

## Proposed Action on Regulations

**Date Filed with AELR Committee**

February 14, 2023

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**Document Number**

22-310-P

**Date of Publication in MD Register**

**1. Desired date of publication in Maryland Register: March 24, 2023**

**2. COMAR Codification**

<b>Title</b>	<b>Subtitle</b>	<b>Chapter</b>	<b>Regulation</b>
20	61	01	03
20	61	02	01
20	61	02	03
20	61	05	01
20	61	06	01
20	61	06	02
20	61	06	03
20	61	06	06
20	61	06	12
20	61	06	18

**3. Promulgating Authority**

Public Service Commission

**4. Name of Regulations Coordinator**

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**6. Check applicable items:**

- New Regulations
- Amendments to Existing Regulations
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval

**7. Is there Emergency text that is identical to this Proposal:**

Yes  No

**8. Incorporation by Reference**

Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by H. Robert Erwin, General Counsel, telephone #410-767-8039, on February 14, 2023. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Andrew S. Johnston

**Title**

Executive Secretary

**Telephone No.**

410-767-8067

**Date**

February 14, 2023

**Title 20**

**PUBLIC SERVICE COMMISSION**

**Subtitle 61 RENEWABLE ENERGY PORTFOLIO STANDARD PROGRAM**

**20.61.01 General**

**20.61.02 Certifiable Renewable Energy Facilities**

## 20.61.05 Maryland Strategic Energy Investment Fund

### 20.61.06 Offshore Wind

Authority: Public Utilities Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

#### Notice of Proposed Action

[22-310-P]

The Public Service Commission proposes to:  
amend Regulation .03 under COMAR 20.61.01 General, amend Regulations .01 and .03 under COMAR 20.61.02 Certifiable Renewable Energy Facilities, amend Regulation .01 under COMAR 20.61.05 Maryland Strategic Energy Investment Fund, and amend Regulations .01-.03, .06, .12 and .18 under COMAR 20.61.06 Offshore Wind. This action was considered by the Maryland Public Service Commission at a scheduled rule-making (RM 75) meeting held on August 15, 2022, notice of which was given under General Provisions Article, §3-302, Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to amend Off-Shore Wind regulations to comply with the Clean Energy Jobs Act of 2019 and correct typos and terminology consistent with defined terms.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Andrew S. Johnston, Executive Secretary, Maryland Public Service Commission, 6 St. Paul Street, 16th Floor Baltimore, MD 21202, or call 410-767-8067, or email to [andrew.johnston@maryland.gov](mailto:andrew.johnston@maryland.gov). Comments will be accepted through April 24, 2023. A public hearing has not been scheduled.

ANDREW S. JOHNSTON  
Executive Secretary

### Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: **FY 2023**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

**Yes**

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

**Special Fund – The Public Utility Regulation Fund**

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

**The amended regulations implement changes in the application process for Off-Shore Wind (“OSW”) projects resulting from the Clean Energy Jobs Act of 2019 (“CEJA”). CEJA authorized the Public Service**

Commission (“PSC”) to approve up to 1,200 megawatts of OSW projects in a series of round 2 application periods. The PSC in Order No. 90011 (Dec. 17, 2021) in Case No. 9666 awarded the entire 1,200 megawatts authorized by CEJA for two OSW projects in the first application period, and cancelled any future application periods as not being needed. As a result, there will not be any additional OSW project applications submitted under the authority of the CEJA. Therefore, the entire economic impact associated with the construction and operation of the OSW projects is directly attributable to the enactment of CEJA and Order No. 90011, and the adoption of the amended regulations will have no direct economic impact.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The amended regulations implement changes in the application process for Off-Shore Wind (“OSW”) projects resulting from the Clean Energy Jobs Act of 2019 (“CEJA”). CEJA authorized the Public Service Commission (“PSC”) to approve up to 1,200 megawatts of OSW projects in a series of round 2 application periods. The PSC in Order No. 90011 (Dec. 17, 2021) in Case No. 9666 awarded the entire 1,200 megawatts authorized by CEJA for two OSW projects in the first application period, and cancelled any future application periods as not being needed. As a result, there will not be any additional OSW project applications submitted under the authority of the CEJA. Therefore, the entire economic impact associated with the construction and operation of the OSW projects is directly attributable to the enactment of CEJA and Order No. 90011, and the adoption of the amended regulations will have no direct economic impact.

G. Small Business Worksheet:

**1a. Intended Beneficiaries**

Not applicable, see below.

