 RECs, 2.1 million Tier 1 RECs, and 1.8 million Tier 2 RECs. Many

RECs can be used for compliance in both Maryland and other surrounding states, although there are geographic and energy source restrictions.

Exhibit 1
RPS Compliance Costs and REC Prices
2019-2023

	2019	**2020**	**2021**	**2022**	**2023**
Compliance Costs ($ Millions)					
RECs					
Tier 1	$79.3	$99.8	$187.3	$246.5	$124.9
Tier 1 Solar	55.2	122.9	144.4	101.4	109.6
Tier 1 Geothermal	n/a	n/a	n/a	n/a	0.1
Tier 2	0.1	0.4	1.0	4.4	9.3
RECs Subtotal	***$134.6***	***$223.1***	***$332.7***	***$352.3***	***$243.8***
ACPs					
Tier 1	$5.0	$0.0	$0.2	$0.7	$262.4
Tier 1 Solar	2.7	0.0	76.9	85.9	56.0
Tier 1 Geothermal	n/a	n/a	n/a	n/a	1.6
Tier 2	0.1	0.0	0.0	0.0	0.4
ACPs Subtotal	***$7.7***	***$0.1***	***$77.1***	***$86.6***	***$320.4***
Total	**$142.3**	**$223.2**	**$409.8**	**$438.9**	**$564.2**
Average REC Price ($)					
Tier 1	$7.77	$8.24	$14.36	$17.80	$24.61
Tier 1 Solar	$47.26	$66.10	$72.59	$57.80	$56.67
Tier 1 Geothermal	n/a	n/a	n/a	n/a	$94.47
Tier 2	$1.05	$1.06	$6.45	$7.42	$10.50

ACP: alternative compliance payment
REC: renewable energy credit
RPS: Renewable Energy Portfolio Standard

Note: Numbers may not sum to total due to rounding. The post-2022 geothermal system carve-out became effective in 2023.

Source: Public Service Commission

Related Studies and Reports

PSC must submit an RPS compliance report to the General Assembly each year. The most recent report, which contains historical data through 2023, can be found here.

The Power Plant Research Program (PPRP) in the Department of Natural Resources has frequently been required to conduct RPS studies. PPRP submitted a final report on a comprehensive RPS study in December 2019, which can be found here. PPRP also submitted a related required study on nuclear energy at that time, which can be found here. PPRP's supplemental study on the overall costs and benefits of increasing the RPS to a goal of 100% by 2040 was due by January 1, 2024.

The Department of Legislative Services also issued an RPS report in 2024, which can be found here. The report contains additional detail on the program, significant statutory changes, and visualizations of planned and actual RPS percentage requirements over time.