C90G00
Public Service Commission

Operating Budget Data

($ in Thousands)

	FY 09 Actual	FY 10 Working	FY 11 Allowance	FY 10-11 Change	% Change Prior Year
Special Fund	$17,365	$14,045	$14,517	$472	3.4%
Contingent & Back of Bill Reductions	0	0	-391	-391	
Adjusted Special Fund	**$17,365**	**$14,045**	**$14,126**	**$82**	**0.6%**
Federal Fund	255	369	662	292	79.2%
Contingent & Back of Bill Reductions	0	0	-5	-5	
Adjusted Federal Fund	**$255**	**$369**	**$656**	**$287**	**77.8%**
Adjusted Grand Total	**$17,620**	**$14,414**	**$14,783**	**$369**	**2.6%**

Note: For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected across-the-board reductions. The actual allocations are to be developed by the Administration.

- The fiscal 2011 allowance for the Public Service Commission (PSC) increases by $368,777, or 2.6%, compared to the fiscal 2010 working appropriation, after accounting for contingent and Back of the Bill reductions. The increase is driven by federal funds, which increase by $287,244, or 77.8%, primarily due to funding available through the American Recovery and Reinvestment Act of 2009 (ARRA).

Note: Numbers may not sum to total due to rounding.

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Personnel Data

	FY 09 Actual	FY 10 Working	FY 11 Allowance	FY 10-11 Change
Regular Positions	142.00	142.00	142.00	0.00
Contractual FTEs	6.00	6.00	6.00	0.00
Total Personnel	**148.00**	**148.00**	**148.00**	**0.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	5.68	4.00%
Positions and Percentage Vacant as of 12/31/09	5.00	3.52%

- The turnover expectancy for PSC decreases from 5.16 to 4.0% in the fiscal 2011 allowance.

- As of December 31, 2009, PSC had a vacancy rate of 3.52%, representing 5.0 positions. At this level of vacancy, PSC will have difficulty meeting its turnover expectancy, which would require 5.68 positions to be vacant in fiscal 2011.

- There are no changes to the number of regular or contractual positions in the fiscal 2011 allowance; however, 6.0 special fund contractual positions, including 5.0 in the Common Carriers Investigations Division are eliminated in the fiscal 2011 allowance to contain costs. The same number of contractual positions are added in the General Administration Division, funded through the ARRA, to serve as electricity specialists.

Analysis in Brief

Major Trends

PSC Adds New Measures to Reflect New Responsibilities: The fiscal 2011 Managing for Results submission of PSC includes one new goal and five new measures to reflect the agency's responsibilities under the EmPower Maryland Energy Efficiency Act of 2008. These new measures reflect the responsibility of PSC to review and approve utility plans and the completion of a required report.

Consumer Protection Complaints Resolved Declines in Fiscal 2009: PSC's performance in the percent of consumer protection complaints resolved within 60 days decreased by 10 percentage points, from 80 to 70% between fiscal 2008 and 2009. PSC expects that with an increase in the number of staff dedicated to complaint resolution and a return to more typical levels of complaints, its performance will return to 80% in fiscal 2010.

Common Carrier Investigations Division Continues to Improve Performance: The percent of passenger-for-hire and taxicab complaints resolved within 60 days increased by 23 and 6 percentage points, respectively, between fiscal 2008 and 2009. While PSC anticipates the performance in each measure will continue to improve in fiscal 2010, the elimination of 5 contractual positions in this division could impede further progress.

Issues

Arrearages and Terminations of Residential Customers: During early 2009, concern arose over the increases in residential arrearages and the potential for high levels of terminations. As a result, PSC issued a temporary moratorium on terminations. Following this, PSC required utilities to offer alternate payment plans to certain customers. PSC is also involved in a rulemaking process for new regulations for termination of service in extreme weather conditions.

Public Service Commission Examination of Power Purchasing Agreements: In July 2009, CPV Maryland, LLC. (CPV) requested PSC to order one or more of the investor-owned utilities to enter into a long-term power purchasing agreement with CPV for the electricity produced by the company's proposed new plant in Charles County. In September 2009, PSC opened Case No. 9124 to determine whether PSC should exercise the authority to order utilities to enter into power purchasing agreements to enable the construction, acquisition, or operation of new generation. This case is ongoing.

Rate Relief for Residential Customers: Twenty-three percent of the revenues received in the Strategic Energy Investment Fund are to be allocated for rate relief to residential customers in a manner prescribed by PSC. Residential customers began receiving these rate credits in June 2009. The amount of the rate relief varies by the number of residential customers and the available revenue. In March, April, and May 2010, residential customers will receive a credit of $0.42.

Recommended Actions

1. Concur with Governor's allowance.

Updates

Status of Proceeding Examining the Transaction of Constellation Energy Group and EDF: In January 2009, PSC initiated Case No. 9173 to examine whether the proposed transaction between Constellation Energy Group (Constellation) and EDF Development Inc. (EDF) would lead to EDF having substantial influence over Baltimore Gas & Electric (BGE) and, therefore, require a review of the transaction by PSC under Section 6-105 of the Public Utilities Company article. In June 2009, PSC determined the transaction required its review. In October 2009, PSC approved the transaction with certain conditions including a one-time $100 credit to be paid to customers of BGE. In November 2009, the transaction between Constellation and EDF closed.

C90G00
Public Service Commission

Operating Budget Analysis

Program Description

The Public Service Commission (PSC) regulates gas, electric, telephone, water, sewage disposal, and certain passenger transportation companies doing business in Maryland. PSC is authorized to hear and decide matters relating to (1) rate adjustments; (2) applications to exercise franchises; (3) approval of the issuance of securities; (4) promulgation of new rules and regulations; (5) quality of utility and common carrier service; and (6) issuance of Certificates of Public Convenience and Necessity. PSC sets utility rates, collects and maintains records and reports of public service companies, reviews plans for service, inspects equipment, audits financial records, handles consumer complaints, promulgates and enforces rules and regulations, defends its decisions on appeal to State courts, and intervenes in relevant cases before federal regulatory commissions and federal courts. PSC is primarily funded by special funds obtained through assessments on public service companies. PSC's key goals are:

- to ensure that gas and electric utility companies operate utility systems safely;
- to ensure that public service companies deliver reliable services;
- to conduct open and fair proceedings and render timely decisions in accordance with statutory mandates and applicable law;
- to ensure that all Maryland consumers have adequate consumer protection; and
- to ensure that EmPower Maryland programs submitted by electric utilities are thoroughly reviewed, evaluated, and approved consistent with the Public Utility Companies Article Section 7-211.

