

SENATE BILL 334

C5, M5

2lr1277
CF HB 624

By: **Senator Feldman**

Introduced and read first time: January 20, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2022

CHAPTER _____

1 AN ACT concerning

2 ~~Electricity Standard Offer Service Renewable Energy~~
3 Long-Term Power Purchase Agreements for Renewable Energy Workgroup and
4 Minority-Owned and Women-Owned Businesses Study

5 FOR the purpose of ~~requiring an electric company to contract for renewable energy credits~~
6 ~~and electricity generated from certain Tier 1 renewable sources to meet a portion of~~
7 ~~the renewable energy portfolio standard for the electric company; authorizing an~~
8 ~~electric company to receive annual remuneration for contracts; authorizing an~~
9 ~~electric company to account for the purchase of contracts as a regulatory asset, but~~
10 ~~prohibiting the collection of an additional return on the regulatory asset; requiring~~
11 ~~an electric company to submit contracts to the Public Service Commission for review~~
12 ~~and approval; requiring an electric company to sell purchased energy into the~~
13 ~~wholesale spot market; requiring an electric company to sell certain renewable~~
14 ~~energy credits and solar renewable energy credits; requiring that renewable energy~~
15 ~~credits, solar renewable energy credits, and electricity be used to meet a certain~~
16 ~~portion of the renewable energy portfolio standard for electricity provided to~~
17 ~~standard offer service customers; and generally relating to standard offer service and~~
18 ~~renewable energy~~ establishing the Long-Term Power Purchase Agreements for
19 Renewable Energy Workgroup to review certain long-term contracts and power
20 purchase agreements for renewable energy, study the feasibility of implementing
21 long-term power purchase agreements for renewable energy contracts in the State,
22 and make certain recommendations; requiring a certain certification agency and the
23 Governor's Office of Small, Minority, and Women Business Affairs, in consultation
24 with the Commission, the Office of the Attorney General, and the General Assembly,
25 to initiate a certain study of the renewable energy industry and market in the State

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



and make certain recommendations relating to minority-owned and women-owned business participation in the renewable energy industry and market in the State; requiring the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with a certain certification agency and the Office of the Attorney General, to develop certain race-neutral and gender-neutral approaches relating to minority-owned and women-owned businesses seeking to participate in the renewable energy industry and market in the State; and generally relating to the Long-Term Power Purchase Agreements for Renewable Energy Workgroup and a minority-owned and women-owned businesses study.

~~BY repealing and reenacting, without amendments,
Article — Public Utilities
Section 7-701(a) and (c)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)~~

~~BY adding to
Article — Public Utilities
Section 7-703.1
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)~~

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

(a) There is a Long-Term Power Purchase Agreements for Renewable Energy Workgroup.

(b) The Workgroup consists of the following members:

(1) the People's Counsel, or the People's Counsel's designee;

(2) the Director of the Maryland Energy Administration, or the Director's designee;

(3) the following members, selected by the Chairman of the Public Service Commission:

(i) one representative of each investor-owned electric company with customers in the State;

(ii) one representative of the utility scale solar industry;

(iii) one representative of the wind industry;

(iv) one representative of a renewable energy trade association;

(v) one representative of retail energy suppliers;

(vi) one representative of nonutility energy generators supplying power to the PJM region;

(vii) one individual with expertise in corporate renewable energy procurement; and

(viii) one individual with expertise in implementing power purchase agreements or long-term contracts for renewable energy; and

(4) any other individuals identified by the Public Service Commission.

(c) The Chairman of the Public Service Commission shall designate the chair of the Workgroup.