**b. Intended Beneficiaries: Households**

Not applicable, see below.

**c. Intended Beneficiaries: Businesses**

Not applicable, see below.

**2a. Other Direct or Indirect Impacts: Adverse**

Not applicable, see below.

**b. Other Direct or Indirect Impacts: Positive**

Not applicable, see below.

**3. Long Term Impacts**

Not applicable, see below.

**4. Estimate of Economic Impact**

None. As discussed above in Part C, Item E, since Order No. 90011 (Dec. 17, 2021) in Case No. 9666 awarded the entire 1,200 megawatts authorized by CEJA for two OSW projects in the first application

period, the adoption of the regulations will not have an economic impact since there will be no additional OSW project application periods under CEJA.

**Narrative:**

As discussed above in Part C, Item E, since Order No. 90011 (Dec. 17, 2021) in Case No. 9666 awarded the entire 1,200 megawatts authorized by CEJA for two OSW projects in the first application period, the adoption of the regulations will not have an economic impact since there will be no additional OSW project application periods under CEJA.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 61 RENEWABLE ENERGY PORTFOLIO STANDARD PROGRAM**

#### **Chapter 01 General**

Authority: Public Utilities Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

##### **.03 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1)—(1-1—1-4) (text unchanged)
  - (1-5) “Application” means the information and materials describing a proposed offshore wind project submitted to the Commission as contemplated by [Public Utilities Article, §7-704.1(a), Annotated Code of Maryland.] *Public Utilities Article, §7-704.1(a)(2), Annotated Code of Maryland.*
  - (1-6)—(1-10) (text unchanged)
  - (1-11) “Community Benefit Agreement” means a contract between an OSW applicant of a Qualified Offshore Wind Project and a Local Community whereby the OSW applicant provides certain benefits to the Local Community and agrees to labor practices, as set forth in Public Utilities Article, §7-704.1(e)(1)(i), Annotated Code of Maryland.
  - (2)—(6-5) (text unchanged)
  - (6-6) “Local Community” means a “local government,” as defined in State Government Article, §11-101(g), Annotated Code of Maryland,
    - a. Where shore-side infrastructure associated with a Qualified Offshore Wind Project will be located;
    - b. Where offshore wind supply chain developed will be located; or
    - c. Where other economic development will be located; and
    - d. Which enters into a Community Benefit Agreement with an OSW applicant.
  - [(6-6)](6-7)—[(6-11)](6-12) (text unchanged)
  - (7)—(13-2) (text unchanged)
  - (13-3) A “Round 1 offshore wind project” has the meaning stated in Public Utilities Article, §7-701, Annotated Code of Maryland.
  - (13-4) A “Round 2 offshore wind project” has the meaning stated in Public Utilities Article, §7-701, Annotated Code of Maryland.
  - [(13-3)](13-5)—[(13-4)](13-6) (text unchanged)
  - (14)—(17) (text unchanged)
  - (18) “VSBES” means veteran-owned small business enterprises as such term is set forth in State Finance and Procurement Article, §14-601(c), Annotated Code of Maryland.

#### **Chapter 02 Certifiable Renewable Energy Facilities**

Authority: Public Utilities Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

##### **.01 Application Requirements.**

- A.—C. (text unchanged)
- D. An applicant for certification as a renewable energy facility that consists of a Level [I] solar photovoltaic solar system is not required to file the following:
  - (1)—(3) (text unchanged)
- E.—G. (text unchanged)

##### **.03 Obligation of Certified Renewable Energy Facility.**

- A. (text unchanged)

B. Level 1 Solar Renewable Energy Facility — Recording [Renewal] *Renewable* Energy Credits.

(1) —(2) (text unchanged)

C. (text unchanged)

D. Level 1 and Level 2 Solar [Renewal] *Renewable* Energy Credits — Sale or Transfer.

(1)—(4) (text unchanged)

## Chapter 05 Maryland Strategic Energy Investment Fund

Authority: Public Utilities Article, §§2-121, 5-101, and 7-701—7-713, Annotated Code of Maryland

### .01 General Provisions.

A. (text unchanged)

B. Eligibility Criteria for Projects Supported by the Fund.

(1) Except under §B(3) of this regulation, a project supported by the Fund shall be designed to support the creation of new Tier 1 renewable energy sources in Maryland. *For purposes of this section, support may include grants for workforce development programs authorized under Labor and Employment Article, §11-708.1(c)(1), Annotated Code of Maryland.*

