C90G00
Public Service Commission

Operating Budget Data

($ in Thousands)

	FY 13 Actual	FY 14 Working	FY 15 Allowance	FY 14-15 Change	% Change Prior Year
Special Fund	$15,234	$43,610	$45,226	$1,616	3.7%
Contingent & Back of Bill Reductions	0	0	-156	-156	
Adjusted Special Fund	**$15,234**	**$43,610**	**$45,069**	**$1,459**	**3.3%**
Federal Fund	569	736	396	-339	-46.1%
Contingent & Back of Bill Reductions	0	0	-3	-3	
Adjusted Federal Fund	**$569**	**$736**	**$393**	**-$343**	**-46.6%**
Adjusted Grand Total	**$15,803**	**$44,346**	**$45,462**	**$1,117**	**2.5%**

- The fiscal 2015 allowance of the Public Service Commission (PSC) increases by $1.1 million, or 2.5%, compared to the fiscal 2014 working appropriation, after accounting for across-the-board and contingent reductions in fiscal 2015.

- An increase of $1.5 million in special funds is partially offset by a decrease of $342,521 in federal funds.

- Although originally scheduled to end in September 2013, the grant for PSC from the American Recovery and Reinvestment Act of 2009 (ARRA) was extended until September 2014. A budget amendment added ARRA funds in fiscal 2014 due to the extension, and the fiscal 2015 allowance reflects a reduction of the ARRA funds to a level necessary for only one quarter of spending, a decrease in federal funds of $234,988.

- Major changes in the fiscal 2015 allowance occur in the areas of personnel, consultant services, and grants to non-State entities from the Customer Investment Fund.

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

For further information contact: Tonya D. Zimmerman Phone: (410) 946-5530

Personnel Data

	FY 13 Actual	FY 14 Working	FY 15 Allowance	FY 14-15 Change
Regular Positions	139.00	139.00	139.00	0.00
Contractual FTEs	8.98	11.60	11.60	0.00
Total Personnel	**147.98**	**150.60**	**150.60**	**0.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	4.17	3.00%
Positions and Percentage Vacant as of 12/31/13	7.00	5.04%

- There were no changes in the number of regular positions or contractual full-time equivalents (FTE) in PSC in the fiscal 2015 allowance. However, contractual FTEs created through funding from the ARRA, which expires in September 2014, are largely funded with special funds in the fiscal 2015 allowance.

- As of December 31, 2013, PSC had a vacancy rate of 5%, or 7.0 positions. To meet its turnover expectancy of 3%, PSC must maintain 4.2 vacant positions during fiscal 2015.

Analysis in Brief

Major Trends

General Administration: PSC continues to improve its performance in the percent of consumer complaints resolved within 60 days, reaching 76% in fiscal 2013. However, PSC remains below its goal for this measure. The percent of work items completed within the 30-day deadline fell below the 80% goal due, in part, to vacant positions and an increasing number of items subject to the deadline.

Engineering Investigations Division: In fiscal 2013, nine accidents were reported and investigated, with none attributed to violations of PSC regulations. The nine accidents in fiscal 2013 is less than half of the number reported in fiscal 2011.

Hearing Examiners Division: The Hearing Examiners Division met the goals for the timeliness of decisions for nontransportation, nontaxicab transportation, and taxicab matters in fiscal 2013.

Issues

Public Service Commission Review of Energy Assistance Programs: In calendar 2012, PSC began a review of the energy assistance programs in Maryland. PSC staff, in conjunction with the Office of People's Counsel, submitted a recommendation for an alternative energy assistance program during that year. During the 2013 session the review was ongoing, and committee narrative in the 2013 *Joint Chairmen's Report* (JCR) requested a report on the outcome of the review. The JCR also requested information on steps planned to limit overcollections of the ratepayer surcharge supporting the energy assistance programs, an issue that has been ongoing in recent years. PSC has not made a decision in the review of energy assistance programs. During calendar 2013, PSC adjusted the commercial and residential ratepayer surcharges to address the issue of overcollections.