(d) The Public Service Commission shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Workgroup shall:

(1) undertake a review of:

(i) existing long-term contracts and power purchase agreements for renewable energy in other states;

(ii) the Public Service Commission of the District of Columbia's pilot program on long-term power purchase agreements for renewable energy; and

(iii) the Massachusetts Department of Public Utilities' regulatory program on long-term power purchase agreements for renewable energy;

(2) study the feasibility of implementing long-term power purchase agreements for renewable energy contracts in the State; and

(3) make recommendations on:

(i) whether a long-term power purchase agreement program for renewable energy could be implemented in Maryland through legislation or regulatory action;

(ii) the potential risks and benefits to the electricity market in Maryland of establishing a long-term power purchase agreement program;

(iii) the cost of requiring the Public Service Commission to administrate a long-term power purchase agreement program;

(iv) appropriate protections for investor-owned electric companies with customers in the State that may participate in the program;

(v) the potential benefits to Maryland ratepayers; and

(vi) any protections necessary to ensure fair oversight of long-term power purchase agreements for renewable energy entered into by investor-owned electric companies.

(g) On or before December 1, 2022, the Workgroup shall report its findings and recommendations to the General Assembly in accordance with § 2-1257 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The certification agency designated by the Board of Public Works under § 14-303(b) of the State Finance and Procurement Article and the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Public Service Commission, the Office of the Attorney General, and the General Assembly, shall initiate a study on the renewable energy industry to evaluate whether the enactment of remedial measures to assist minority-owned and women-owned businesses in the renewable energy industry and market would comply with the requirements of City of Richmond v. J. A. Croson Co., 488 U.S. 469, and any subsequent federal or constitutional requirements.

(2) (i) The Public Service Commission shall require electric companies and other entities participating in the renewable energy industry to provide to the Commission any information determined to be necessary to assess the need for remedial measures to assist minority-owned and women-owned businesses in the renewable energy industry and market in the State.

(ii) The information required under subparagraph (i) of this paragraph may include a list of the entity's expenditures, broken down by State fiscal year for the period beginning July 1, 2017, and ending June 30, 2022, including, for each expenditure:

1. a description of the work performed;

2. the dollar value of the expenditure;

1 3. whether the work was performed by the electric company,
2 another entity participating in the renewable energy industry, or a contractor or
3 subcontractor; and

4 4. if the work was performed by a contractor or
5 subcontractor, the name of the contractor or subcontractor.

6 (iii) On or before August 1, 2022, each electric company and other
7 entity participating in the renewable energy industry shall provide the information
8 required under subparagraph (i) of this paragraph to the Public Service Commission.

9 (iv) On or before August 15, 2022, the Public Service Commission
10 shall provide the information collected under subparagraph (i) of this paragraph to the
11 certification agency.

12 (v) 1. All information provided by an electric company or entity
13 under subparagraph (i) of this paragraph shall:

14 A. constitute confidential commercial and financial
15 information; and

16 B. be treated as confidential by the Public Service
17 Commission and the State.

18 2. Information provided by an electric company or entity
19 under subparagraph (i) of this paragraph may only be:

20 A. used for the purposes authorized under this subsection;
21 and

22 B. disclosed to the public in an anonymized or aggregated
23 format.

24 (3) The certification agency and the Governor's Office of Small, Minority,
25 and Women Business Affairs shall report their findings and recommendations to the
26 Governor and, in accordance with § 2-1257 of the State Government Article, the General
27 Assembly on or before December 1, 2022, so that the General Assembly may review the
28 findings during the 2023 legislative session.

29 (b) (1) The Governor's Office of Small, Minority, and Women Business Affairs,
30 in consultation with the certification agency and the Office of the Attorney General, shall
31 develop race-neutral and gender-neutral approaches for addressing the needs of
32 minority-owned and women-owned businesses seeking to participate in the renewable
33 energy industry and market.

34 (2) On or before December 1, 2022, the Governor's Office of Small,
35 Minority, and Women Business Affairs shall report the approaches developed under

paragraph (1) of this subsection to the Legislative Policy Committee, in accordance with § 2–1257 of the State Government Article, so that the General Assembly may review, consider, and include race-neutral and gender-neutral alternatives in legislation concerning the renewable energy industry or market.