Performance Analysis: Managing for Results

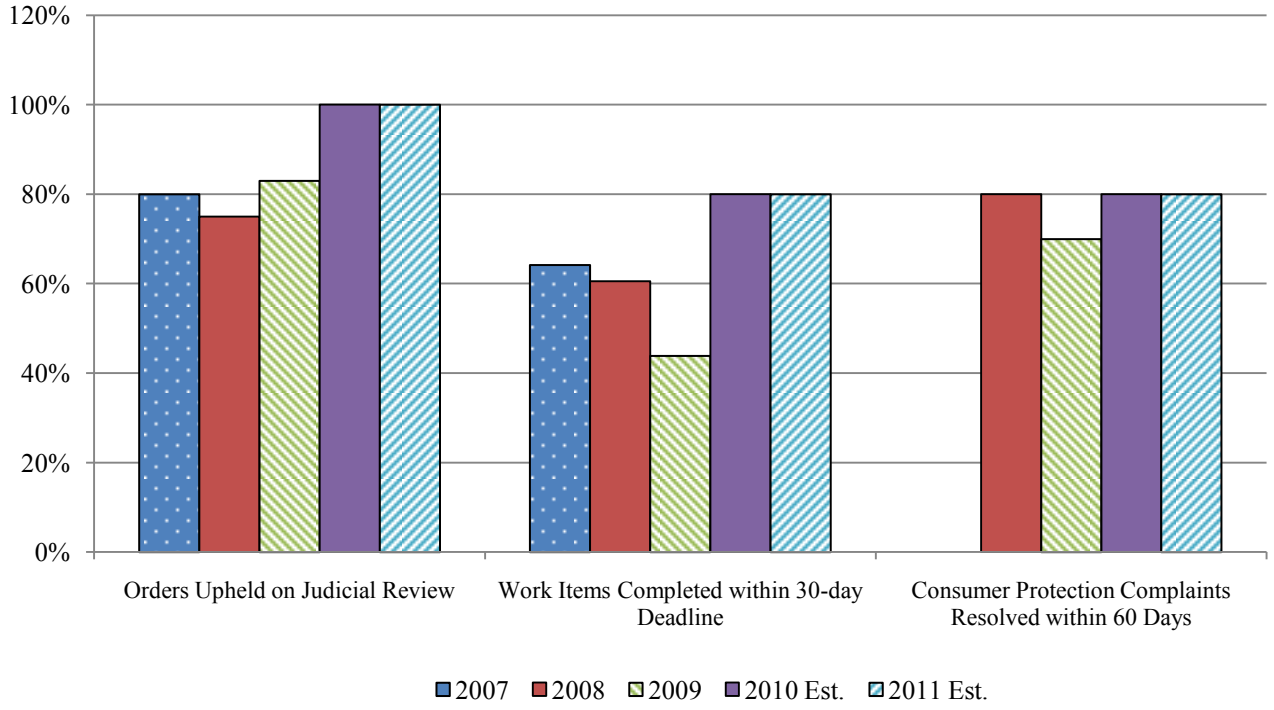
The fiscal 2011 Managing for Results submission of PSC includes one new goal and five new measures related to Chapter 131 of 2008, the EmPower Maryland Energy Efficiency Act of 2008. The new goal is to ensure that EmPower Maryland programs submitted by electric utilities are thoroughly reviewed, evaluated, and approved consistent with Section 7-211 of the Public Utility Companies Article. PSC also revised the existing goal in the Integrated Resource Planning Division to reflect a report required under this statute.

The measures for these goals reflect the number of utility plans that are received, reviewed, and approved, whether the *EmPower Maryland Energy Efficiency Act Standard Report* was submitted

by the required date to PSC, and the number of revisions needed to the draft of the report. Only limited data is expected to be available for the measures related to utility plans because plans are required only once every three years. However, PSC did receive, review, and approve plans for the five utilities required to submit plans in fiscal 2009.

As shown in **Exhibit 1**, the percent of work items completed within the 30-day deadline decreased from fiscal 2008 to 2009 from 60.5 to 43.9%. PSC attributes this decrease to three trends: (1) increases in the number of cases requiring actions by the staff of PSC; (2) an increase in major docketed cases which altered staff's focus from the completion of the work items; and (3) the increased detail required by PSC. PSC anticipates the performance in this area will improve to 80.0% in fiscal 2010 as a result of a more normal level of matters requiring formal review and increase in the number of contractual positions that are able to assist PSC due to an award through the American Recovery and Reinvestment Act of 2009 (ARRA).