Recommended Actions

		Funds
1.	Increase turnover expectancy to 4.58%.	$ 201,593
2.	Reduce funding for contractual employee payroll that is double budgeted.	57,715
3.	Adopt committee narrative requesting a report on the status or outcome of the Public Service Commission review of Maryland's energy assistance programs.	
	Total Reductions	**$ 259,308**

Updates

Offshore Wind Activities: The Maryland Offshore Wind Energy Act of 2013 requires PSC to issue regulations related to the new offshore wind renewable energy credit established in the legislation. The legislation also provided funds and required PSC to engage a consultant in this and other offshore wind related processes. A consultant was selected by PSC, and the contract was approved by the Board of Public Works in December 2013. Also, in December 2013, a Proposed Sale Notice for the Maryland Wind Energy Area was issued by the Bureau of Ocean Energy Management.

Examination of Power Purchasing Agreements: In April 2012, PSC ordered Baltimore Gas and Electric, Delmarva Power and Light, and Potomac Electric Power Company to enter into a power purchasing agreement for the output of a proposed natural gas-fired electric generation plant by CPV Maryland, Inc. in Charles County. On September 30, 2013, the U.S. District Court for Maryland ruled that PSC's decision violated the Supremacy Clause. PSC is appealing this ruling.

Operating Budget Analysis

Program Description

The Public Service Commission (PSC) regulates natural gas, electric, energy suppliers, 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) acquisition of one public service company by another or authorization to exercise substantial influence over the policies and actions of a public service company providing electric or natural gas service; (4) approval of the issuance of securities; (5) promulgation of new rules and regulations; (6) quality of utility and common carrier service; and (7) 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:

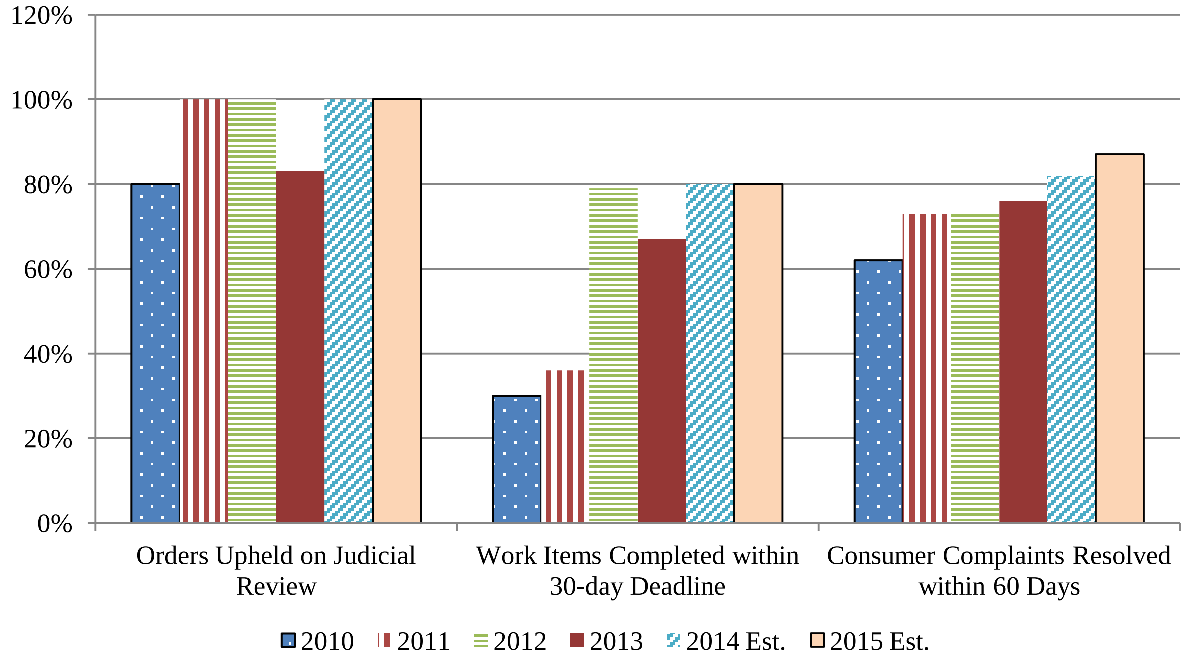
- to ensure that gas and electric utility companies operate utility systems safely;
- to ensure that public service companies deliver reliable services;
- to conduct open and fair proceedings and render timely decisions in accordance with statutory mandates and applicable law;
- to ensure that all Maryland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

