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FISCAL AND POLICY NOTE
First Reader

House Bill 967 (Delegate Buckel, *et al.*)
Environment and Transportation

Electric Companies – Environmental Surcharges or Fees – Prohibition on
Collection

This bill prohibits an electric company, if the Public Service Commission (PSC) determines that the percentage growth in the average residential electricity bill exceeded the percentage growth in the Consumer Price Index for All Urban Consumers (CPI-U) in a given year, from collecting “environmental surcharges or fees,” as defined, during the immediately following year. By October 1, 2027, and each October 1 thereafter, PSC must calculate, using a specified methodology, the percentage growth in the CPI-U and in the average residential electricity bill for the 12-month period ending June 30 of that year. PSC must adopt regulations to carry out the bill. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: No effect in FY 2027. Beginning as early as FY 2028, to the extent the bill’s prohibition is triggered in any given year, special fund revenues for the Department of Housing and Community Development (DHCD) decrease significantly; any such decrease results in a corresponding decrease in special fund expenditures and a corresponding increase in general fund expenditures. PSC can implement the bill’s requirements using existing resources. Strategic Energy Investment Fund (SEIF) revenues are not directly affected, as discussed below. The potential effect on electricity prices is discussed in the Additional Comments section below.

Local Effect: Local governments – including municipal electric utilities – may be affected, potentially significantly, as discussed below. The potential effect on electricity prices is discussed in the Additional Comments section below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. The potential effect on electricity prices is discussed in the Additional Comments section below.

Analysis

Bill Summary: “Environmental surcharge or fee” means a charge authorized or required under State law, regulation, or PSC order that is collected by an electric company from its customers for the primary purpose of supporting environmental initiatives, including surcharges imposed under § 7-222(d)(2) and § 7-704.2(a)(4) of the Public Utilities Article and the recovery of compliance fees under § 7-706 of the Public Utilities Article. The bill does not apply, however, to environmental surcharges or fees imposed under § 7-203, § 7-1220, or § 7-1226 of the Public Utilities Article. (See Current Law for a list of the surcharges and fees addressed in these provisions of statute.)

PSC must calculate:

- the percentage growth in the CPI-U by comparing the average of the index for the 12 months ending on the preceding June 30 to the average of the index for the 12 months ending on the second preceding June 30; and
- the percentage growth in the average residential electricity bill by comparing the weighted average of residential electricity bills for the 12 months ending on the preceding June 30 to the weighted average of those bills for the 12 months ending on the second preceding June 30.

“Consumer Price Index for All Urban Consumers” means the index published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor or a successor index that is the U.S. city average of all items in a basket of consumer goods and services.

Current Law:

Environmental Surcharges and Fees – Generally

As discussed above, the bill generally prohibits an electric company from collecting environmental surcharges or fees in the year following a determination by PSC that the growth in the average residential electricity bill exceeded the growth in the CPI-U in a given year. The following surcharges and fees authorized under the Public Utilities Article are subject to this provision:

- § 7-222(d)(2) – a surcharge line item (the EmPOWER surcharge) on customer bills for electric service;
- § 7-704.2(a)(4) – a nonbypassable surcharge imposed by an electric company on distribution customers to recover costs associated with the purchase of offshore wind renewable energy credits (ORECs); and
- § 7-706 – PSC-approved recovery from electric customers of costs incurred by electricity suppliers in complying with the State’s Renewable Energy Portfolio Standard (RPS).

The above statutory provisions are addressed in more detail below.

The bill, however, does not apply to environmental surcharges and fees imposed under the following sections of the Public Utilities Article:

- § 7-203 – an environmental surcharge per kilowatt hour of electricity distributed to retail electric customers, imposed by PSC and deposited into the Environmental Trust Fund to support the Power Plant Research Program in the Department of Natural Resources;
- § 7-1220 – a nonbypassable surcharge related to nuclear energy long-term pricing purchase obligations added to an electric company’s base distribution rate on customer bills; and
- § 7-1226 – a nonbypassable surcharge collected from electric customers to recover costs of front-of-the-meter energy storage projects authorized by PSC.

EmPOWER Maryland Program and EmPOWER Surcharge

Program History: In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in per capita electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018-2020 and 2021-2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company’s 2016 sales. The Climate Solutions Now Act of 2022 (Chapter 38), further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter.

Chapter 539 of 2024 altered the EmPOWER Maryland Program by, among other things, explicitly requiring each electric company, each large gas company, and DHCD to develop and implement energy efficiency, conservation, demand response, and beneficial electrification programs to achieve specified greenhouse gas (GHG) emissions reduction goals and targets, subject to review and PSC approval.