Exhibit 1
General Administration
Fiscal 2007-2011



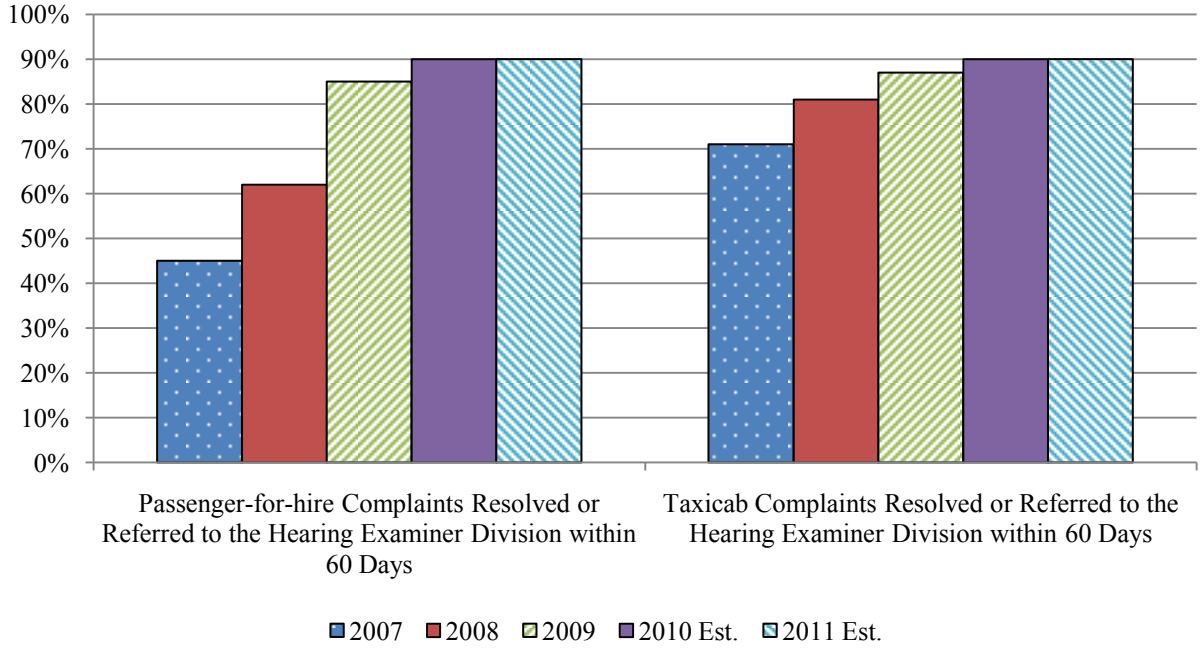
Notes: The Public Service Commission indicates that it changed the complaints measured in the percent of consumer protection complaints resolved within 60 days with the fiscal 2011 submission. As a result, data for fiscal 2007 is not comparable and not included in this exhibit.

Source: Public Service Commission; Governor's Budget Books

The percent of consumer protection complaints resolved within 60 days decreased from 80 to 70% between fiscal 2008 and 2009 due to an increase in the number of consumer complaints and no change in the amount of resources dedicated to resolving the complaints. PSC has increased the number of staff dedicated to resolving these complaints and expects the number of complaints will decrease, which it anticipates will allow performance in fiscal 2010 to return to 80%.

The performance of the Common Carrier Investigations Division continued to improve in fiscal 2009, as shown in **Exhibit 2**. The percent of passenger-for-hire complaints resolved or referred to the Hearing Examiner Division within 60 days increased by 23 percentage points to 85%, while the percent of taxicab complaints resolved or referred within 60 days increased by 6 percentage points. PSC attributes these increases to process improvements in this division beginning in fiscal 2008 focusing on stronger enforcement actions early in the complaint process. Improvements in the performance of this division are expected to continue in fiscal 2010, with both measures reaching 90%. **PSC should comment on how the performance of this division is expected to remain at this higher level in fiscal 2011 despite the decrease of 5 contractual full-time equivalent positions in the fiscal 2011 allowance.**

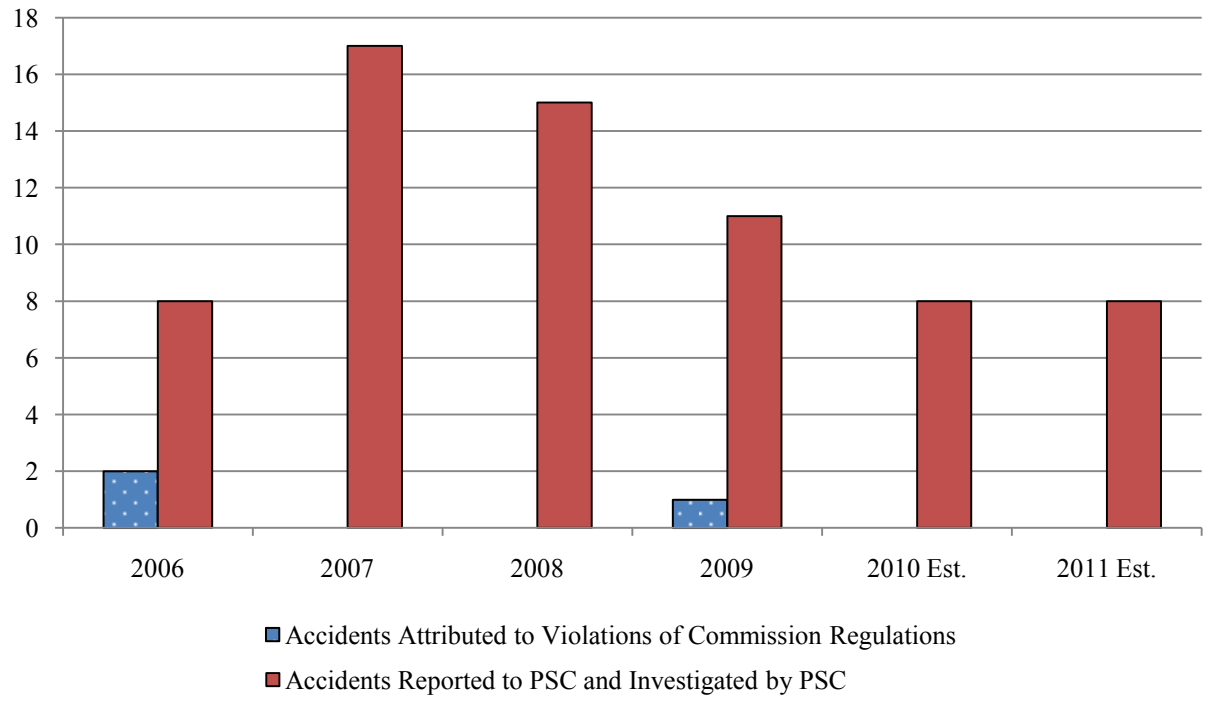
Exhibit 2
Common Carrier Investigations
Complaints Resolved
Fiscal 2007-2011



Source: Public Service Commission; Governor's Budget Books

As shown in **Exhibit 3**, the number of accidents reported and investigated by the Engineering Investigations Division decreased from 17 in fiscal 2007 to 11 in fiscal 2009. PSC anticipates this trend will continue in fiscal 2010, at which point these measures would return to the fiscal 2006 level of 8 accidents reported and investigated.