(2) Additional project evaluation criteria may include the following:

(a)—(g) (text unchanged)

(h) Economic benefits to Maryland; [and]

(i) *Job training and workforce development opportunities associated with the project; and*

[(i)] [(j)] (text unchanged)

(3) (text unchanged)

## Chapter 06 Offshore Wind

Authority: Public Utilities Article, §§2-121, 7-704.1, and 7-704.2, Annotated Code of Maryland

### .01 Application Process.

A. (text unchanged)

B. *The Commission shall open an application period establishing a period of time during which persons may submit applications.*

(1) *The Commission shall provide notice specifying the opening and closing date and time of the application period, after which the Commission shall not accept applications or material changes to previously submitted applications and any other information Commission determines appropriate.*

(a) *The Commission shall provide notice at least 60 calendar days before the opening date of the application period.*

(b) *The Commission may provide for one or more additional application periods through a formal multi-year application schedule.*

(2) *The opening date of the application period shall be January 1 of a given year.*

(3) *The closing date of the application period shall be 120 calendar days after the opening date of the application period.*

*The Commission may extend this closing date by one or more additional periods of 30 calendar days.*

[B.] C. An application submitted pursuant to [Public Utilities Article, §7-704.1(a)(1), Annotated Code of Maryland,] *Public Utilities Article, §7-704.1, Annotated Code of Maryland,* shall be submitted to the Executive Secretary.

(1) Upon receipt of an application by the Executive Secretary [prior to the opening of an application period,] the Commission shall determine within 30 calendar days whether that application is administratively complete.

(2) If the Commission determines that the application received under [(B)(1)] §(C)(1) of this regulation is not administratively complete, the Commission shall promptly notify the OSW applicant of any deficiencies and allow the OSW applicant to submit missing items or information[, or both]. Upon receipt of missing items or information, [or both,] the Commission shall again have 30 calendar days to determine whether that application is administratively complete.

[(3) Upon the first determination that an application is administratively complete, the Commission shall open an application period establishing a period of time during which other persons may submit applications. The Commission shall provide notice specifying the closing date and time of the application period, after which the Commission shall not accept applications or material changes to previously submitted applications and any other information the Commission determines appropriate.

(4) The closing date of the application period shall be 180 calendar days after the Commission issues the notice to the public described by §B(3) of this regulation that it is accepting applications. The Commission may extend this closing date by one or more additional periods of 30 calendar days.]

(3) *At the close of the application period, the Commission shall order an applicant to file within five business days of the closing date of the application period, the public and confidential versions of its application and make both versions available to Commission Staff and Office of People's Counsel.*

(4) *Except as directed by the Commission, court, or as authorized by law, an individual subject to Public Utilities Article, §2-302, Annotated Code of Maryland, may not divulge information deemed confidential by an OSW applicant.*

[C. The Commission shall determine within 30 calendar days whether an application submitted during the application period is administratively complete. If the Commission determines the application is not administratively complete, the Commission shall notify the OSW applicant within that 30-day period of any deficiencies. The OSW applicant shall have an opportunity to submit missing items or information, or both, but only if the OSW applicant's submission occurs before the close of the application period.]

D.—G. (text unchanged)

H. Prior to acceptance of applications, the Commission shall notify potential applicants of the Long-Term Composite Treasury Bond rate (or equivalent) that will be used as the nominal discount rate and the near-term average GDP Deflator (or equivalent) that will be used as the deflation rate to determine whether the OREC price in the applicant's proposed OREC price schedule exceeds \$190 per megawatt hour (levelized in 2012 dollars) for *Round 1 projects* and whether the projected net rate impacts for residential and nonresidential customers, as described by [Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland.] *Public Utilities Article, §7-704.1(e)(1)(iii)(1) and (2), Annotated Code of Maryland*, will be exceeded.

[I. The Commission may provide for one or more additional application periods.]