Performance Analysis: Managing for Results

1. General Administration

As shown in **Exhibit 1**, PSC improved performance in the percent of work items completed within the 30-day deadline in fiscal 2012 by 43 percentage points compared to the prior year. With this performance in fiscal 2012, PSC neared its performance goal (80%) in this area after achieving

Exhibit 1
Administration
Fiscal 2010-2015 Est.



Note: The Managing for Results submission indicated that, in fiscal 2013, two of seven orders were reversed on judicial review; subsequently, the Public Service Commission reported that one of the cases was settled and, as a result, only one of six orders was reversed on judicial review.

Source: Public Service Commission; Governor's Budget Books

less than half of the goal in fiscal 2010 and 2011. The improvement in performance in fiscal 2012 occurred even as the number of items subject to the deadline increased by 25%, due to efforts to automate and streamline processes related to the numerous Solar Renewable Energy Facility applications PSC receives. However, in fiscal 2013, PSC's performance in this area declined to 67%, a 13 percentage point decline. PSC attributes the decrease in performance to a combination of an increase in the number of work items subject to the deadline and vacancies in positions that are responsible for some of these filings. PSC anticipates improvement in this measure in fiscal 2014 with the filling of vacant positions and the reassignment of staff to these areas.

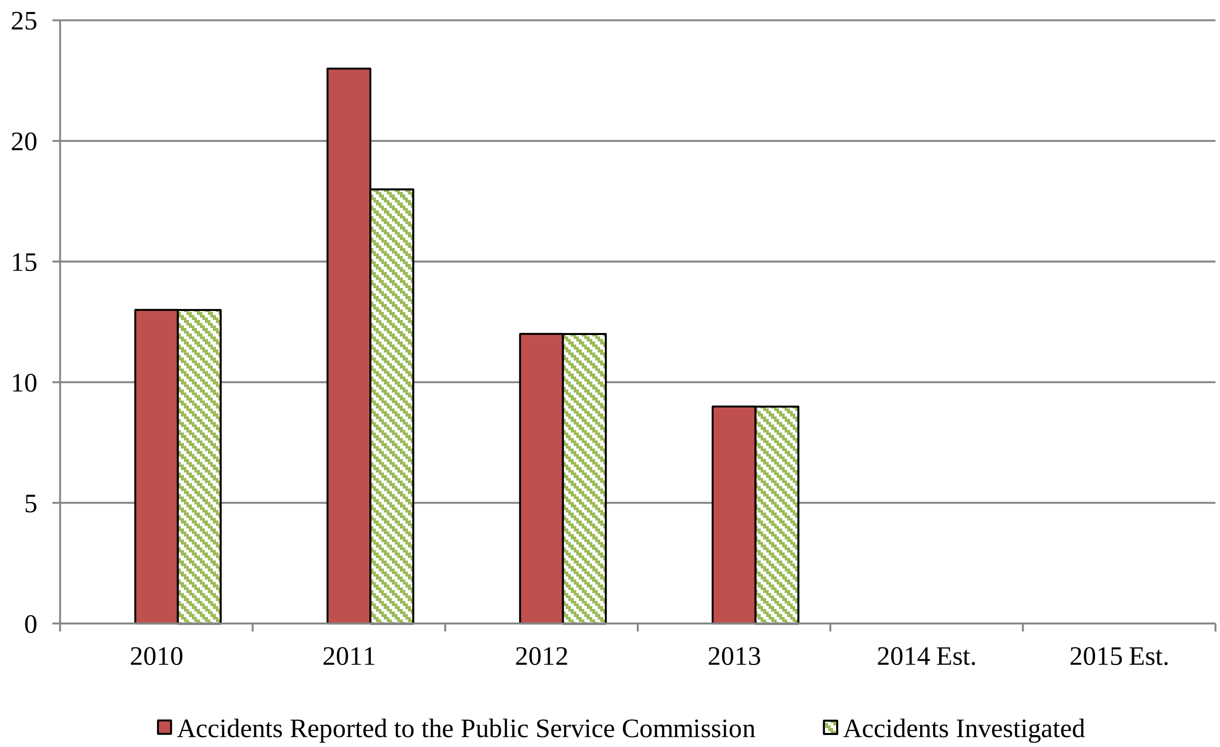
In fiscal 2013, PSC increased the percent of consumer disputes resolved within 60 days to 76%, a three percentage point increase, near the 80% goal. In total, PSC's performance in its resolution timeliness has increased by 14 percentage points since fiscal 2010. PSC anticipates exceeding its goal in fiscal 2014 and 2015. PSC indicates that the improvement in performance is the result of the filling of vacant positions, improved complaint intake and processing efficiency, and improved communication between the utilities and PSC. PSC expects that continued improvements in communication and the establishment of clear expectations between PSC, and the utilities will further improve processing timeliness. Finally, PSC expects technological enhancements will improve efficiencies.