Exhibit 3
Engineering Investigations Division
Accidents Reported
Fiscal 2007-2011



PSC: Public Service Commission

Source: Public Service Commission; Governor's Budget Books

Fiscal 2010 Actions

Impact of Cost Containment

The fiscal 2010 special fund appropriation of PSC decreased by $358,398 as a result of savings associated with the furlough plan included in cost containment actions approved by the Board of Public Works on August 26, 2009.

Federal Stimulus Fund

PSC has received a three-year grant from the ARRA for State Electricity Regulator Assistance totaling $893,591. The State Electricity Regulator Assistance grants were provided to state public utility commissions to provide funding for new staff and training for existing staff to enhance the ability of the commissions to review electricity projects, expected as a result of other ARRA funding, in a timely and effective manner.

PSC has submitted a budget amendment for $163,087 to recognize a portion of this funding for fiscal 2010. This budget amendment would provide funding for 4 new contractual positions to serve as electricity specialists ($112,060). An additional $17,916 would provide funding for telephone expenses, supplies, computers, and other office equipment associated with the contractual positions. The remaining funding in this budget amendment ($33,111) would provide funding for tuition and related travel expenses. This budget amendment is still being processed and, as a result, is not yet reflected in the fiscal 2010 working appropriation.

Proposed Budget

As shown in **Exhibit 4**, the fiscal 2011 allowance of PSC increases by $368,777, or 2.6%. The increase occurs largely as a result of ARRA funds ($379,482), partially offset by a reduction in the anticipated reimbursement for the pipeline safety program ($61,008) and the elimination of the federal one call program ($26,000).

The increase in funding associated with the ARRA is overstated because the budget amendment to recognize these funds is still in process. After accounting for the fiscal 2010 planned budget amendment, the fiscal 2011 increase related to ARRA is $216,395.

Changes associated with the reimbursement for the pipeline safety program occur primarily in personnel expenses.

The special fund appropriation increases by $81,533 or 0.6%.

Impact of Cost Containment

The fiscal 2011 budget reflects several across-the-board actions to be allocated by the Administration. This includes a combination of employee furloughs and government shut-down days similar to the plan adopted in fiscal 2010; a reduction in overtime based on accident leave management; streamlining of State operations; hiring freeze and attrition savings; a change in the injured workers' settlement policy and administrative costs; and a savings in health insurance to reflect a balance in that account. For purposes of illustration, the Department of Legislative Services (DLS) has estimated the distribution of selected actions relating to employee furloughs, health insurance, and the Injured Workers' Insurance Fund cost savings.

Exhibit 4
Proposed Budget
Public Service Commission
($ in Thousands)

How Much It Grows:	Special Fund	Federal Fund	Total
2010 Working Appropriation	$14,045	$369	$14,414
2011 Allowance	14,517	662	15,179
Amount Change	$472	$292	$765
Percent Change	3.4%	79.2%	5.3%
Contingent Reductions	-$391	-$5	-$396
Adjusted Change	$82	$287	$369
Adjusted Percent Change	0.6%	77.8%	2.6%

Where It Goes:

Personnel Expenses

Regular earnings including fiscal 2010 cost containment actions partially offset by estimated Section 18 furlough reductions	$253
Employee retirement	187
Turnover expectancy decreasing from 5.16 to 4.0%	91
Social Security contributions	51
Unemployment	18
Employee and retiree health including estimated Section 19 reductions	-87
Workers' compensation	-110

Other Changes

6 federal fund contractual positions primarily due to ARRA funding	369
Rent paid to the Department of General Services	27
Washington Metropolitan Area Transit Commission expenses	23
Statewide personnel system allocation	6
Office equipment	-5
In-state and out-of-state routine travel	-11
Motor vehicle operations in gas and oil and garage rent partially offset by an increase for insurance	-19
Communications costs due to the Department of Budget and Management paid telecommunications partially offset by telephone expenses	-20
Clerical support to contain costs	-24

Where It Goes:

Elimination of the federal one-call program funding during fiscal 2009 not yet reflected in fiscal 2010	-26
Data equipment replacement to contain costs	-27
Elimination of funding for conference travel	-105
Special fund contractual position payroll expenses to contain costs	-228
Other	4
Total	**$369**

ARRA: American Recovery and Reinvestment Act of 2009

Note: Numbers may not sum to total due to rounding.

In addition, PSC attributes several substantial changes in the fiscal 2011 allowance to an attempt to contain costs. PSC nearly eliminates the special fund contractual employee payroll expenses through the elimination of 6 entirely special funded contractual positions, a decrease of $228,460. Five of these contractual positions were part of the Common Carrier Investigations Division.

PSC also eliminated its funding for both in-state and out-of-state conference travel, a reduction of $104,580, and reduced its routine travel by $11,101.

Consultant Services

Spending by PSC on consultants has varied widely in recent years, from roughly $55,000 in fiscal 2006 to $3.6 million in fiscal 2009. The fiscal 2010 budget as passed provided only $26,000 for consultant services related to the federal one-call program grant. However, a fiscal 2010 budget amendment provided $900,000 to be used for consulting services related to the Constellation Energy Group (Constellation) and EDF Development Inc. (EDF) transaction, a review of advanced metering infrastructure, and a review of natural gas purchasing practices. Due to timing, these funds are not included in the fiscal 2010 working appropriation.

The fiscal 2011 allowance provides no funding for consultant services, as a result of the elimination of the federal one-call program during fiscal 2009, which as a result of timing was included in the fiscal 2010 budget.

