

SENATE BILL 184

C5

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CF HB 514

By: ~~Senator Middleton~~ Senators Middleton, Astle, Benson, Feldman, Klausmeier, Mathias, Oaks, and Rosapepe

Introduced and read first time: January 18, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2017

CHAPTER _____

1 AN ACT concerning

2 **Energy Efficiency Programs – Calculation of Program Savings and**
3 **Consideration of Cost-Effectiveness**

4 FOR the purpose of requiring the Public Service Commission to require each electric
5 company to procure or provide certain energy efficiency and conservation programs
6 and services to its electricity customers on a certain savings trajectory ~~beginning~~
7 ~~with a~~ for the duration of certain program ~~cycle~~ cycles; establishing a baseline for
8 the savings trajectory; requiring the Commission to update certain gross retail sales
9 for certain plans; requiring the Commission to use the total resource cost test and
10 the societal cost test when considering the cost-effectiveness of an energy efficiency
11 and conservation program or service; requiring that certain nonenergy benefits be
12 quantifiable and directly related to a certain program or service; requiring each
13 electric company, after consulting with the Maryland Energy Administration, to
14 submit a certain plan to the Commission on a certain date and with a certain
15 frequency; ~~defining certain terms~~ requiring the Commission to determine the
16 advisability of certain matters relating to energy efficiency and conservation
17 programs beginning in a certain program cycle; and generally relating to energy
18 efficiency programs.

19 BY repealing and reenacting, with amendments,
20 Article – Public Utilities
21 Section 7-211
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2016 Supplement)

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.



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

3 **Article – Public Utilities**

4 7–211.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) “Affiliate” has the meaning stated in § 7–501 of this title.

7 (3) “Demand response program” means a program established by an
8 electric company that promotes changes in electric usage by customers from their normal
9 consumption patterns in response to:

10 (i) changes in the price of electricity over time; or

11 (ii) incentives designed to induce lower electricity use at times of
12 high wholesale market prices or when system reliability is jeopardized.

13 (4) “Electricity consumption” and “electricity consumed” mean the sum of
14 retail electricity sales to all customers and reported electricity losses within the electric
15 distribution system.

16 (5) “Peak demand” means the highest level of electricity demand in the
17 State measured in megawatts during the period from May 1 to September 30 on a
18 weather-normalized basis.

19 (6) “Per capita electricity consumption” means the result calculated by
20 dividing the total gigawatt-hours of electricity consumed by electricity customers in the
21 State as of December 31 of a year, as determined by the Commission, by the population of
22 the State as of December 31 of that year, as determined by the Department of Planning.

23 (7) “Plan” means an electricity savings and demand reduction plan and cost
24 recovery proposal.

25 (8) “Provide heating, ventilation, air conditioning, or refrigeration services”
26 has the meaning stated in § 9A–101 of the Business Regulation Article.

27 (b) The General Assembly finds and declares that:

28 (1) energy efficiency is among the least expensive ways to meet the growing
29 electricity demands of the State; and

1 (2) to provide affordable, reliable, and clean energy for consumers of
2 Maryland, it is the goal of the State to achieve the following energy efficiency, conservation,
3 and demand response targets, based on 2007 electricity consumption:

4 (i) a 15% reduction in per capita electricity consumption by the end
5 of 2015; and

6 (ii) a 15% reduction in per capita peak demand by the end of 2015.

7 (c) Beginning with the 2008 calendar year and each year thereafter, the
8 Commission shall calculate:

9 (1) the per capita electricity consumption for that year; and

10 (2) the peak demand for that year.

11 (d) Subject to review and approval by the Commission, each gas company and
12 electric company shall develop and implement programs and services to encourage and
13 promote the efficient use and conservation of energy by consumers, gas companies, and
14 electric companies.

15 (e) As directed by the Commission, each municipal electric utility and each
16 electric cooperative that serves a population of less than 250,000 in its distribution territory
17 shall include energy efficiency and conservation programs or services as part of their
18 service to their customers.

19 (f) The Commission shall:

20 (1) require each gas company and electric company to establish any
21 program or service that the Commission deems appropriate and cost effective to encourage
22 and promote the efficient use and conservation of energy;

23 (2) adopt rate-making policies that provide cost recovery and, in
24 appropriate circumstances, reasonable financial incentives for gas companies and electric
25 companies to establish programs and services that encourage and promote the efficient use
26 and conservation of energy; and

27 (3) ensure that adoption of electric customer choice under Subtitle 5 of this
28 title does not adversely impact the continuation of cost-effective energy efficiency and
29 conservation programs.