After two years of all of PSC's orders being upheld on judicial review, one order was reversed or remanded in fiscal 2013.

2. Engineering Investigations Division

The number of reported accidents has fallen, from a high of 23 in fiscal 2011, to 9 in fiscal 2013, as shown in **Exhibit 2**. PSC reports that utilities have processes in place to provide safe, adequate, and reliable service, which has likely resulted in the decrease in accidents. Due to the utility processes related to accident prevention, PSC does not anticipate any accidents in upcoming years.

Exhibit 2
Engineering Investigations Division
Fiscal 2010-2015 Est.



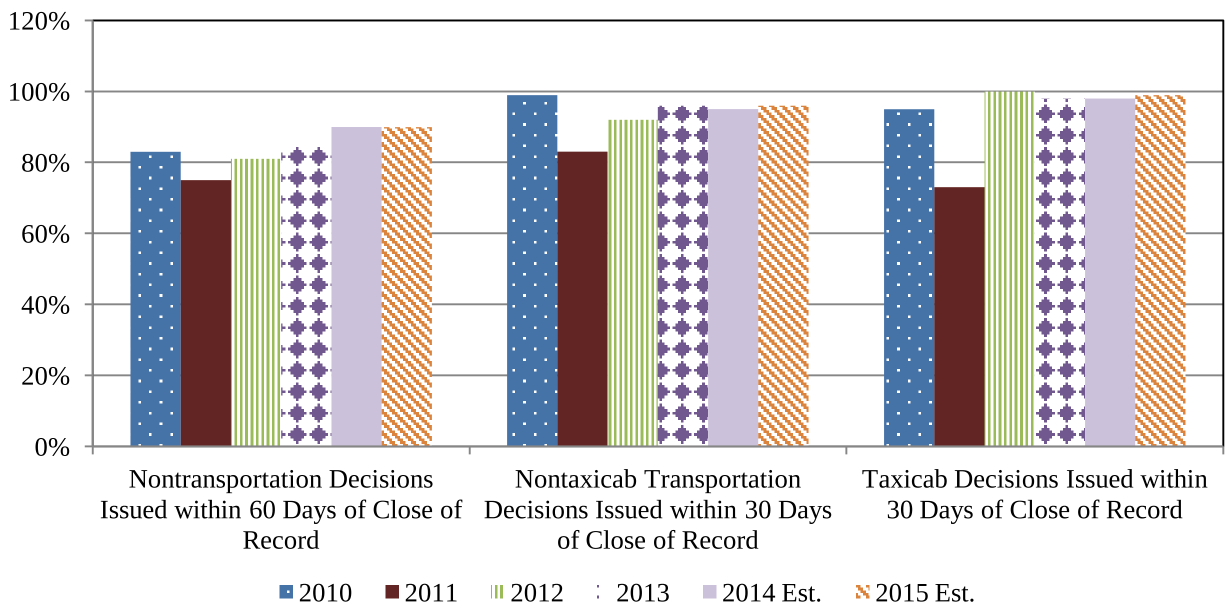
Source: Public Service Commission; Governor's Budget Books