The three-year average of actual expenditures on consultant services is approximately $2.5 million. **PSC should comment on why no funding is provided in the fiscal 2011 allowance for consultant services and the likelihood that it will need such services in fiscal 2011.**

Federal Stimulus Fund

The fiscal 2011 allowance includes $379,482 from the ARRA State Electricity Regulator Assistance grant. As noted earlier, the budget amendment that would recognize the funding from the ARRA in fiscal 2010 has not yet been processed, distorting year-to-year changes.

PSC intends to use these funds in fiscal 2011 in a similar manner as the plan for fiscal 2010, primarily for payroll expenses associated with contractual employees ($368,523). The higher level of fiscal 2011 funding accounts for the full-year costs associated with these positions and an increase in the number of positions to 6 positions from 4. **PSC should comment on how these additional positions will be used.**

The remaining funds available from the ARRA in fiscal 2011 will be used for telephone expenses, office supplies, and travel.

Issues

1. Arrearages and Terminations of Residential Customers

In January 2009, PSC initiated Case No. 9175 to examine the extent of current and projected arrearages owed to utilities, as well as the policies of utilities related to assistance to customers with arrearages, collections, and turn-offs. PSC noted four items that led to the initiation of this case: (1) its Office of External Relations had observed an increase in customer activity related to increased utility bills; (2) it had recently heard from the Office of Home Energy Programs about increasing numbers of customers seeking assistance through the Electric Universal Service Program in recent years; (3) a PSC report on residential customer terminations, arrearages, and reconnections provided further evidence of increasing residential arrearages; and (4) it expected that as arrearages increase utilities might alter policies related to customers with arrearages.

On February 10, 2009, PSC expanded the scope of Case No. 9175 to include the cause and extent of customer complaints regarding higher than normal bills for energy use.

On March 11, 2009, PSC issued Order No. 82509 that placed a temporary moratorium on residential utility terminations resulting from late payments or arrearages. PSC also ordered the formation of a workgroup to develop policies and procedures for payments plans for individuals with arrearages.

In this order, PSC noted that the arrearages problems did not appear to be the result of problems with the utilities, but appears instead to have resulted from various factors including:

- increases in costs for electric and gas;
- a winter that was colder than normal;
- variations in billing cycle lengths;
- estimated meter ratings;
- increases in usage; and
- seasonal variations in costs.

However, PSC expected to continue to examine the reasons for the increases in costs.

On April 24, 2009, PSC released the temporary moratorium on residential utility turn-offs as well as provided a foundation for the development of payment plans for customers with arrearages (through Order No. 82628). PSC required that prior to a termination or termination notice that the utilities were to provide notice to the customer in writing of certain information including the end of

the moratorium on turn-offs, the availability of payment plans, and other information relating to payment plans and energy assistance. The payment plans offered by the utilities were required to:

- be flexible;
- not include interest or late fees;
- consider the ability of a customer to pay in developing the plan;
- last up to 12 months depending on the customer's ability to pay;
- include incentives for the payment of the arrearage in a lump sum;
- limit the ability of a utility to require a down payment and the size of a down payment; and
- enable a customer to have one "reset" if a customer becomes late on the payment plan.

In addition, the utilities were to encourage customers to participate in budget billing. PSC also prohibited the utilities from turning off service on Fridays. These requirements only applied to Baltimore Gas & Electric (BGE), Potomac Electric Power Company, Delmarva Power & Light, Allegheny Power, and Washington Gas & Light. Other utilities were exempt as long as they met certain conditions. The payment plan requirements also only applied to those with arrearages or late payments by April 24, 2009.

PSC has collected data on utility implementation of the payment plans and plans to continue to collect data through October 2010.

PSC should comment on the implementation of these payment plans. PSC should also comment on the likelihood that the situations that led to Case No. 9175 will arise again in this winter.

Other Actions

In June 2009, PSC began a rulemaking proceeding for new regulations to limit the ability of utility companies to terminate service under extreme weather conditions. This rulemaking session was the result of Chapters 345 and 346 of 2009 that placed limitations on termination of service on days when the forecast temperature is below 32 degrees or above 95 degrees.

On January 8, 2010, PSC issued an order to accelerate the rulemaking proceeding because of concerns over the cold temperatures that were being experienced at that time and forecasted. PSC expressed concern that the cold weather could lead to similar conditions as were experienced in the previous winter, despite lower utility rates. **PSC should update the committees on the status of this proceeding.**

PSC is required to submit a report annually, to the Senate Finance and House Economic Matters committees, through calendar 2010 on residential terminations and arrearages. The report expected in calendar 2009 has not been submitted as of this writing. Fiscal 2010 budget bill language withheld $200,000 of PSC's appropriation until a report was submitted on actions it has taken, or intends to take, regarding issues of terminations and arrearages for residential customers in fiscal 2009 and 2010. This report has not been submitted as of this writing. **PSC should comment on the status of these reports.**

2. Public Service Commission Examination of Power Purchasing Agreements

In August 2007, PSC, citing concerns over whether the current Standard Offer Service (SOS) procurement process for electricity supply met the statutory requirements to obtain the best price for residential and small commercial customers, opened Case No. 9117 to investigate alternatives or modifications to the current SOS procurement process pursuant to Chapter 549 of 2007. In particular, PSC intended to examine the notion of a managed portfolio process for residential and small commercial customers and the potential for aggregation for some customers. Activity occurred in this case through the remainder of 2007 and during 2008.

In July 2008, PSC issued Order No. 82105 which required the investor-owned utilities (IOUs) to submit by October 1, 2008, an evaluation of long term procurement plans including various options, *e.g.* new generation, demand response, smart grid technology, and various contract lengths. This evaluation was also expected to include a recommendation by the IOUs on the portfolio mix that would best meet the requirements of SOS. These plans were filed, but as of this writing, PSC has not issued an order regarding these plans.

CPV Filing

CPV Maryland, LLC. (CPV), in July 2009, filed a motion in this case requesting PSC order one or more IOUs to enter into a long-term power purchase agreement (PPA) with CPV for the output of a planned new generation facility. Specifically, CPV was requesting a 20-year PPA for the entire capacity of the planned 640-megawatt combined-cycle natural gas-fired facility in Charles County, known as the St. Charles Project. CPV requested PSC make this decision within 60 days.