30 (g) (1) Except as provided in subsection (e) of this section, on or before
31 December 31, 2008, by regulation or order, the Commission shall:

32 [(1)] (I) to the extent that the Commission determines that cost-effective
33 energy efficiency and conservation programs and services are available, for each affected
34 class, require each electric company to procure or provide for its electricity customers

1 cost-effective energy efficiency and conservation programs and services with projected and
 2 verifiable electricity savings that are designed to achieve a targeted reduction of at least
 3 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the
 4 electric company's service territory during 2007; and

5 [(2)] (II) require each electric company to implement a cost-effective
 6 demand response program in the electric company's service territory that is designed to
 7 achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of 2013, and
 8 15% by the end of 2015, in per capita peak demand of electricity consumed in the electric
 9 company's service territory during 2007.

10 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,
 11 ~~BEGINNING WITH~~ FOR THE DURATION OF THE 2018-2020 AND 2021-2023 PROGRAM
 12 ~~THE~~ CYCLES, BY REGULATION OR ORDER, THE COMMISSION SHALL, TO THE
 13 EXTENT THAT THE COMMISSION DETERMINES THAT COST-EFFECTIVE ENERGY
 14 EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES ARE AVAILABLE, FOR
 15 EACH AFFECTED CLASS, REQUIRE EACH ELECTRIC COMPANY TO PROCURE OR
 16 PROVIDE FOR ITS ELECTRICITY CUSTOMERS COST-EFFECTIVE ENERGY EFFICIENCY
 17 AND CONSERVATION PROGRAMS AND SERVICES WITH PROJECTED AND VERIFIABLE
 18 ELECTRICITY SAVINGS THAT ARE DESIGNED ON A TRAJECTORY TO ACHIEVE A
 19 TARGETED ANNUAL INCREMENTAL GROSS ENERGY SAVINGS OF AT LEAST 2.0% PER
 20 YEAR, CALCULATED AS A PERCENTAGE OF THE ELECTRIC COMPANY'S 2016
 21 WEATHER-NORMALIZED GROSS RETAIL SALES AND ELECTRICITY LOSSES.

22 (II) THE SAVINGS TRAJECTORY SHALL USE THE APPROVED
 23 2016 PLANS SUBMITTED UNDER SUBSECTION (H)(2) OF THIS SECTION AS A
 24 BASELINE FOR AN INCREMENTAL INCREASE OF A RATE OF .20% PER YEAR UNTIL
 25 THE MINIMUM 2.0% PER YEAR SAVINGS RATE IS ACHIEVED.

26 (III) THE GROSS RETAIL SALES AGAINST WHICH THE SAVINGS
 27 ARE MEASURED SHALL:

28 1. REFLECT SALES ASSOCIATED WITH CUSTOMER
 29 CLASSES SERVED BY UTILITY-ADMINISTERED PROGRAMS ONLY; AND SHALL

30 2. BE UPDATED BY THE COMMISSION FOR EACH PLAN
 31 SUBMITTED UNDER SUBSECTION (H)(2) OF THIS SECTION.

32 (IV) THE TARGETED ANNUAL INCREMENTAL GROSS ENERGY
 33 SAVINGS SHALL BE ACHIEVED BASED ON THE 3-YEAR AVERAGE OF AN ELECTRIC
 34 COMPANY'S PLAN SUBMITTED UNDER SUBSECTION (H)(2) OF THIS SECTION.

35 (h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each
 36 electric company shall consult with the Maryland Energy Administration regarding the

1 design and adequacy of the electric company's plan to achieve the electricity savings and
2 demand reduction targets specified in subsection (g) of this section.

3 (ii) An electric company shall provide the Maryland Energy
4 Administration with any additional information regarding the plan, as requested.

5 (2) On or before September 1, 2008, and every 3 years thereafter, an
6 electric company shall submit its plan to the Commission that details the electric company's
7 proposals for achieving the electricity savings and demand reduction targets specified in
8 subsection (g) of this section for the 3 subsequent calendar years.