## **.02 Application Requirements.**

A.—I. (text unchanged)

J. An application shall include the following commercial information related to the proposed offshore wind project:

(1) (text unchanged)

(2) Subject to Regulation .06 of this chapter, OSW applicant's plan for compliance with the Minority Business Enterprise Program for the construction, manufacturing, and maintenance phases of the proposed offshore wind project *shall*[:];

(a) *Describe the applicant's best efforts to engage MBEs in, at a minimum, planning and design activities; financing; project administration; construction activities, including, but not limited to wind turbine assembly, foundation and substructure construction, and balance of plant activities; and operation and maintenance activities associated with the project.*

(b) *Describe the MBE participation goal for each phase of the project and how the applicant intends to achieve such goal(s), including the number of jobs, the expected average salary and/or total compensation to MBEs, and the estimated nominal dollars (U.S.) of the contract attributable to MBE contractors and subcontractors.*

(c) *Describe best efforts the applicant has made to consult with MBEs and the Governor's Office of Small, Minority & Women Business Affairs prior to the submission of the application.*

(d) *Include a proposed schedule for continued engagement with MBEs and the Governor's Office of Small, Minority & Women Business Affairs.*

(3) (text unchanged)

(4) OSW applicant's plan for using an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project particularly with regard to the construction, manufacturing, and maintenance of the proposed offshore wind project; [and]

(5) OSW applicant's plan to provide for compensation to its employees and subcontractors consistent with wages outlined in State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland[.];

(6) *An OSW applicant's plan for using a Community Benefit Agreement, as required by Public Utilities Article, §7-704.1(e)(1)(i), Annotated Code of Maryland, that:*

(a) *Promotes increased opportunities for local businesses and small, minority, woman-owned, and veteran-owned businesses in the clean energy industry;*

(b) *Ensures the timely, safe, and efficient completion of the project by facilitating a steady supply of highly skilled craft workers who shall be paid not less than the prevailing wage rate determined by the Commissioner of Labor and Industry under Title 17, Subtitle 2 of the State Finance and Procurement Article, Annotated Code of Maryland;*

(c) *Promotes safe completion of the project by ensuring that at least 80% of the craft workers on the project have completed an Occupational Safety and Health Administration 10-hour or 30-hour course;*

(d) *Promotes career training opportunities in the construction industry for local residents, veterans, women, and minorities;*

(e) *Provides for best efforts and effective outreach to obtain, as a goal, the use of a workforce including minorities, to the extent practicable; and*

(f) *Reflects a 21<sup>st</sup>-century labor-management approach based upon cooperation, harmony, and partnership.*

(7) *The plan for implementing the opportunities outlined in the Community Benefit Agreement shall:*

(a) *Describe the applicant's best efforts to engage VSBEs and local businesses in, at a minimum, planning and design activities; financing; project administration; construction activities, including, but not limited to wind turbine assembly, foundation and substructure construction, and balance of plant activities; and operation and maintenance activities associated with the project;*

(b) *State a combined VSBE and local business participation goal for each phase of the project and how the applicant intends to achieve such goal(s), including the number of jobs, the expected average salary and/or total compensation to VSBEs and/or local businesses, and the estimated nominal dollars (U.S.) of the contract attributable to VSBE and local business contractors and subcontractors; and*

(c) *Identify how the applicant intends to source labor and build clear career pipelines for job growth in Maryland, as well as identify partnerships with workforce partners. Such partnerships could include intermediaries, local workforce development boards, registered apprenticeship programs, universities, research institutions, or other stakeholders. Such plan must further describe the qualitative value of the actions the applicant intends to take;*

(8) *Documentation of the applicant's efforts to conduct outreach to and engage with VSBEs and local businesses; and*

(9) *Documentation of the applicant's efforts to consult with the Governor's Office of Small, Minority & Women Business Affairs.*

K.—L. (text unchanged)



M. An application shall include a proposed OREC price schedule for the proposed offshore wind project's electricity service attributes that is subject to the following requirements:

(1) The proposed OREC price schedule shall consist of either a:

(a) Two-part OREC price in which the first component is expressed as either a single firm price for each calendar year or a series of firm prices for each calendar year and the second component is expressed as a single firm price for each calendar year subject to a true-up based upon any change between the Commission's estimated cost of transmission upgrades and PJM's actual upgrade cost as specified in the executed Interconnection Service Agreement, for a total OREC price up to and not exceeding \$190 per megawatt hour (levelized in 2012 dollars) for *Round 1 projects* and subject to the projected net rate impact caps for residential and nonresidential customers, as described by Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland; or

(b) One-part OREC price, expressed as either a single firm price for each calendar year or a series of firm prices for each calendar year, that is not subject to true-up, up to and not exceeding \$190 per megawatt hour (levelized in 2012 dollars) for *Round 1 projects* and subject to the projected net rate impact caps for residential and nonresidential customers for *Round 1 and Round 2 projects*, as described by Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland;

(2)—(3) (text unchanged)

N.—O. (text unchanged)

