

Public Service Companies

Renewable Energy

Maryland's Renewable Energy Portfolio Standard (RPS) was enacted in 2004 to facilitate a gradual transition to renewable sources of energy. Electric companies (utilities) and other electricity suppliers must submit renewable energy credits equal to a percentage specified in statute each year or else pay an Alternative Compliance Payment (ACP) equivalent to their shortfall. The percentage requirements gradually increase to a minimum of 25% from Tier 1 sources, including 2.5% from solar sources, by 2020. Prior to 2019, there was also a Tier 2 in RPS, with a separate annual percentage requirement of 2.5%. In 2019, the requirements for the remaining Tier 1 are 20.4%, including at least 1.95% from solar energy.

Senate Bill 516 (passed) increases the RPS from 25% by 2020 to 50% by 2030. Effective October 1, 2019, the bill reestablishes the expired Tier 2 of the RPS as an additional requirement to include electricity from large hydroelectric sources for two years, in 2019 and 2020. New offshore wind capacity is required beginning with at least 400 megawatts in 2026, increasing to at least a cumulative 800 megawatts in 2028, and to at least a cumulative 1,200 megawatts in 2030, along with goals and reporting requirements for minority business enterprise and minority workforce participation. The carve-out for solar increases to 5.5% in 2019, with further annual increases until the solar carve-out reaches 14.5% in 2028. Electric cooperatives are exempt from any solar carve-out increase beyond 2.5%.

To control ratepayer impacts, the bill reduces Tier 1 ACPs beginning in 2019; by 2029, solar and nonsolar Tier 1 ACPs reach parity. ACP revenue remains dedicated to supporting new renewable energy sources in the State, but under the bill, those new renewable energy sources also must be owned by or must directly benefit low-income residents.

The bill transfers a total of \$15.0 million from the Strategic Energy Investment Fund (SEIF) for various clean energy industry initiatives and includes associated annual reporting requirements. The Maryland Energy Administration (MEA) must use SEIF to provide \$7.0 million in funding for access to capital for small, minority, women-owned, and veteran-owned businesses in the clean energy industry under the Small, Minority, and Women-Owned Businesses Account in the Department of Commerce. The funding must be allocated in annual increments from fiscal 2021 through 2028.

MEA must also use SEIF to invest in pre-apprenticeship, youth apprenticeship, and registered apprenticeship job training programs to establish career paths in the clean energy industry under the Maryland Employment Advancement Right Now (EARN) program in the Department of Labor, Licensing, and Regulation. Starting in fiscal 2021, \$1.5 million must be transferred for grants to pre-apprenticeship job training programs and \$6.5 million must be transferred for grants to youth and registered apprenticeship job training programs until all amounts are spent. The bill establishes a Clean Energy Workforce Account in the EARN program to receive and disburse the transfers as grants.

By January 1, 2020, the Power Plant Research Program (PPRP) within the Department of Natural Resources (DNR) must conduct a study and report on nuclear energy and its role as a renewable or clean energy resource. The bill also modifies an existing study being conducted by PPRP, due December 1, 2019, to include additional topics and requires PPRP to conduct a supplemental study on a 100% RPS goal due by January 1, 2024.

Senate Bill 52 (passed) streamlines MEA’s reporting requirements under the Strategic Energy Investment Program by replacing the existing three-year planning and forecasting cycle and report to the Strategic Energy Investment Advisory Board with a similar forecasting process to be included in MEA’s annual report on SEIF.

House Bill 1246 (passed) expands the existing qualified plug-in electric vehicle excise tax credit by increasing to \$6.0 million the total amount of credits that the Motor Vehicle Administration can award. The bill also extends tax credit eligibility to qualified fuel cell electric vehicles. For a more detailed discussion of **House Bill 1246**, see the subpart “Motor Vehicles” within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

Electric Companies

Electric Facilities

As the electric industry modernizes and relies more heavily on renewable and associated emerging technologies, efforts continue both in the General Assembly and at the Public Service Commission (PSC) to ensure that the State’s regulatory frameworks address the new technologies in an appropriate manner.

Energy storage – the capture of energy produced at one time for use at a later time – is a technology that does not fit neatly within Maryland’s deregulated electricity markets and its categories of distribution, transmission, and generation. Chapter 382 of 2017 required PPRP to conduct a study of regulatory reforms and market incentives that would be necessary or beneficial to increase the use of energy storage devices in the State. The final report was submitted to the General Assembly in December 2018. In the meantime, PSC has also been considering pilot projects and revisions to State regulations to address energy storage interconnection challenges and various ownership and cost recovery models under Maryland’s deregulated energy framework.