9 (3) The Commission shall consider any written findings provided by the
10 Maryland Energy Administration regarding the design and adequacy of the plan.

11 (4) Each electric company shall provide annual updates to the Commission
12 and the Maryland Energy Administration on plan implementation and progress towards
13 achieving the electricity savings and demand reduction targets specified in subsection (g)
14 of this section.

15 (5) (i) The plan shall include a description of the proposed energy
16 efficiency and conservation programs and services and the proposed demand response
17 program, anticipated costs, projected electricity savings, and any other information
18 requested by the Commission.

19 (ii) The plan shall address residential, commercial, and industrial
20 sectors as appropriate, including low-income communities and low- to moderate-income
21 communities.

22 (iii) 1. If, in connection with a program or service, the electric
23 company proposes to provide heating, ventilation, air conditioning, or refrigeration services
24 for its customers, the plan shall include procedures for the competitive selection of heating,
25 ventilation, air conditioning, or refrigeration service providers.

26 2. On request by the electric company and for good cause
27 shown, the Commission may waive the requirement that the electric company
28 competitively select heating, ventilation, air conditioning, or refrigeration providers under
29 subsubparagraph 1 of this subparagraph.

30 (6) The plan and any updates shall include a certification or recertification
31 by the electric company that, if an affiliate of the electric company provides heating,
32 ventilation, air conditioning, or refrigeration services through any existing contract or
33 obligation in connection with a program or service, the customers of the electric company's
34 regulated services will not subsidize the operations of the affiliate.

35 (7) The Commission shall review each electric company's plan to determine
36 if the plan is adequate and cost-effective in achieving the electricity savings and demand
37 reduction targets specified in subsection (g) of this section.

1 (i) ~~(1) (I)~~ ~~IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE~~
 2 ~~MEANINGS INDICATED.~~

3 ~~(II) "PARTICIPANT NONENERGY BENEFITS" INCLUDE REDUCED~~
 4 ~~BUILDING OPERATING COSTS, INCREASED PROPERTY VALUES, AND IMPROVED~~
 5 ~~COMFORT, IMPROVED HEALTH, AND IMPROVED SAFETY.~~

6 ~~(III) "SOCIETAL NONENERGY BENEFITS" INCLUDE INCREASED~~
 7 ~~JOB CREATION, INCREASED GROWTH IN TAX RECEIPTS, IMPROVED LABOR~~
 8 ~~PRODUCTIVITY, INCREASED HOUSING VALUES, IMPROVED NEIGHBORHOOD~~
 9 ~~STABILITY, AND REDUCED EMISSIONS.~~

10 ~~(IV) "UTILITY NONENERGY BENEFITS", FOR PURPOSES OF~~
 11 ~~SCREENING LOW INCOME PROGRAMS, INCLUDE IMPROVED BILL PAYMENTS AND~~
 12 ~~REDUCED CUSTOMER ARREARAGES.~~

13 ~~{(1)} (2)~~ In determining whether a program or service encourages and
 14 promotes the efficient use and conservation of energy, the Commission shall consider the:

15 (i) cost-effectiveness OF THE RESIDENTIAL SECTOR
 16 SUBPORTFOLIO AND THE COMMERCIAL AND INDUSTRIAL SECTOR ~~PORTFOLIO~~
 17 SUBPORTFOLIO BY UTILIZING:

18 1. THE TOTAL RESOURCE COST TEST IN ORDER TO
 19 COMPARE THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS OF THE
 20 PROGRAM OR SERVICE WITH THE RESULTS OF SIMILAR PROGRAMS OR SERVICES
 21 IMPLEMENTED IN OTHER JURISDICTIONS, INCLUDING:

22 A. PARTICIPANT NONENERGY BENEFITS; AND

23 B. UTILITY NONENERGY BENEFITS; AND

24 2. THE SOCIETAL COST TEST IN ORDER TO DETERMINE
 25 WHETHER COST-EFFECTIVENESS REQUIREMENTS ~~ARE~~ WILL BE MET
 26 PROSPECTIVELY, INCLUDING:

27 A. PARTICIPANT NONENERGY BENEFITS;

28 B. UTILITY NONENERGY BENEFITS; AND

29 C. SOCIETAL NONENERGY BENEFITS;

30 (ii) impact on rates of each ratepayer class;

1 (iii) impact on jobs; and

2 (iv) impact on the environment.