(c) The certification agency, the Public Service Commission, and the Governor’s Office of Small, Minority, and Women Business Affairs shall provide staff for the studies required under subsections (a) and (b) of this section.

~~Article — Public Utilities~~

~~7–701.~~

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

~~(c) “Tier 1 renewable source” means one or more of the following types of energy sources:~~

~~(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;~~

~~(2) wind;~~

~~(3) qualifying biomass;~~

~~(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;~~

~~(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;~~

~~(6) ocean, including energy from waves, tides, currents, and thermal differences;~~

~~(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;~~

~~(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;~~

~~(9) poultry litter to energy;~~

~~(10) waste to energy;~~

~~(11) refuse derived fuel;~~

~~(12) thermal energy from a thermal biomass system; and~~

~~(13) raw or treated wastewater used as a heat source or sink for a heating or cooling system.~~

~~7-703.1.~~

~~(A) THIS SECTION DOES NOT APPLY TO AN ELECTRIC COOPERATIVE THAT CHOOSES TO CONTINUE TO SUPPLY ITS STANDARD OFFER SERVICE LOAD THROUGH A PORTFOLIO OF BLENDED WHOLESALE SUPPLY CONTRACTS AND OTHER APPROPRIATE ELECTRICITY PRODUCTS AND STRATEGIES IN ACCORDANCE WITH § 7-510(C)(8) OF THIS TITLE.~~

~~(B) NOTWITHSTANDING § 7-510 OF THIS TITLE OR ANY REGULATION OR ORDER UNDER THIS TITLE, BEGINNING IN 2023, AN ELECTRIC COMPANY SHALL CONTRACT FOR RENEWABLE ENERGY CREDITS AND ELECTRICITY GENERATED FROM ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(S)(1), (2), (5), (6), OR (8) OF THIS SUBTITLE TO MEET A PORTION OF THE ELECTRIC COMPANY'S RENEWABLE ENERGY PORTFOLIO STANDARD IN ACCORDANCE WITH SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~(C) (1) AN ELECTRIC COMPANY SHALL:~~

~~(I) SOLICIT BIDS FOR A CONTRACT UNDER SUBSECTION (B) OF THIS SECTION FROM RENEWABLE ENERGY FACILITIES THAT WILL BE PLACED INTO SERVICE WITHIN 3 YEARS AFTER THE DATE OF THE SOLICITATION;~~

~~(II) USE A COMPETITIVE PROCUREMENT PROCESS TO AWARD THE CONTRACT;~~

~~(III) RECEIVE ANNUAL COMPENSATION EQUAL TO 1% OF THE ANNUAL PAYMENTS UNDER THE CONTRACT TO COMPENSATE THE ELECTRIC COMPANY FOR ACCEPTING THE FINANCIAL OBLIGATION OF THE LONG TERM CONTRACT; AND~~

~~(IV) BE ENTITLED TO ACCOUNT FOR THE PURCHASE OF RENEWABLE ENERGY GENERATION UNDER THIS SECTION, INCLUDING THE SOLAR ENERGY AND RENEWABLE ENERGY CERTIFICATES, AS A REGULATORY ASSET RATHER THAN AS DEBT.~~

~~(2) THE COMMISSION MAY EXTEND THE IN SERVICE DATE REQUIREMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION BY UP TO 1 YEAR FOR GOOD CAUSE.~~

~~(3) THE TERM OF A CONTRACT UNDER SUBSECTION (B) OF THIS SECTION SHALL BE FOR AT LEAST 10 YEARS AND NOT MORE THAN 20 YEARS.~~

~~(4) (I) BEFORE AWARDING A CONTRACT UNDER THIS SUBSECTION, AN ELECTRIC COMPANY SHALL:~~

~~1. SUBMIT THE CONTRACT TO THE COMMISSION FOR REVIEW; AND~~

~~2. RECEIVE THE COMMISSION'S APPROVAL OF THE CONTRACT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

~~(II) IF THE COMMISSION DETERMINES THAT THE CONTRACT SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS COST EFFECTIVE AS COMPARED TO THE LONG TERM PROJECTION OF RENEWABLE ENERGY COSTS, THE COMMISSION SHALL APPROVE THE CONTRACT.~~