Program Requirements and the EmPOWER Surcharge: Pursuant to § 7-222 of the Public Utilities Article, PSC must encourage and promote the efficient use and conservation of energy in support of these goals and targets by requiring each electric company and gas company to establish any program or service that PSC determines to be appropriate and cost-effective. Additionally, PSC is required to adopt rate-making policies that, through a surcharge line item (the EmPOWER surcharge) on customer bills, provide:

- full cost recovery of reasonably incurred costs for the programs and services, including full recovery on a current basis by January 1, 2028;
- by December 31, 2032, the elimination of any unpaid costs and unamortized costs that (1) existed on December 31, 2024, or were incurred before January 1, 2028, and (2) were accrued for the purposes of achieving EmPOWER goals;

- compensation for any of these unpaid costs and unamortized costs at not more than each electric and gas company's average cost of outstanding debt; and
- reasonable financial performance incentives and penalties for investor-owned electric companies and gas companies, as appropriate.

PSC must, by regulation or order, require electric and gas companies currently participating in EmPOWER to disclose (1) that the surcharge includes the cost of paying down unpaid costs and unamortized costs that were accrued over time by programs and services required by PSC dating back to 2008, and (2) the period of time that the surcharge will include excess charges to pay down those costs. The disclosure must be in a form and format readily understandable to the average customer.

Department of Housing and Community Development's Role in the 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 emissions 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 participates in the EmPOWER Maryland Program through two special fund programs: (1) the Low Income Energy Efficiency Program (LIEEP); and (2) the Multifamily Energy Efficiency and Housing Affordability (MEEHA) Program. LIEEP helps low-income households undertake energy conservation projects in their homes at no charge, while MEEHA promotes energy efficiency and affordability in the State's multifamily rental housing developments for low- and moderate-income households. Approved program costs are recovered by electric companies through the EmPOWER surcharge on customer bills.

Offshore Wind Renewable Energy Credits

Chapter 3 of 2013 established a carve-out in the State RPS for offshore wind energy, requiring State electricity sales to include an amount derived from offshore wind energy beginning in 2017. The amount is set by PSC each year, based on the projected annual creation of ORECs by qualified offshore wind projects, and may not exceed 2.5% of total retail sales. Chapter 757 of 2019 bifurcated the application and approval process for offshore wind into "Round 1" (the process established by Chapter 3) and a "Round 2" process to allow for new applications with different specifications. PSC may also provide for additional application periods.

Chapter 95 of 2023 established a State goal of reaching 8,500 megawatts of offshore wind energy by 2031. The Act also required (1) PSC to take specified actions related to regional transmission system upgrades for offshore wind, and (2) the Department of General Services to issue a competitive sealed procurement solicitation and authorized the department to enter into at least one contract for a power purchasing agreement to procure up to 5.0 million megawatt-hours annually of offshore wind energy and associated renewable energy credits (RECs) from one or more qualified offshore wind projects.

Under § 7-704.2(a)(4) of the Public Utilities Article, PSC must adopt regulations that establish:

- the offshore wind purchase obligation sufficiently in advance to allow an electric company to reflect OREC costs as a nonbypassable surcharge paid by all distribution customers of the electric company;
- a mechanism to adjust the RPS obligation in a given year to accommodate a shortfall of ORECs in one or more earlier years, as specified; and
- a nonbypassable surcharge that allows an electric company to recover all costs associated with the purchase of ORECs from all distribution customers of the electric company.

Renewable Energy Portfolio Standard and Related Cost Recovery

PSC administers the State RPS, which requires that renewable sources generate specified percentages of Maryland's electricity supply each year. Utilities and other electricity suppliers must submit RECs equal to these percentages in each year or else pay an alternative compliance payment (ACP) equivalent to the shortfall.

For compliance year 2026, the requirements are 38.0% from Tier 1 sources, including at least 8.0% from solar and 0.5% from post-2022 geothermal systems, plus 2.5% from Tier 2 sources. For more information on Maryland's RPS, see the **Appendix – Renewable Energy Portfolio Standard**.

Section 7-706 of the Public Utilities Article requires PSC to allow an electricity supplier to recover actual dollar-for-dollar costs incurred, including an ACP made under § 7-705 of the Public Utilities Article, in complying with the State's RPS. Any cost recovery by an electricity supplier may be in the form of a generation surcharge payable by all current electricity supply customers, except as otherwise provided. However, an electricity supplier may only recover a compliance fee from customers if:

- the payment of a compliance fee is the least-cost measure to customers as compared to the purchase of Tier 1 renewable sources to comply with the State's RPS;
- there are insufficient Tier 1 renewable sources available for the electricity supplier to comply with the State's RPS; or

- a wholesale electricity supplier defaults or otherwise fails to deliver RECs under a supply contract approved by PSC.