3 **(2) NONENERGY BENEFITS CONSIDERED UNDER PARAGRAPH (1) OF**
4 **THIS SUBSECTION SHALL BE QUANTIFIABLE AND DIRECTLY RELATED TO A**
5 **PROGRAM OR SERVICE.**

6 **[(2)] (3)** The Commission shall monitor and analyze the impact of each
7 program and service to ensure that the outcome of each program and service provides the
8 best possible results.

9 **[(3)] (4)** In monitoring and analyzing the impact of a program or service
10 under paragraph **[(2)] (3)** of this subsection, if the Commission finds that the outcome of
11 the program or services may not be providing the best possible results, the Commission
12 shall direct the electric company to include in its annual update under subsection (h)(4) of
13 this section specific measures to address the findings.

14 **[(4)] (5)** An electric company that enters into a contract or obligation with
15 an affiliate of the electric company to provide heating, ventilation, air conditioning, or
16 refrigeration services in connection with a program or service shall notify the Commission
17 within 30 days after entering into the contract or obligation that the electric company:

18 (i) has entered into a contract or obligation with an affiliate of the
19 electric company; and

20 (ii) certifies that the customers of the electric company's regulated
21 services will not subsidize the operations of the affiliate.

22 (j) (1) At least once each year, each electric company and gas company shall
23 notify affected customers of the energy efficiency and conservation charges imposed and
24 benefits conferred.

25 (2) The notice shall be provided by publication on the company's website
26 and inclusion with billing information such as a bill insert or bill message.

27 (k) On or before March 1 of each year, the Commission, in consultation with the
28 Maryland Energy Administration, shall report, subject to § 2-1246 of the State Government
29 Article, to the General Assembly on:

30 (1) the status of programs and services to encourage and promote the
31 efficient use and conservation of energy, including an evaluation of the impact of the
32 programs and services that are directed to low-income communities, low- to
33 moderate-income communities to the extent possible, and other particular classes of
34 ratepayers;

1 (2) a recommendation for the appropriate funding level to adequately fund
2 these programs and services; and

3 (3) in accordance with subsection (c) of this section, the per capita
4 electricity consumption and the peak demand for the previous calendar year.

5 (l) Notwithstanding any other law, the Commission may not require or allow an
6 electric company to require an electric customer to authorize the electric company to control
7 the amount of the electric customer's electricity usage, including through control of the
8 electric customer's thermostat.

9 (m) (1) On or before June 30, 2013, by regulation or order, the Commission
10 shall establish a pilot program for electric customers to recharge electric vehicles during
11 off-peak hours.

12 (2) (i) An electric company may request to participate in the pilot
13 program.

14 (ii) The Commission shall make every effort to include at least two
15 electric companies in the pilot program.

16 (3) The pilot program shall include incentives for residential, commercial,
17 and governmental customers to recharge electric vehicles in a manner that will:

18 (i) increase the efficiency and reliability of the electric distribution
19 system; and

20 (ii) lower electricity use at times of high demand.

21 (4) Incentives may include:

22 (i) time-of-day pricing of electricity;

23 (ii) credits on distribution charges;

24 (iii) rebates on the cost of charging systems;

25 (iv) demand response programs; or

26 (v) other incentives approved by the Commission.

27 (5) On or before February 1, 2015, the Commission shall report to the
28 Governor and, in accordance with § 2-1246 of the State Government Article, to the General
29 Assembly on the experience of the pilot program and the Commission's findings.

30 SECTION 2. AND BE IT FURTHER ENACTED, That, beginning on or before
31 September 1, 2017, and every 3 years thereafter, each electric company shall, after

1 consulting with the Maryland Energy Administration, submit its plan for achieving annual
2 incremental gross energy savings to the Commission as required under § 7-211(h) of the
3 Public Utilities Article.

4 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2022, the
5 Public Service Commission shall determine the advisability of maintaining the
6 methodology and magnitude of the savings trajectory established in § 7-211(g)(2) of the
7 Public Utilities Article, as enacted by this Act, as the basis for designing cost-effective
8 energy efficiency and conservation programs and services in subsequent program cycles
9 that the Commission shall authorize beginning with the 2024-2026 program cycle.

10 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 June 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.