After failing in fiscal 2011 to investigate all reported accidents for the first time in recent history, the Engineering Investigations Division was again able to complete investigations of all reported accidents in fiscal 2012 and 2013. PSC attributed the lower level of accidents investigated in fiscal 2011 to a vacant position, although it is notable that the number of accidents in that year was markedly higher than in all other recent years, more than double the number of accidents in fiscal 2013.

3. Hearing Examiners Division

The Hearing Examiners Division has a goal of issuing 80% of decisions in nontransportation matters within 60 days of the close of record and 90% of decisions in transportation matters within 30 days of the close of record. As shown in **Exhibit 3**, in fiscal 2013, as in fiscal 2012, PSC met each of these goals. PSC improved the performance in the timeliness of decisions by four percentage points for nontransportation matters (reaching 85%) and nontaxicab matters (reaching 96%) in fiscal 2013. PSC indicates that to ensure timely decisions, the caseload of the individual hearing examiners and License Hearing Office and the caseload mix is monitored, and the hearing examiners are reminded of the goal at staff meetings.

Exhibit 3
Hearing Examiners Division
Fiscal 2010-2015 Est.



Source: Public Service Commission; Governor's Budget Books

Proposed Budget

As shown in **Exhibit 4**, the fiscal 2015 allowance increases by $1.1 million, or 2.5%, compared to the fiscal 2014 working appropriation, after accounting for across-the-board and contingent reductions in fiscal 2015.

Special funds increase by $1.5 million, or 3.3%, while federal funds decrease by $342,521. The federal fund decrease results, in part, from funds advanced to PSC from the federal Pipeline Safety program in fiscal 2014 ($75,184) and a lower anticipated reimbursement rate for this program than was assumed in fiscal 2014 ($29,326).

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

How Much It Grows:	Special Fund	Federal Fund	Total
2014 Working Appropriation	$43,610	$736	$44,346
2015 Allowance	45,069	393	45,462
Amount Change	$1,459	-$343	$1,117
Percent Change	3.3%	-46.6%	2.5%

Where It Goes:	
Personnel Expenses	
Annualization of the fiscal 2014 cost-of-living adjustment and increments	$409
Regular earnings, due to filling of vacant positions at higher salaries and other salary adjustments, including increments planned for fiscal 2015	270
Turnover expectancy decreases from 4.58 to 3%	174
Employee retirement	66
Social Security contributions, unemployment, and workers compensation	19
Employee and retiree health insurance	-195
Consultant Services	
Offshore Wind as required in Chapter 3 of 2013	1,000
Other consultants based on anticipated need	-912
Customer Investment Fund	
Grants for Baltimore City, Baltimore County, the Fuel Fund, and Comprehensive Housing Assistance, Inc. partially offset by elimination of funds to support administration of the Customer Investment Fund	457

Where It Goes:	
Contractual Services to Better Align with Recent Experience	
Miscellaneous contracts	28
Software licenses and purchases	13
Equipment rental	8
Legal services	5
Printing and advertising and legal publication	-15
Cost Allocations	
Department of Information Technology Services Allocation partially offset by Retirement administrative fee	-19
Statewide Personnel System allocation	-23
Administrative Expenses	
Special funds for contractual payroll in General Administration primarily for full-year support for four full-time equivalents based on federal fund availability and a change in the turnover expectancy	78
Rent	50
Travel and training	21
Department of Budget and Management Paid Telecommunications	10
Higher wages for contractual full-time equivalents in the Common Carriers Division	7
Purchase of vehicles for Common Carriers Division	-40
Equipment purchased for Engineering Investigations Division with federal funds advanced to the program	-75
Grant from the federal American Recovery and Reinvestment Act of 2009 available for only one quarter	-235
Other	18
Total	**$1,117**

Note: Numbers may not sum to total due to rounding. The fiscal 2014 working appropriation reflects negative deficiencies and contingent reductions. The fiscal 2015 allowance reflects back of the bill and contingent reductions.