Strategic Energy Investment Fund

Generally: The Maryland Energy Administration (MEA) administers SEIF, which, among other revenue sources, receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative and ACP revenues through the State's RPS. Additionally, SEIF will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

Use of Alternative Compliance Payment Revenues: Nonsolar ACP revenues may be used to support the creation of new renewable energy sources in the State that are owned by or directly benefit low- to moderate-income, overburdened, or underserved communities. Solar ACP revenues must be used to support the creation of new solar energy sources in the State that are owned by or directly benefit those communities or low- to moderate-income households. In fiscal 2026 only, up to \$100.0 million of ACP revenues may be used for solar development on State government property and local government clean energy projects. Additionally, through the end of fiscal 2027, at least 20% of ACP revenues resulting from solar energy requirements under the RPS must be used to provide grants to support the installation of new solar energy generating systems under the Customer-Sited Solar Program (discussed below). Up to 10% of the solar ACP revenues are credited to an administrative expense account for costs related to the administration of SEIF. Finally, ACP revenues 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.

State Fiscal Effect: MEA anticipates that the percentage growth in the average residential electricity bill will exceed the percentage growth in the CPI-U in the immediate future, while PSC did not offer an opinion regarding the likelihood of the bill's prohibition being triggered over the five-year period covered by this fiscal and policy note. The Department of Legislative Services (DLS) generally concurs with MEA's assessment but advises that, for purposes of this analysis, it is not assumed that the bill's prohibition on collecting environmental surcharges or fees is triggered in any given year.

In any event, the bill has no effect in fiscal 2027, as the earliest that environmental surcharges or fees could be prohibited as a result of the bill is in fiscal 2028. To the extent the prohibition is triggered in a given year, State finances are affected, as discussed below.

Department of Housing and Community Development

As noted above, DHCD participates in the EmPOWER Maryland Program through the LIEEP and MEEHA programs. Because the bill does not alter DHCD's statutory mandate as it relates to the EmPOWER Maryland Program, this analysis assumes that DHCD continues to administer the LIEEP and MEEHA programs and that overall DHCD expenditures are unchanged by the bill.

To the extent the bill's prohibition is triggered, however, special fund revenues for DHCD decrease significantly in that fiscal year as a result of a decrease in EmPOWER surcharge revenues. Any decrease in special fund revenues results in a corresponding decrease in special fund expenditures. Because DHCD is statutorily mandated to procure or provide specified programs and services to low-income individuals to achieve its GHG emissions reduction targets under the EmPOWER Maryland Program, this analysis assumes that general funds are needed to backfill for the loss of special fund revenues from the EmPOWER surcharge. As a result, general fund expenditures increase correspondingly to the decrease in EMPOWER surcharge revenues in any affected year.

Maryland Energy Administration

SEIF revenues are not directly affected by the bill. Although the bill may result – in any given year – in the prohibition on the recovery of RPS compliance costs, including ACPs, from customers, electricity suppliers must nonetheless comply with the State's RPS and make any required ACPs. Accordingly, this analysis assumes that SEIF revenues from ACPs are not directly affected by the bill.

Although the bill does not directly affect the REC trading market, it may indirectly affect the trading of RECs by introducing uncertainty regarding cost recovery for RPS compliance. Because REC demand is driven by electricity suppliers' compliance obligations and their ability to recover those costs from customers, limits on cost recovery could reduce long-term REC purchasing commitments, among other potential effects. DLS advises that the bill's potential impact on REC prices cannot be reliably estimated at this time.

Public Service Commission

PSC advises that implementing a process to calculate the CPI-U-rate growth differential for each utility and creating a mechanism to ensure that any prohibited surcharges or fees are not collected is complex. Even so, PSC anticipates that it can implement the bill's requirements with existing budgeted resources.

Electricity Rates

The potential effect on State expenditures for electricity is discussed in the Additional Comments section below.

Local Fiscal Effect: Municipal electric utilities fall under the definition of “electric company,” and are, therefore, affected to the extent the bill’s prohibition on recovering RPS compliance costs from customers is triggered in any given year. In any year in which the prohibition is effective, local revenues from cost recovery decrease accordingly. The five municipal electric utilities are located in Berlin (Worcester County), Easton (Talbot County), Hagerstown (Washington County), Thurmont (Frederick County), and Williamsport (Washington County).

DHCD directs a portion of its funding under the EmPOWER Maryland Program to local governments for energy efficiency and electrification upgrades. Because this analysis assumes that DHCD expenditures are unchanged under the bill, local government finances and operations are not affected from any prohibition on the collection of EmPOWER surcharges in a given year.

The potential effect on local expenditures for electricity is discussed in the Additional Comments section below.

Small Business Effect: DHCD contracts extensively with small businesses to perform energy upgrade work in the homes of LIEEP participants. Because this analysis assumes that DHCD expenditures are unchanged under the bill, small businesses are not affected from any prohibition on the collection of EmPOWER surcharges in a given year.