P. *At least thirty (30) days prior to the application submission, the applicant shall meet with local officials of any municipalities within the viewshed of a proposed offshore wind project and any municipalities where shore-side development is proposed. Applicants shall present the proposed project to the local officials and solicit feedback on community values and local concerns. Presentation materials and minutes, notes, or transcripts of such meeting shall be incorporated in the Community Outreach Plan required by Regulation .02R of this chapter.*

Q. *Following the meeting with local officials, but at least thirty (30) days prior to the application submission, the applicant shall hold at least one public meeting in municipalities within the viewshed of the proposed offshore wind project and municipalities where shore-side development is proposed. Notice of such meeting shall be given in accordance with local law. At a minimum, the applicant shall provide information about the proposed project and present the anticipated impacts of the proposed project on local environmental, economic, and cultural resources and the applicant's proposed plans for mitigating or minimizing adverse impacts. Presentation materials, public comments, and minutes or transcripts of such meetings shall be incorporated in the Community Outreach Plan required by Regulation .02R of this chapter.*

R. *An application shall include a Community Outreach Plan describing proposed stakeholder engagement during the pre-construction, construction, and operation phases of the proposed project. Community Outreach Plans shall contain:*

(1) *A description and analysis of affected communities;*

(2) *A plan for locally targeted education and marketing strategies, such as advertisements, informational campaigns, direct mailings, outreach events and activities, and targeted engagement with local community groups;*

(3) *A proposed schedule for meetings with local officials, ongoing community engagement efforts, and public meetings;*

(4) *An analysis of any localized support and opposition to the project which the applicant is aware, including supporting documentation; and*

(5) *A reasonable response to concerns raised by local officials and community members at the pre-application meetings required by Regulations .02P and .02Q of this chapter, including any concerns regarding impacts to coastal viewshed, coastal community property values, tourism, and commercial and/or recreational fishing grounds. To the extent such issues were identified by the local community, the applicant shall reasonably describe its proposed plan to mitigate or minimize adverse impacts.*

### **.03 Evaluation Criteria.**

A. An application must demonstrate the proposed offshore wind project meets the following minimum threshold criteria, as specified:

(1) (text unchanged)

(2) The term of the proposed OREC price schedule is not longer than 20 years, and commences no earlier than January 1, 2017[;] for *Round 1 projects* and no earlier than July 1, 2017 for *Round 2 projects*;

(3) The OREC price on the proposed OREC price schedule do not exceed \$190 per megawatt hour in levelized 2012 dollars[, ] for *Round 1 projects*, as measured using a nominal discount rate equal to the long-term composite Treasury Bond rate (or equivalent) and a deflation rate equal to the near-term average GDP Deflator (or equivalent), notified by the Commission to potential OSW applicants;

(4)—(6) (text unchanged)

B. For each application that meets the minimum threshold criteria, the Commission shall conduct independent qualitative and quantitative analyses that considers the criteria enumerated in Public Utilities Article, §7-704.1(d)(1)(i) through (xiii), Annotated Code of Maryland.

(1) The qualitative analysis shall use a ranking system to identify applications with characteristics that contribute to the likelihood of successful development and to the net economic, environmental, and health benefits to the State.

(a) The following factors shall be considered as part of the qualitative analysis:

(i)—(xiii) (text unchanged)

(xiv) Adequacy of the OSW applicant's plan demonstrating engagement of small, *women-owned, local, veteran-owned*, and minority businesses, commitment to the use of skilled labor, and labor compensation plan;

(xv)—(xvii) (text unchanged)

(b) (text unchanged)

(2) (text unchanged)

(a) The quantitative analysis of the projected net rate impacts for an average Maryland retail electric customer based on an annual consumption of 12,000 kilowatt hours and nonresidential retail electric customers shall include consideration of the proposed OREC price schedule (including the proposed additional OREC prices for a further period of five years referenced in Regulation .02M(3) of this chapter) and proposed OREC amount, the value of energy, capacity, and ancillary services generated by the proposed project, the value of avoided Tier 1 REC costs, and any consequential impacts on wholesale market energy, capacity, ancillary service, and REC prices, to determine the following:

(i) Whether the projected net rate impact for applicable classes exceeds the limitations established in [Public Utilities Article, §7-704.1(e)(1)(ii) and (iii), Annotated Code of Maryland;] *Public Utilities Article, §7-704.1(e)(1)(iii)(1) and (2), Annotated Code of Maryland;* and

(ii) (text unchanged)

(b) (text unchanged)

(3) (text unchanged)