In this filing, CPV reiterated the concern that has been expressed regarding Maryland's in-state generation capacity. CPV also highlighted benefits from such an order including:

- lower prices due to capacity prices, locational marginal prices, and lower financing costs;
- shifting of risk away from ratepayers;
- increased price certainty;
- tax benefits including those related to job creation; and

- environmental benefits of a natural gas combined cycle plant as compared to other types of plants.

CPV also claimed that under current conditions, financing for new generation cannot occur without a long-term agreement. CPV also explained that it attempted to develop a long-term agreement with an IOU but was not able to reach an agreement. CPV provided several possible reasons for this, such as:

- utility interest in shorter term contracts;
- prices required to build the new plant are higher than current price signals;
- method of cost comparisons; and
- ongoing discussion regarding the development of new generation.

CPV concluded that as a result companies may be hesitant to enter into an agreement without an order by PSC.

Recent Actions

On September 29, 2009, PSC issued Order No. 82936 in Case No. 9117 in response to this request. In this order, PSC acknowledged concerns expressed by PSC staff, the Office of People's Counsel (OPC), and other parties regarding the CPV filing including evaluating options one at a time. While recognizing the authority granted to it under Section 7-510 of the Public Utilities Company Article to issue an order requiring IOUS to procure SOS through bilateral contracts and to require IOUs to build, acquire, lease or operate new generation, PSC stated that the investigation into the State's need for new generation should not be limited to CPV.

As a result, PSC opened a new case (Case No. 9214) to investigate whether it should exercise the authority provided in Section 7-510. In addition, PSC ordered those interested in proposing such a project to file a proposal by December 1, 2009, including certain items;

- the location;
- number of megawatts;
- the technology to be used;
- a proposed in-service date; and
- the proposed length of a contract if a long term contract is proposed.

Following this order, clarification was sought from PSC staff as to what the proposals should entail. The letter requesting clarification also requested additional information be provided in the proposals. On November 10, 2009, PSC removed the filing date for the proposal until it made a determination on the staff request.

On December 18, 2009, Governor Martin O'Malley filed comments in this case, which among other recommendations, encouraged PSC to order the building of new electricity generation in Maryland. On January 15, 2010, OPC filed comments concurring with Governor O'Malley's comments to encourage PSC to make a decision on whether it would be beneficial for utilities to acquire or build new generation. The comments of OPC encourage PSC to require a request for proposal to be issued by utilities that examine resource options beyond just new generation. For example, the responses to the request for proposal could also include existing generation, renewable energy, and demand response or energy efficiency.

PSC should comment on its timeline for further examination of this matter.

3. Rate Relief for Residential Customers

Chapters 127 and 128 of 2008 established the Maryland Strategic Energy Investment Fund (SEIF) within the Maryland Energy Administration (MEA) primarily to receive auction proceeds from the Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions. These chapters required SEIF to be distributed in a certain manner to a variety of purposes:

- 17.0% for energy assistance;
- at least 46.0% for energy efficiency programs (of which half was to be dedicated to programs targeting low and moderate income residential customers;
- up to 10.5% for renewable, clean energy, and climate change programs and educational outreach;
- up to 3.5% (or $4 million) for administrative expenses; and
- 23.0% for rate relief for residential customers on a per customer basis in a manner prescribed by PSC.

While the Budget Reconciliation and Financing Act of 2009 altered the allocation for auction proceeds for energy assistance, energy efficiency programs, renewable and clean energy programs, and administrative expenses for allowances sold between March 1, 2009, and June 30, 2011, the allocation provided for rate relief remains at the level established by Chapters 127 and 128 of 2008.

Method of Distribution

On April 20, 2009, PSC issued Order no. 82614 that determined that credits needed to be provided at a flat-rate per residential customer basis, that the RGGI rate relief credit should be provided monthly, and the credit should appear in a line item entitled RGGI rate credit.

In this order, PSC established a method for the determination of the rate credit. MEA is to submit to PSC the amount of funding for rate relief available from the most recent RGGI auction, and utilities are to submit the number of residential customers on service as of a certain date. PSC staff then develops and submits a proposed per customer monthly credit, which is in general applicable for a three-month period, and a maximum amount that a utility will require to fund this credit. In addition, the PSC order provided for a mechanism to "true-up" the funding received for rate relief with the funds provided to customers for rate relief, reflecting the potential change in number of customers from month to month.

It is the understanding of DLS that PSC is working with two of the small utilities to develop an alternative plan for providing the rate relief credits. Due to the small size of the Maryland customer base of A&N Electric Cooperative and Somerset Rural Electric Cooperative, the cost of implementing the credit would outweigh the credit itself. As a result, both companies have requested and received exemptions from PSC in regard to complying with the orders for monthly credits. The companies have filed proposals with PSC for alternative methods of distributing the rate relief. On November 18, 2009, PSC provided notice that it was denying the alternative proposals of both A&N and Somerset because neither would provide the credit on a per-customer basis as required by statute. PSC ordered MEA to continue holding the rate relief funding for the two companies until an alternative means of distribution is approved.

Value of Credits Provided to Date

The first RGGI auction was held on September 25, 2008, with six states, including Maryland, participating. Through January 2010, six auctions have been held producing revenue for Maryland of approximately $96.3 million. As a result of these six auctions, approximately $22.1 million has been available for rate relief from June 2009 to May 2010.

Exhibit 5 shows the value of monthly credits as ordered by PSC to date. The value of the credit varies primarily based on the allowance price of each auction, number of allowances sold in each auction period, and number of residential customers.