Reflecting some of the work at PSC and PPRP, **Senate Bill 573/House Bill 650 (both passed)** require 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 must request proposals for two energy storage projects and apply for PSC approval. The projects must fit within four commercial and regulatory models, which feature varying levels of utility, private sector, and customer involvement. PSC must evaluate the program and submit to the General Assembly an interim report by July 1, 2024, and a final report by December 31, 2026.

Another emerging feature of the electric industry, community solar, allows electric customers to access solar energy without installing it at their residence. Under this construct, a customer can purchase a subscription to a community solar project and receive a proportional

electricity bill credit for energy produced. Chapters 346 and 347 of 2015 required PSC to establish a three-year Community Solar Energy Generating System Pilot Program subject to specified conditions. Regulations to establish the program were adopted in July 2016, and program implementation began in mid-2017. However, according to statute, the pilot program was required to officially begin no later than six months after the regulations were adopted (January 2017) and end after three years (January 2020).

To address the delay in starting the pilot program, *Senate Bill 520/House Bill 683 (both passed)* extend the Community Solar Energy Generating Systems Pilot Program through December 31, 2024. A related reporting requirement for PSC is delayed three years until July 1, 2022. An existing requirement that PSC limit the pilot program in such a way that it may conduct a meaningful study is modified to include annual increasing capacity limits for each program category. The bills also specify that a community solar energy generating system may have an unlimited number of subscribers.

Environmental Surcharge

The Environmental Trust Fund (ETF) was established to fund electric power plant site evaluation and acquisition and research on environmental and land use considerations associated with power plants. ETF's revenue is from an environmental surcharge per kilowatt-hour (kWh) of electric energy distributed in the State, which is paid by electric companies. The amount of the surcharge for each account for each retail electric customer may not exceed the lesser of 0.15 mill per kWh or \$1,000 per month, and the surcharge is due to expire after fiscal 2020.

Revenue generated from the environmental surcharge is deposited in ETF within DNR and used primarily to support PPRP's power plant and transmission line site evaluation activities. Each year, PSC sets the amount of the surcharge based on the legislative appropriation for DNR. In addition to PPRP, ETF funding is also used for administrative costs and other programs within DNR's Resource Assessment Service as well as energy conservation projects under the Chesapeake Conservation Corps Program. MEA may also receive administrative and fiscal support from ETF for studies relating to the conservation or production of electric energy, up to \$250,000 in any fiscal year. *House Bill 106 (passed)* extends the environmental surcharge through fiscal 2030.

Mergers

There are currently four investor-owned electric companies (IOUs) operating in Maryland: Baltimore Gas and Electric Company; Delmarva Power and Light Company (DPL); Potomac Edison Company (PE); and Potomac Electric Power Company (Pepco). With the exception of PE, which is owned by First Energy Corporation, the remaining three IOUs are owned by Exelon Corporation. Exelon acquired the corporate parent of Pepco and DPL, Pepco Holdings, Inc., in 2016. Exelon companies serve about 80% of customer accounts in Maryland. PE serves about 10% of customer accounts. The remaining customers are served by electric cooperatives and municipal electric companies.

House Bill 1105 (passed) prohibits a person from acquiring, directly or indirectly, the power to exercise substantial influence over the policies or actions of an IOU if the person would become an affiliate of *each* IOU in the State as a result of the acquisition. Among other transactions, the bill precludes a merger between First Energy and Exelon, the complete or partial transfer of PE to Exelon, and the complete or partial transfer of all three of Exelon's Maryland IOUs to First Energy.

Utility and Billing Issues

The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under standard offer service. Issues surrounding energy affordability and the ability of residential ratepayers to benefit from customer choice received increased attention before and during the 2019 session.

Senate Bill 517/House Bill 689 (both passed) require PSC to establish residential customer choice shopping websites for electricity and natural gas, each of which must include related information and links to other resources. PSC must also add further educational information related to electric customer choice on its website. It is the intent of the General Assembly that PSC fully implement the bills, revamp the customer education section on its website, and establish the two residential customer choice shopping websites by October 1, 2020.

In response to concerns about the serious impact of utility service loss on medically vulnerable individuals, a critical medical needs pilot program was implemented in 2015 through a cooperative partnership between relevant entities, including the Office of Home Energy Programs (OHEP) within the Department of Human Services, gas and electric companies, and nonprofit organizations. Since the pilot program started, approximately 200 navigators have been trained to provide assistance to medically vulnerable individuals and their households, and approximately 300 additional individuals have expressed interest in training. However, the pilot program operates only in certain areas of the State. **Senate Bill 425/House Bill 1189 (both passed)** formally establish a statewide Critical Medical Needs Program in OHEP. The program must facilitate assistance to critical medically vulnerable individuals and their households in obtaining financial assistance through navigators who are in personal contact with a critical medically vulnerable individual and assist the individual in the energy assistance application process.

