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By Electronic Filing

Andrew S. Johnston, Executive Secretary
Maryland Public Service Commission
William Donald Schaefer Tower
6 Saint Paul Street, 16th Floor
Baltimore, MD 21202-6806

Re: RM 75 – Revisions to COMAR 20.61

Dear Mr. Johnston:

The Retail Energy Supply Association (“RESA”),¹ by counsel, submits these comments in response to the Notice of Rulemaking Session (the “Notice”) issued by the Commission on August 2, 2022, in the above-referenced proceeding. The Notice called for Comments on the Staff Report on Proposed Changes to the Offshore Wind Regulations from the Clean Energy Jobs Act of 2019 (“Report”) submitted by the Commission’s Technical Staff (“Staff”) on August 1, 2022. In the Report, Staff requests that the Commission modify the Offshore Wind (“OSW”) regulations in COMAR 20.61.06 to address statutory changes associated with the 2019 Clean Energy Jobs Act.

I. Introduction

During the 2022 legislative session, the General Assembly passed Senate Bill 526, which became law in May of 2022. SB 526 changed the statutory Offshore Wind Renewable Energy Credit (“OREC”) purchase obligation, requiring the electric companies to purchase the ORECs rather than retail suppliers. Staff stated in the Report that the changes to COMAR 20.61.06 to implement SB 526 will be addressed in a future rulemaking, not in this rulemaking.²

RESA previously submitted comments and proposed redlines to the OSW regulations in COMAR 20.61.06 in October 2020 and December 2021. As Staff described in the Report, RESA’s prior comments focused on issues regarding the OREC payment obligation, seeking to streamline

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² Report at 4-5.



the administrative processes through a single-administrator structure for all OSW projects³ and restructure the OREC payment provisions so that the electric companies act as the agent for suppliers, purchasing the ORECs and collecting the OREC costs from distribution customers through a non-bypassable distribution charge.

Most of the issues discussed in RESA's prior comments will be addressed in the forthcoming rulemaking to implement SB 526. In the following section, RESA discusses some key issues for that rulemaking.

For this rulemaking, RESA recommends that the Commission adopt the proposed change to the reporting requirements in COMAR 20.61.06.18 to include a quarterly report with the current status of the OSW project's expected commercial operation date.⁴ As discussed below, while SB 526 shifts the OREC purchase obligation from electric suppliers to electric companies, the ORECs remain a component of the overall Tier 1 obligation, so the OSW project commercial operations dates and the associated ORECs generated following commercial operation will directly affect suppliers' Tier 1 RPS obligations.

RESA does not take a position (at this time) on Staff's proposed changes to the following COMARs:⁵

1. 20.61.01.03 (Definitions)
2. 20.61.02.01 (Application Requirements for Renewable Energy Facilities)
3. 20.61.02.03 (Obligation of Certified Renewable Energy Facility)
4. 20.61.05.01 (General Provisions – Maryland Strategic Energy Fund)
5. 20.61.06.01 (Application Process)
6. 20.61.06.02 (Application Process for OSW Facilities)
7. 20.61.06.03 (Evaluation Criteria)
8. 20.61.06.06 (Compliance with Minority Business Enterprise Program)
9. 20.61.06.12 (Payment of PJM Revenues and Trust for Benefit of Ratepayers)
10. 20.61.06.16 (Project Commencement of Operations)

Staff recommended deferring changes to COMAR 20.61.01.03(B)(1 – 2), 20.61.06.08, 20.61.06.09, and 20.61.06.11, and 20.61.06.14 to the forthcoming rulemaking to implement SB 526.⁶

³ RESA's proposed change to a single-administrator structure was recommended under the existing OREC compliance structure and was intended to enable a more efficient invoicing and payment structure for electric suppliers. With the forthcoming changes in SB 526, the administrative structure no longer affects suppliers. Assuming the Commission will be implementing SB 526 in a subsequent rulemaking as indicated by Staff, RESA does not have a position on the OSW administrator structure issue at this time.

⁴ Report, Attachment 1 at 30.

⁵ RESA reserves the right to address any of the pending COMAR changes during the August 15, 2022, rulemaking session and any subsequent rulemaking session(s).

⁶ Report, Attachment 1.



II. SB 526 Implementation Issues

Significant changes to the OSW regulations will be necessary to implement SB 526 in the upcoming rulemaking. The OREC invoicing and payment mechanics in COMAR 20.61.06.11 will need to be updated to remove references to electric suppliers and ensure that the remaining provisions are consistent with requirements of SB 526. Further, the OREC payment refunding mechanisms in COMAR 20.61.06.14 will need to be updated to address the implementation of supplier consolidated billing, whereby suppliers participating in supplier consolidated billing will receive the OREC payment refunds from electric companies and provide the refunds to customers that are on supplier consolidated billing.

An additional issue that will need to be addressed in the SB 526 rulemaking is the procedure by which the ORECs will count towards the Renewable Energy Portfolio Standards ("RPS"). While SB 526 shifts the OREC compliance obligation from electric suppliers to electric distribution companies,⁷ the OREC component of the RPS remains a part of the overall Tier 1 obligation for electric suppliers in Public Utilities Article § 7-703(b).

Because the OSW component is a carveout of the overall Tier 1 obligation, either:

- (1) the ORECs purchased by the electric companies will be counted towards the overall Tier 1 obligation, consistent with § 7-703(b); or
- (2) the ORECs will not be counted towards the overall Tier 1 obligation, which would require suppliers to purchase and retire other Tier 1 RECs, increasing costs for customers.

RESA recommends that the Commission proceed with the first option. SB 526 should be implemented to achieve the RPS requirements, while mitigating costs to customers and avoiding an inadvertent increase in the Tier 1 obligation beyond the RPS requirements. Accordingly, the Commission should count ORECs purchased by the electric companies pursuant to SB 526 towards the overall Tier 1 compliance obligation for both electric companies serving customers on standard offer service and electric suppliers serving customers that exercise their right to retail choice.

III. Conclusion

RESA appreciates the opportunity to participate in this proceeding and submit these comments regarding the proposed changes to the OSW regulations in COMAR 20.61. For the reasons explained above, RESA requests that the Commission adopt the proposed change to

⁷ SB 526 modified PUA § 7-703 to add subpart (d)(1) to state: "...an electric supplier shall meet the renewable energy portfolio standard **for all Tier 1 and Tier 2 renewable sources except offshore wind** by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section." (emphasis added).



the reporting requirements in COMAR 20.61.06.18 to include a quarterly report with the current status of the OSW project's expected commercial operation date. RESA further recommends that the Commission address the 526 implementation issues in the forthcoming rulemaking. In particular, the ORECs should be counted towards the overall Tier 1 RPS obligation to ensure that customers, and particularly customers that shop with a supplier, are not subject to a Tier 1 obligation exceeding the statutory requirements in PUA § 7-703(b).

Respectfully submitted,

/s/ Eric J. Wallace

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