

STATE OF MARYLAND



OFFICE OF THE CHAIRMAN

JASON M. STANEK

**PUBLIC SERVICE COMMISSION**

March 7, 2023

Chair Brian Feldman  
Education, Energy and Environment  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: SB 781 – INFORMATION – Offshore Wind Energy – State Goals and Procurement  
(Promoting Offshore Wind Energy Resources Act)**

Dear Chair Feldman and Committee Members:

It is well recognized that Maryland is a leader, enabler and strong proponent of Offshore Wind as evidenced by the Commission's two rounds of OREC approvals over the past several years. At over 2,000 MW, the Commission has issued orders surpassing legislative targets while remaining under statutory bill impact limits. Offshore wind reduces our reliance on carbon emitting generation and advances the offshore wind manufacturing infrastructure and supply chain within our state. No matter the targets specified in SB 781, OSW remains an important and abundant alternative to carbon emitting generation, and upgrades to the transmission system will be needed to move that power to shore. The Commission is working with the sponsors and looks forward to further conversations. These comments are intended be informative and to facilitate meeting our state energy and climate policies.

Both federal and state efforts are underway in the mid-Atlantic region to help states meet their clean energy goals. The Federal Energy Regulatory Commission (FERC) has issued a series of proposed rulemakings that would require proactive and holistic transmission planning on a region-wide basis and set forth fair cost allocation among the beneficiaries of transmission system upgrades. FERC's efforts will likely result in either higher benefits to all states or similar benefits at lower costs. This concept is also at the heart of studies that PJM, the regional transmission planner, is developing on the behalf of all states in the region.

New Jersey has embarked on a program to fully fund a billion dollars in transmission upgrades needed to deliver up to 7,500 MW of OSW onshore by 2035 from NJ ratepayers.<sup>1</sup> New Jersey's OSW wind turbines will directly serve the electricity users in their state; however, the necessary upgrades to the transmission system will benefit multiple states across the region. Accordingly, other states benefiting from the upgrades will not pay their fair share.

SB 781 mirrors the New Jersey approach in many ways but also adds an additional scope of review. This Bill would require Maryland to examine transmission enhancements in the sole interest of the state, similar to New Jersey, and require the PSC to work with other states on a more regional or cooperative plan. The Bill sets forth a process that invites proposals for transmission system upgrades and expansions that best meet OSW goals. **Though SB 781 requires this of the Commission, the Commission would need to rely on PJM, the FERC-jurisdictional entity responsible for planning the transmission system to carry out this function.** The studies, competitive solicitations, and selection of qualified candidate projects that could be reliably integrated into the bulk power grid are transmission planning functions and would fall within PJM's authority, jurisdiction, and expertise.

It should be noted that the PSC cannot order PJM to comply with the scope or schedules in SB 781 because PJM is a FERC-jurisdictional entity. Yet, the Bill hinges on PJM resource availability and its ability to enter into agreements to conduct planning studies and conduct the solicitation for project proposals that provide deliverability of OSW generation. PJM's involvement in the preliminary analysis, prior to the solicitation process, would be significant. PJM spent a year working with New Jersey on details like those outlined in the Bill leading up to the solicitations and another two years analyzing those solicitations. Furthermore, such agreements with PJM will require FERC approval. **Accordingly, the target dates in the bill should be goals rather than mandates.** In addition, the reporting requirement after the first phase of the analyses should allow for a status report in lieu of a completed analysis if meeting the target date is impracticable. The proposed timelines in the Bill should also be amended to provide sufficient time for PSC review of these analyses. As drafted, the Bill provides no review period between offer submission and project selection.

To support New Jersey's efforts, the Commission-equivalent in New Jersey dedicated three full-time employees and spent over \$3 million over a three-year period for expert engineering and legal consulting services. The scope of review is greater in SB 781, and the Commission estimates it will need four full-time employees, \$500,000 for the initial study, and \$3 million for the long terms analysis. Including such authorizations would make clear to the public, transmission developers, OSW generator developers, and PJM that appropriate resources will be committed to support this effort.

SB 781 requires the PSC to both choose among qualified transmission projects and continue its statutory obligation to review any associated requests for CPCNs (siting). This is an unusual dynamic that did not exist in New Jersey and likely will require a rulemaking. Aside from working with PJM, SB 781 envisions the PSC collaborating with various other entities. For example, the Commission would be expected to consult with Maryland transmission owners in conducting an analysis of transmission expansion options. However, doing so would have the

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<sup>1</sup> This does not include the costs of the OSW turbines, infrastructure, or interconnecting the projects to the grid.

prospect of disadvantaging other merchant transmission companies in the competitive project solicitation process outlined in SB 781. Also, consulting with the transmission owners may not conform with the rigorous separation requirement in the Bill.

SB 781 includes a goal of 8,500 MW of OSW by 2031, which is a challenging timeline within which to plan and develop transmission for that amount of output. Staffing the program and contracting with expert consultants takes time. Assuming the planning deadlines can be met, the additional time needed for CPCN reviews, OSW generation development and procurement, and FERC approvals will make meeting this goal challenging. To that point, the timeline could be triggered by the OSW developer submitting a filing showing a sufficiently sized BOEM lease. This filing should also attest to the developer's intent to utilize the area to generate OSW energy by 2031 for the benefit of Maryland ratepayers. This could assure that funds and resources allotted for this effort are prudently expended.

The bill presumes that a project will be built and developed once the PSC selects a project. If the intent is to provide the PSC with the ability to direct PJM to require a developer to actually construct the expansion projects, the Bill should be clear in communicating that the PSC would have authorization and discretion to commit the State to fully fund this transmission through FERC-approved transmission rates. Without this provision, the Bill becomes a long-term and resource-intensive set of studies and may not signal to PJM and prospective transmission developers that the state is contractually committed to the 8,500 MW goal (by 2031) set forth in the Bill.

Aside from the transmission related elements of the Bill, SB 781 would also require the Department of General Services, a state agency, to enter PPAs with OSW developers. As alluded to earlier, the Bill does not specify that these PPAs would deliver power over the transmission system upgrades that would result from the Bill.

Under this bill, the State will become a wholesale energy marketer potentially subject the State to market based rate authority review, approvals by FERC, and FERC's jurisdiction. This would be unprecedented. Unlike prior OSW legislation, SB 781 does not involve ratepayer funding for ORECs. Since this appears to be a state budget issue, the PSC offers no comments regarding this part of the Bill.

As mentioned earlier, SB 781 is aimed at opening the door to OSW wider than today. Yet, as explained, it assumes the agreement of factors beyond state control. I appreciate the opportunity to provide information on SB 781. Please contact Lisa Smith, Director of Legislative Affairs, at (410) 336-6288 if you have any questions.

Sincerely,



Jason M. Stanek  
Chairman