C. Subject to §(B)(1)(b) of this regulation, the Commission shall rank proposed projects (and combinations of proposed projects, if applicable) based on the qualitative and quantitative evaluation described by §B of this regulation. The Commission shall not approve an application that does not meet the requirements of [Public Utilities Article, §7-704.1(e)(1)(i) through (iv), Annotated Code of Maryland.] *Public Utilities Article, §7-704.1(e)(1)(i) through (iii), Annotated Code of Maryland.*

D. (text unchanged)

E. The Commission order approving an application shall be conditional upon completion of the following:

(1) (text unchanged)

(2) *The Commission and the OSW applicant execute a memorandum of understanding that requires the OSW applicant to use best efforts and effective outreach to obtain, as a goal, contractors and subcontractors for the project that are minority and veteran-owned business enterprises, to the extent practicable, as supported by a disparity study;*

(a) *The memorandum of understanding shall include a provision whereby the applicant agrees to comply with Public Utility Article, §7-704.1(i)(3), Annotated Code of Maryland, and develop a tracking methodology to report workforce diversity in the reports required pursuant to that Article.*

(b) *The memorandum of understanding shall include a provision whereby the applicant agrees to develop a tracking methodology to report its progress establishing and implementing veteran-owned business enterprise goals and procedures that shall be submitted to the Commission every 6 months following the issuance of an order approving an OREC application.*

(c) *The memorandum of understanding shall include a provision whereby the applicant acknowledges and agrees that the Commission, or a third-party designated by the Commission, may audit the applicant to verify the applicant's MBE, VSBE, and local business expenditures and any information provided in reports to the Commission regarding the implementation of MBE and Community Benefit Plans. The Commission reserves the right to request additional information from the applicant to verify reported information.*

[(2)] (3) As described fully by Regulation .06B of this chapter, the OSW applicant and the Governor's Office of Small, Minority[,] & Women Business Affairs, in consultation with the Office of the Attorney General, establish a clear plan for setting minority and veteran-owned business enterprise participation goals and procedures for the proposed offshore wind project; [and]

(4) *To the extent any portions of the applicant's plan relate to the criteria set forth in Public Utility Article, §7-704.1(d)(1)(viii) and (ix), Annotated Code of Maryland, the Commission, the OSW applicant, and skilled labor organizations shall sign a memorandum of understanding that requires the applicant to follow such portions; and*

[(3)] (5) (text unchanged)

#### **.06 Compliance with Minority Business Enterprise Program.**

A. (text unchanged)

B. The Commission may not approve an application until the Governor's Office of Small, Minority & Women Business Affairs, in consultation with the Office of the Attorney General, and the OSW applicant have established a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for each phase of the qualified offshore wind project, as required by [Public Utilities Article, §7-704.1(e)(3)(iii), Annotated Code of Maryland.] *Public Utilities Article, §7-704.1(i)(3)(i), Annotated Code of Maryland.*

[C. This regulation is effective through June 30, 2016.]

#### **.12 Payment of PJM Revenues and Trust for Benefit of Ratepayers.**

A. (text unchanged)

B. All proceeds from those sales that are associated with the ORECs that a project is authorized to sell under its OREC order (net of fees and [charged] *charges* imposed by PJM) shall be paid to the project's related escrow account to be applied in accordance with the order of priority set forth in Regulation .11G of this chapter, and any amounts remaining under Regulation .11G(4) of this chapter shall be held in trust by such project's administrator for the benefit of retail electric customers. The relevant project shall agree to this declaration of trust in the agreement that it enters into with its administrator with respect to payment of those funds.

C.—D. (text unchanged)

#### **.18 Reporting Requirements.**

A.—C. (text unchanged)

*D. The qualified offshore wind project shall file quarterly reports with the Commission following issuance of the OREC order containing:*

*(1) The availability and use of opportunities for local businesses, and small, minority, women-owned, and veteran-owned businesses;*

*(2) The success of efforts to promote career training opportunities in the construction industry for local residents, veterans, women, and minorities;*

*(3) Compliance with the minority workforce goal, including efforts taken in pursuit of the MBE Plan and Community Benefit Plan;*

*(4) A status report on the Community Outreach Plan, including a description of activities undertaken in accordance with the Community Outreach Plan, a summary of any local or stakeholder meetings conducted, an anticipated timeline for ongoing and anticipated outreach efforts, and any changes or updates to planned activities since the submission of the Community Outreach Plan; and*

*(5) The current status of its COD.*