



The Maryland General Assembly passed the [Promoting Offshore Wind Energy Resources Act](#) (POWER Act) on April 10, 2023, committing the state to develop 8.5 gigawatts (GW) of offshore wind by 2031. The POWER Act also vaults Maryland to the front of the pack of states investigating offshore and onshore transmission solutions necessary to reliably connect offshore wind projects, requiring its utilities commission to use the PJM Interconnection, L.L.C. (PJM) "State Agreement Approach." Collectively, the provisions of the POWER Act position Maryland to attract new offshore wind projects focused on boosting local and domestic labor and manufacturing in line with federal incentives.

Energy Procurement Goals

The POWER Act increases Maryland's offshore wind procurement goal substantially, from about 2 GW to 8.5 GW, by 2031. The law aligns Maryland's goals with the federal tax incentives available under the [Inflation Reduction Act of 2022](#) (IRA), especially with respect to labor and domestic content and manufacturing requirements.^[1] New qualified offshore wind projects selected after enactment of the POWER Act will be required to enter into community benefit agreements that guarantee that construction work on the selected projects will be subject to an agreement with labor unions. These agreements will maximize use of skilled local labor and provide plans for use of domestic iron, steel, and manufactured goods to the greatest extent practicable as well as use of locally and domestically manufactured construction materials and components, and allow worker unionization.^[2]

The legislation also embeds a mechanism to provide a possible relief valve in the face of rising inflation and supply chain costs for the Skipjack (Ørsted) and US Wind projects that won approvals in the first two rounds of solicitations that Maryland has already performed, before issuance of the IRA. Existing Maryland law required project developers to pass along to ratepayers 80% of the value of any state or federal benefits (such as grants, rebates, tax credits, or loan guarantees) that were not included in their applications.^[3] The POWER Act, however, provides a mechanism for Round 1 and Round 2 project developers to seek a partial or full exemption from this requirement for any incentives that the project receives under the IRA if at least 15% of the total labor hours of construction, alteration, or repair work for the project (including as performed by contractors and subcontractors) is performed by qualified apprentices consistent with federal law.^[4]

Offshore Wind Transmission

Maryland is also positioning itself to use the PJM "State Agreement Approach," building both offshore and onshore transmission to accommodate the new influx of offshore wind projects. The POWER Act requires the Maryland Public Service Commission (MPSC) to request that PJM study transmission system upgrade and expansion options necessary to accommodate 8.5 GW of offshore wind energy, taking into consideration both onshore and offshore infrastructure needs.^[5] The solutions to be studied would use an "open-access collector transmission system" to permit interconnection of multiple projects to a single substation as well as "complementary" onshore upgrades and expansions. Maryland's goal is similar to that of New Jersey, New York, and several New England states that have focused on meshed configuration of offshore projects that share landing points for efficiency and minimizing impacts. The law also makes room for incorporating energy storage and use of high-voltage direct current (HVDC) technology. In addition, the POWER Act requires the MPSC to consult with other states served by PJM to evaluate opportunities for regional cooperation in achieving like-minded energy goals. New Jersey, in particular, is a natural fit for these discussions, given its geographic proximity to Maryland and its own focus on offshore wind transmission development and regional cooperation.^[6]

The law requires the MPSC to submit a status update on the PJM analysis to the General Assembly on or before July 1, 2024, and issue one or more competitive solicitations for proposals for transmission solutions by July 1, 2025. The MPSC must issue an order by December 1, 2027, selecting one or more transmission proposals for development, or ending the solicitation without selecting a proposal if none meet the standards in the POWER

Act. As an added benefit to streamline the permitting process for construction of winning proposals that are located in Maryland, the POWER Act deems the MPSC order selecting the winning proposal as an authorization to construct and operate the proposed facilities, without the need to obtain a separate certificate of public convenience and necessity.^[7]

Finally, the POWER Act authorizes Maryland to enter into power purchase agreements with at least 20-year terms for up to five million megawatt-hours of energy and offshore renewable energy credits (ORECs) from one or more qualified offshore wind projects.^[8] Such agreements would also include community benefit agreements as described above. The energy procured would be used primarily to serve state energy needs, but Maryland would be required to offer any excess energy or ORECs into the wholesale energy and renewable energy credit (REC) markets, respectively.

Endnotes

^[1] These include bonus credits under the production tax credit (26 U.S.C. 45 and investment tax credit (26 U.S.C. § 48) for projects that meet certain domestic content requirements for steel, iron, and manufactured products.

^[2] Annotated Code of Maryland, Article - Public Utilities section 7-704.1.

^[3] Annotated Code of Maryland, Article - Public Utilities section 7-704.1(c)(8)(ii).

^[4] Annotated Code of Maryland, Article - Public Utilities section 7-704.1(k).

^[5] Annotated Code of Maryland, Article - Public Utilities section 7-704.3.

^[6] *See In the Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State of New Jersey*, Docket No. Q020100630, Order of New Jersey Board of Public Utilities at 73 (issued Oct. 26, 2022) ("Further given the regional interest in offshore wind, the Board HEREBY DIRECTS Staff to continue its engagement with other states, regional grid operators, and other interested stakeholders about how to further advance New Jersey's transmission-first approach to offshore wind.").

^[7] Annotated Code of Maryland, Article - Public Utilities section 7-704.3(k).

^[8] Annotated Code of Maryland, Article - Public Utilities section 7-704.4.

© 2023 Perkins Coie LLP

Authors



Jane Rueger

Partner

JRueger@perkinscoie.com [202.661.5834](tel:202.661.5834)



Laura Smith Morton

Partner

LMorton@perkinscoie.com [202.654.6283](tel:202.654.6283)

Explore more in

[Environment, Energy & Resources](#) [Energy & Natural Resources](#) [Energy Infrastructure & Clean Technology](#)

Related insights

Update

[Wrapping Paper Series: Issues and Trends Facing the Retail Industry During the Holiday Season](#)

Update

[Privacy Law Recap 2024: Regulatory Enforcement](#)