~~(5) A CONTRACT AWARDED UNDER THIS SECTION IS SUBJECT TO THE REGULATORY AUTHORITY OF THE COMMISSION.~~

~~(6) AN ELECTRIC COMPANY SHALL SELL PURCHASED ENERGY INTO THE WHOLESALE SPOT MARKET.~~

~~(7) AN ELECTRIC COMPANY SHALL SELL ALL RENEWABLE ENERGY CREDITS AND SOLAR RENEWABLE ENERGY CREDITS CONTRACTED FOR UNDER § 7-703(B) OF THIS SUBTITLE.~~

~~(8) FOR THE SALE OF ANY PURCHASED ENERGY INTO THE WHOLESALE SPOT MARKET UNDER PARAGRAPH (6) OF THIS SUBSECTION AND RENEWABLE ENERGY CREDITS UNDER PARAGRAPH (7) OF THIS SUBSECTION, AN ELECTRIC COMPANY SHALL:~~

~~(I) NET THE COST OF PAYMENTS MADE TO PROJECTS UNDER THE LONG TERM CONTRACTS AGAINST THE PROCEEDS OBTAINED FROM THE SALE OF ENERGY AND RENEWABLE ENERGY CREDITS; AND~~

~~(II) CREDIT OR CHARGE THE DIFFERENCE DERIVED UNDER ITEM (I) OF THIS PARAGRAPH TO ALL DISTRIBUTION CUSTOMERS THROUGH A UNIFORM FULLY RECONCILING ANNUAL FACTOR IN DISTRIBUTION RATES THAT CANNOT BE BYPASSED WHEN SWITCHING ELECTRIC SUPPLIERS, SUBJECT TO REVIEW AND APPROVAL OF THE COMMISSION.~~

~~(9) AN ELECTRIC COMPANY MAY NOT EARN AN ADDITIONAL RETURN ON A PURCHASE THAT IS TREATED AS A REGULATORY ASSET UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION.~~

~~(D) (1) BEGINNING IN 2023, THE RENEWABLE ENERGY CREDITS, SOLAR RENEWABLE ENERGY CREDITS, AND ELECTRICITY CONTRACTED FOR UNDER SUBSECTION (B) OF THIS SECTION SHALL BE USED TO MEET AT LEAST 25% OF THAT YEAR'S AND EACH SUBSEQUENT YEAR'S RENEWABLE ENERGY PORTFOLIO STANDARD FOR THE ELECTRICITY THAT THE ELECTRIC COMPANY PROVIDES TO THE ELECTRIC COMPANY'S STANDARD OFFER SERVICE CUSTOMERS.~~

~~(2) THE 25% STANDARD SHALL BE APPLIED EQUALLY TO THE ANNUAL RENEWABLE ENERGY PORTFOLIO STANDARD AMOUNT REQUIRED TO BE DERIVED BY SOLAR ENERGY IN 2023 AND SUBSEQUENT YEARS.~~

~~(E) ON OR BEFORE DECEMBER 1, 2024, AND ANNUALLY THEREAFTER, THE COMMISSION SHALL, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE:~~

~~(1) REPORT TO THE GENERAL ASSEMBLY ON THE IMPACT OF THIS SECTION ON THE ENERGY AND RENEWABLE ENERGY CREDIT MARKETS, INCLUDING THE DISPOSITION OF ENERGY AND RENEWABLE ENERGY CREDITS; AND~~

~~(2) RECOMMEND ANY PROGRAM CHANGES NECESSARY TO SUPPORT THE RENEWABLE ENERGY CREDIT MARKET IN THE STATE.~~

~~(F) ON OR BEFORE MARCH 31, 2023, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract for electricity supply before the effective date of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2022. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.