Another bill to provide protections against service terminations under particular circumstances, **Senate Bill 512 (passed)**, establishes safeguards for employees of the federal or State government or a local government involuntarily furloughed from work without pay because of a government shutdown. Among other protections, the bill prohibits a public service company from terminating electric or gas service to an eligible residential customer for nonpayment on a day that a government shutdown is in effect and for seven days after the government shutdown has ended if the customer contacts the public service company before the date of termination to (1) provide verification that the customer is an employee of the federal, State, or local government

affected by the government shutdown and (2) enter into a payment plan to pay any outstanding amount on the customer’s account after the government shutdown ends.

For further discussion of *Senate Bill 512*, see the subpart “Real Property” within Part F – Courts and Civil Proceedings of this *90 Day Report*. For a detailed discussion of unemployment insurance benefits during a federal government shutdown, see the subpart “Unemployment Insurance” within this part of this *90 Day Report*.

Telecommunications

Rural Broadband

The General Assembly has for several years sought to find ways to facilitate the expansion of rural broadband services. The 2019 report of the Task Force on Rural Internet, Broadband, Wireless, and Cellular Service discusses this issue in depth and recommends using existing easements and infrastructure of the State’s electric cooperatives, which have a large geographic footprint in the rural areas of the State, to expand broadband deployment.

Some electric companies have already installed fiber optic cable on their systems to facilitate communications between devices and enhance electric power reliability. This fiber was installed, and will continue to be installed, as part of the modern equipment used in the delivery of electric service. However, current law does not explicitly authorize access to private electric cooperative rights-of-way for broadband or other uses beyond the actual provision of electric service.

Senate Bill 634 (passed) authorizes an electric cooperative to construct, maintain, operate or allow others to construct, maintain, or operate specified facilities that furnish telecommunications services, broadband Internet access, or related services in certain areas, subject to notification requirements. To ensure that electric customers do not subsidize the cost of broadband services, an electric cooperative must properly allocate costs incurred under the bill between electricity-related services and broadband services. The bill must be construed to apply retroactively and must be applied to and interpreted to affect all real property, rights-of-way, and easements held by an electric cooperative on and after the bill’s effective date.

Infrastructure Siting

As demand for high speed Internet access has increased, wireless providers have sought to increase network speed and density through the deployment of small wireless facilities, which include antennas and poles of various sizes and heights. However, this desire and the general lack of a regulatory framework at the State level has in many instances led to conflict between the wireless industry and local governments, including over the use of public rights-of-way and publicly owned property and equipment.

Senate Bill 937/House Bill 654 (both failed) would have established procedures and requirements for the deployment, installation, and regulation of small wireless facilities, with general State preemption over new, inconsistent local laws. Similarly, *Senate Bill 713/House*

Bill 1020 (both failed) would have established procedures and requirements for the permitting, installation, and regulation of wireless facilities but with greater local authority over the permitting and siting processes.

Like small wireless facilities, the market for utility pole attachments in Maryland is not regulated at the State level, and the Federal Communications Commission has the authority to regulate and adopt procedures to resolve complaints concerning the rates, terms, and conditions for pole attachments. **House Bill 474 (failed)** would have authorized PSC to open a proceeding to determine whether to require joint use of poles, conduits, ducts, or rights-of-way and prescribe reasonable compensation and reasonable terms and conditions for their joint use.

9-1-1 Modernization

Senate Bill 339/House Bill 397 (both passed) enhance and alter the regulatory framework that governs the State's 9-1-1 system. Among other changes, the bills expand the responsibilities of the Emergency Number Systems Board, increase the State 9-1-1 fee, authorize a local government to increase its 9-1-1 fee, and apply both fees to each separate outbound call voice channel capacity instead of to each account.

Transportation

Chapter 204 of 2015 established a regulatory framework for transportation network companies (TNCs) such as Uber and Lyft. A transportation network operator (*i.e.*, a hired driver), a TNC on behalf of the transportation network operator, or a combination of both must maintain primary motor vehicle insurance that covers the operator while the operator is providing transportation network services. The required security must be an insurance policy issued by an insurer authorized to do business in the State or an eligible surplus lines insurer. PSC, however, currently authorizes certain other licensed carriers and taxicab companies to maintain insurance for their vehicles through self-insurance. The Motor Vehicle Administration (MVA) selectively certifies entities that submit satisfactory evidence of qualifications commensurate with the minimum liability requirements mandated by the State, any of the State's subdivisions, and, for self-insurers, PSC.

Senate Bill 701/House Bill 1072 (both passed) authorize MVA to accept another form of security, in place of an insurance policy, for vehicles operating for a TNC if (1) the other form of security adequately provides the benefits required under current law and (2) the TNC is an affiliate of a company that provides taxicab services and has between 26 and 300 transportation network operators. A TNC that maintains another form of security in this manner must provide PSC with evidence of the required security.