Exhibit 5
Rate Relief Credit

Dates of Credit Period	RGGI Auction Numbers in Credit Period	Value of Credit Per Customer	Estimated Number of Customers	Estimated Total Value of Customer Credits Per Credit Period
June 2009; July 2009	Auctions 1 and 2	$1.50	2,186,023	$6,558,069.00
August 2009	Auction 3	2.75	2,187,612	6,015,933.00
September 2009; October 2009; November 2009	Auction 4	0.60	2,185,588	3,934,058.40
December 2009; January 2010; February 2010	Auction 5	0.43	2,187,266	2,821,573.14
March 2010; April 2010; May 2010	Auction 6	0.42	2,192,199	2,762,170.74
Estimated Total Value of Customer Credits				**$22,091,804.28**

RGGI: Regional Greenhouse Gas Initiative

Notes: The estimated total value of customer credits is calculated by the value of credit multiplied by the estimated number of customers multiplied by number of months in credit period. This figure does not necessarily match the maximum invoice amount in the Public Service Commission (PSC) order for each credit period. The estimated number of customers uses figures provided in PSC order for each credit period, which includes the number of residential accounts by utility.

Source: Public Service Commission; Department of Legislative Services

As shown in Exhibit 5, the value of the rate credits from the most recent auctions has declined. This decline is the result of considerably lower prices per allowance in the most recent auctions than had been received in previous auctions.

The fiscal 2011 allowance provides approximately $15.6 million for the purpose of rate relief in the budget of MEA.

PSC should comment on the effectiveness of the rate relief distribution process.

Recommended Actions

1. Concur with Governor's allowance.

Updates

1. Status of Proceeding Examining the Transaction of Constellation Energy Group and EDF

On December 17, 2008, Constellation, in addition to announcing the termination of a proposed agreement between MidAmerican Energy Holdings Company and Constellation, announced a new proposed transaction with EDF. As described in a press release by the companies, under the proposed transaction, EDF would purchase a 49.99% interest in the nuclear business of Constellation for $4.5 billion. EDF provided a $1.0 billion cash investment to Constellation. The agreement included options such as Constellation selling up to $2.0 billion of its nonnuclear generation assets to EDF.

EDF also made several promises as part of the agreement. The press release highlighted an intention to move the U.S. headquarters of the EDF Group to Maryland, invest $20 million in a new visitor and environmental center at Calvert Cliffs, and invest $36 million in the Constellation Energy Group Foundation.

On January 16, 2009, PSC issued Order No. 82407 that opened Case No. 9173. One of the purposes for this new case was to investigate the impact of the proposed transaction between Constellation and EDF and whether the transaction fell under the PSC's jurisdiction to review transactions under Section 6-105 of the Public Utilities Company article. This section requires prior authorization from PSC before a person can acquire directly or indirectly the power to exercise substantial influence over the actions or policies of electric, electric and gas, or gas companies. The section provides specific items that PSC must review in the transactions, such as the impact on rates and charges, the impact on the continuing investment needs for maintenance of utility services, plan, and related infrastructure, whether ring-fencing and code of conduct regulations need revision, and any other issues PSC deems relevant. Following the review, PSC may grant the application, grant the application with conditions, or deny the application. To grant the application, PSC must find that the transaction is "consistent with public interest, convenience, and necessity, including benefits and non harm to consumers…"

On June 11, 2009, PSC issued Order No. 82719 that explained that as a result of the proposed transaction EDF would acquire substantial influence over BGE. As a result, the proposed transaction fell under the jurisdiction of PSC for review, and, as such, required PSC approval prior to closing. The order indicated that the conclusion was based on two aspects of the transaction: (1) the ability of EDF to influence the financial health of BGE through the flow of dividends, capital injections, and the participation of BGE in the cash pool of Constellation; and (2) the ability of EDF to nominate a director to the Board of Directors of Constellation.

Following this order, on June 19, 2009, EDF formally submitted the application requesting prior authorization for the proposed transaction. The subsequent review encompassed several months and involved additional filings, hearings, and testimony. In addition, PSC conducted three public hearings (September 2 – Annapolis, September 17 – Baltimore, September 29 – Bel Air).

PSC Findings

On October 30, 2009, PSC issued Order No. 82986 granting the application for the proposed transaction, which would allow the companies to proceed to closing, but with several conditions. PSC indicated that the review was based on three criteria: (1) consistent with public interest, convenience and necessity; (2) benefit to consumers; and (3) no harm to consumers. PSC interpreted consumers to mean the consumers of BGE specifically rather than consumers in Maryland more generally.

PSC found that the transaction was consistent with public interest, convenience, and necessity based on five conclusions. First, PSC concluded that because Constellation is based in Maryland to the extent that the transaction strengthens Constellation financially Maryland benefits. Second, PSC concluded if Calvert Cliffs 3 is ultimately built this could benefit Maryland. Third, PSC concluded the expected tax payment to Maryland (of approximately $129 million) is at least consistent with the public interest. Fourth, other activities that might result from the transaction, such as EDF moving its U.S. headquarters to Maryland, a decision to provide funding to the Constellation Energy Group Foundation, and a decision to build a visitor center at Calvert Cliffs, would also be in the public interest. Fifth, PSC concluded that Constellation's offer to provide to BGE at no cost a generation site if BGE intends to build new generation (either by its own decision or PSC order), to the extent that it assists with the building of new generation, is consistent with the public interest.

PSC concluded, however, that for the transaction to benefit consumers a distribution rate credit was required. PSC found that the benefits noted by the companies were not definite or not direct to BGE consumers. As a result, PSC did not feel that these met the criteria of statute.

In addition, PSC concluded that this transaction could lead to harm to BGE consumers, specifically as a result of the potential impact of the transaction on the capital flows between companies and that BGE would continue to be vulnerable to a bankruptcy of Constellation.

Conditions

As a result of these conclusions PSC granted the application, but only under certain conditions. These conditions include:

- a one-time, per customer, distribution rate credit of $110.5 million, or approximately $100 per customer;
- a capital infusion of $250.0 million into BGE;
- restrictions and prohibitions on when BGE can make dividend payments to Constellation, focusing on the equity level and BGE's credit rating;
- filing distribution rate cases beginning in January 2010 with a second filing no sooner than January 2011; and

- implementing a series of ring-fencing measures to protect BGE.

PSC ordered that Constellation and EDF notify the PSC by November 6, 2009, at 5 p.m. regarding whether the companies intended to proceed with closing the transaction. EDF provided this notification. In a November 6, 2009 press release, Constellation announced that the transaction with EDF closed.