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: To the extent the bill’s prohibition on collecting the EmPOWER surcharge or recovering RPS compliance costs from customers is triggered in any given year, electricity rates decrease, potentially significantly, in that year. However, as discussed above, the bill may introduce uncertainty into the REC market, which could affect REC prices and, in turn, electricity rates.

It should be noted, however, that the bill does not alter the statutory provisions requiring electric companies to administer their EmPOWER Maryland programs and requiring electricity suppliers from complying with the State’s RPS. Accordingly, it is unclear how these statutory mandates would be achieved if the current funding mechanisms are eliminated in a given year. The resulting effects on utilities – and customers – are beyond

the scope of this fiscal and policy note; however, it is possible for rates to increase in future years as accrued obligations are recovered. For context, DLS notes that RPS compliance costs for electricity suppliers totaled \$616.9 million in 2024: \$254.7 million for 7.0 million RECs and \$362.3 million in ACPs.

Currently, Maryland has no operational or constructed offshore wind projects; therefore, no ORECs have been generated to date. Accordingly, no OREC-related surcharge revenues are presently being collected from electric customers under § 7-704.2(a)(4) of the Public Utilities Article. However, PSC anticipates that, if offshore wind projects become operational and the bill's prohibition on environmental surcharges or fees is triggered, significant legal challenges could arise from any suspension of OREC payments under long-term OREC price schedules contractually agreed upon between PSC and approved wind developers.

Additional Information

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

Designated Cross File: None.

Information Source(s): Public Service Commission; Department of Housing and Community Development; Office of People's Counsel; Maryland Energy Administration; Department of Natural Resources; Department of Legislative Services

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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 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 2026, the requirements are 38.0% from Tier 1 sources, including at least 8.0% from solar and 0.50% 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; 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. Chapters 625 and 626 of 2025 removed waste-to-energy and refuse-derived fuel from RPS eligibility. The exclusion 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 (*i.e.*, Montgomery County), which applies beginning July 1, 2026.

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

Compliance costs for electricity suppliers totaled \$616.9 million in 2024: \$254.7 million for 7.0 million RECs and \$362.3 million in ACPs. This continues a multi-year trend of increasing overall compliance costs, reliance on ACPs, and REC prices. Of note, 2024 continues the trend of 2023 that ACPs have been used in a significant way for general Tier 1 compliance. In fact, 2024 had the fewest RECs retired since 2014. ACP prices were in many instances less expensive than REC prices and, as a result, suppliers chose to pay the ACP rather than retire RECs. Compliance costs and REC prices for the most recent five-year period are shown in **Exhibit 1**.

Exhibit 1
RPS Compliance Costs and REC Prices
2020-2024

Compliance Costs (\$ Millions)	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
RECs					
Tier 1	\$99.8	\$187.3	\$246.5	\$124.9	\$90.1
Tier 1 Solar	122.9	144.4	101.4	109.6	150.4
Tier 1 Geothermal	n/a	n/a	n/a	0.1	2.2
Tier 2	<u>0.4</u>	<u>1.0</u>	<u>4.4</u>	<u>9.3</u>	<u>12.0</u>
RECs Subtotal	\$223.1	\$332.7	\$352.3	\$243.8	\$254.7
ACPs					
Tier 1	\$0.0	\$0.2	\$0.7	\$262.4	\$319.4
Tier 1 Solar	0.0	76.9	85.9	56.0	37.2
Tier 1 Geothermal	n/a	n/a	n/a	1.6	4.4
Tier 2	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.4</u>	<u>1.3</u>
ACPs Subtotal	\$0.1	\$77.1	\$86.6	\$320.4	\$362.3
Total	\$223.2	\$409.8	\$438.9	\$564.2	\$616.9
Average REC Price (\$)					
Tier 1	\$8.24	\$14.36	\$17.80	\$24.61	\$27.09
Tier 1 Solar	\$66.10	\$72.59	\$57.80	\$56.67	\$58.56
Tier 1 Geothermal	n/a	n/a	n/a	\$94.47	\$94.04
Tier 2	\$1.06	\$6.45	\$7.42	\$10.50	\$11.16

ACP: alternative compliance payment
n/a: not applicable
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

Approximately 45% of RECs used for compliance in 2024 came from in-state resources, up from 35% in 2023. RECs derived from three fuel types, solar (43.4%), black liquor (16.2%), and wind (15.1%), were the predominant sources of Tier 1 compliance in 2024. Maryland facilities generated approximately 5.7 million RECs in 2024: 1.5 million Tier 1

nonsolar RECs, 2.4 million Tier 1 SRECs, 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.

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 2024, 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 can be found [here](#).

The Department of Legislative Services also issued an RPS report in 2025, 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.