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets
Public Service Commission
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2009					
Legislative Appropriation	$0	$14,184	$26	$0	$14,210
Deficiency Appropriation	0	2,000	309	0	2,309
Budget Amendments	0	3,011	0	0	3,011
Cost Containment	0	-235	0	0	-235
Reversions and Cancellations	0	-1,596	-80	0	-1,676
Actual Expenditures	**$0**	**$17,365**	**$255**	**$0**	**$17,620**
Fiscal 2010					
Legislative Appropriation	$0	$14,403	$369	$0	$14,773
Cost Containment	0	-358	0	0	-358
Budget Amendments	0	0	0	0	0
Working Appropriation	**$0**	**$14,045**	**$369**	**$0**	**$14,414**

Note: Numbers may not sum to total due to rounding.

Fiscal 2009

During fiscal 2009, the special fund appropriation of PSC increased by approximately $4.78 million through a deficiency appropriation and budget amendments which were partially offset by cost containment actions. This increase occurred primarily to provide funding for consultant services including:

- $2.5 million intended to be used to review the Constellation transaction with MidAmerican Energy Holdings Company, which was also used to examine the transaction of Constellation and EDF;

- $2.0 million deficiency appropriation to monitor the activities of PJM Interconnection, LLC. (PJM) and to provide expertise on the issues discussed at PJM, to participate in proceedings at the Federal Energy Regulatory Commission, and for analysis related to proceedings of PSC; and

- $250,000 pursuant to Chapter 131 of 2008, the EmPower Maryland Energy Efficiency Act of 2008.

The remaining increases of $204,631 and $56,797 were the result of employee cost-of-living adjustments and the Annual Salary Review, respectively. These increases were partially offset by a decrease of $235,025 in cost containment actions including furlough savings and other salary and wages adjustments. PSC cancelled approximately $1.6 million of the special fund appropriation primarily due to lower than anticipated expenditures for consulting services, health insurance premiums, and the Washington Metropolitan Transit Commission. In addition, PSC cancelled some special funds that were unneeded as a result of the availability of federal funds in the Engineering Investigations Division for the pipeline safety program.

PSC received a $309,282 federal fund deficiency appropriation in fiscal 2009 to reflect a change in budgeting of the federal reimbursement for the pipeline safety program. PSC cancelled $80,282 of this appropriation due to a lower than anticipated rate of reimbursement for expenses in the pipeline safety program and the elimination of the federal grant for the one call program.

Fiscal 2010

The special fund appropriation of PSC has decreased by $358,398 during fiscal 2010 from furlough savings as a result of cost containment actions.

Object/Fund Difference Report
Public Service Commission

Object/Fund	FY09 Actual	FY10 Working Appropriation	FY11 Allowance	FY10 - FY11 Amount Change	Percent Change
Positions					
01 Regular	142.00	142.00	142.00	0	0%
02 Contractual	6.00	6.00	6.00	0	0%
Total Positions	**148.00**	**148.00**	**148.00**	**0**	**0%**
Objects					
01 Salaries and Wages	$ 11,577,685	$ 12,065,754	$ 12,865,872	$ 800,118	6.6%
02 Technical and Spec. Fees	309,688	255,945	372,083	116,138	45.4%
03 Communication	174,038	140,697	120,904	-19,793	-14.1%
04 Travel	77,144	132,750	16,799	-115,951	-87.3%
07 Motor Vehicles	163,269	140,443	121,777	-18,666	-13.3%
08 Contractual Services	3,842,181	252,576	232,363	-20,213	-8.0%
09 Supplies and Materials	73,756	83,894	85,694	1,800	2.1%
10 Equipment – Replacement	76,839	31,675	510	-31,165	-98.4%
11 Equipment – Additional	169,434	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	309,996	424,708	448,184	23,476	5.5%
13 Fixed Charges	845,570	885,746	914,693	28,947	3.3%
Total Objects	**$ 17,619,600**	**$ 14,414,188**	**$ 15,178,879**	**$ 764,691**	**5.3%**
Funds					
03 Special Fund	$ 17,364,600	$ 14,044,952	$ 14,517,169	$ 472,217	3.4%
05 Federal Fund	255,000	369,236	661,710	292,474	79.2%
Total Funds	**$ 17,619,600**	**$ 14,414,188**	**$ 15,178,879**	**$ 764,691**	**5.3%**

Note: The fiscal 2010 appropriation does not include deficiencies.

Fiscal Summary
Public Service Commission

Program/Unit	FY09 Actual	FY10 Wrk Approp	FY11 Allowance	Change	FY10 - FY11 % Change
01 General Administration and Hearings	$ 11,278,259	$ 7,568,991	$ 8,265,995	$ 697,004	9.2%
02 Telecommunications Division	479,835	507,445	542,924	35,479	7.0%
03 Engineering Investigations	1,260,369	1,231,286	1,250,263	18,977	1.5%
04 Accounting Investigations	569,189	606,331	664,065	57,734	9.5%
05 Common Carrier Investigations	1,373,694	1,398,953	1,249,762	-149,191	-10.7%
06 Washington Metropolitan Area Transit Commission	228,568	343,280	366,756	23,476	6.8%
07 Rate Research and Economics	453,786	623,869	609,223	-14,646	-2.3%
08 Hearing Examiner Division	816,209	782,708	824,806	42,098	5.4%
09 Staff Attorney	728,472	825,645	830,500	4,855	0.6%
10 Integrated Resource Planning Division	431,219	525,680	574,585	48,905	9.3%
Total Expenditures	**$ 17,619,600**	**$ 14,414,188**	**$ 15,178,879**	**$ 764,691**	**5.3%**
Special Fund	$ 17,364,600	$ 14,044,952	$ 14,517,169	$ 472,217	3.4%
Federal Fund	255,000	369,236	661,710	292,474	79.2%
Total Appropriations	**$ 17,619,600**	**$ 14,414,188**	**$ 15,178,879**	**$ 764,691**	**5.3%**

Note: The fiscal 2010 appropriation does not include deficiencies.