Cost Containment

There is one across-the-board reduction and one contingent reduction reflected in the Governor's spending plan for the fiscal 2015 allowance. This affects funding for employee/retiree health insurance and retirement reinvestment. These actions are fully explained in the analyses of the Department of Budget and Management – Personnel and the State Retirement Agency. For PSC, this totals $159,357 in all funds.

Federal American Recovery and Reinvestment Act Grant

PSC received a three-year State Electricity Regulator Assistance grant from the American Recovery and Reinvestment Act of 2009 (ARRA) totaling $893,591. These 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. The grant was initially set to expire September 30, 2013. Due to the expected expiration of the grant, the fiscal 2014 budget, as enacted, included funds from the ARRA for only the one quarter that these funds were expected to be available. The fiscal 2014 budget also included a higher amount of special funds in certain areas, such as contractual employee payroll, to replace the unavailable ARRA funds.

PSC received a one-year extension of the ARRA grant, which will now expire September 30, 2014. With the extension, PSC added funds from the ARRA grant to its fiscal 2014 appropriation, while leaving the special funds intended to replace the ARRA in place. The fiscal 2015 allowance reduces the amount of the ARRA available to reflect its availability in only one quarter of that year (a decrease of $234,988), accounting for the majority of the federal fund decrease in that year.

Because the higher amount of special funds needed to replace the ARRA for the three quarters of the year (when it was thought that the ARRA would not be available) is included in the fiscal 2014 appropriation, no additional special funds for replacement of the ARRA are required in the allowance. However, the allowance includes funding for contractual full-time equivalents (FTE) for one quarter when ARRA funds will be available to support the FTEs. **The Department of Legislative Services (DLS) recommends deleting the funds that are double budgeted.**

Customer Investment Fund

One of the conditions of PSC's approval of the merger of Constellation Energy Group and Exelon Corporation required a contribution of a total of $113.5 million into a Customer Investment Fund (CIF) in three equal annual installments. PSC did not specify, in the initial order requiring the contribution, how the CIF would be used but noted that it would determine the allocation later.

PSC issued a request for proposals (RFP) for the use of the CIF. Multiple organizations submitted a proposal, including Baltimore City, Baltimore County, Comprehensive Housing Assistance, Inc., the Fuel Fund, and the State of Maryland. In November 2012, PSC issued an order allocating the entire CIF with certain levels provided to each organization and required the organizations receiving CIF allocations to work with PSC staff to develop a funding plan and the amount of the organization's first allocation of CIF.

Section 17 of the Budget Reconciliation and Financing Act of 2012 requires that funds received by the State as a result of conditions of an approved merger between Constellation Energy Group and Exelon Corporation be expended only as authorized by an act of the General Assembly or specifically authorized in the State budget, with an exception for fiscal 2013 only. Supplemental Budget No. 1 in the 2013 session provided the appropriation for the CIF allocations to the Maryland

Energy Administration and the Department of Housing and Community Development. However, it also provided appropriations for the non-State entities receiving allocations from the CIF. The appropriation for the non-State entities occurred in the budget of PSC. PSC's fiscal 2015 allowance also contains the second year of allocations for non-State entities, which follows the funding plan developed by PSC staff and the organizations. **Exhibit 5** provides a list of organizations and programs receiving these appropriations in fiscal 2014 and 2015.

Exhibit 5

Customer Investment Fund Allocations for Non-State Entities

Fiscal 2014 and 2015

		2014	2015
Baltimore County	Sustainable Dundalk Initiative	$250,000	$100,000
Baltimore City	Case Management	1,073,436	1,050,532
Baltimore City	Energy Assistance	804,601	504,600
Baltimore City	Energy Efficiency	2,378,357	2,378,357
Baltimore City	Energy Efficiency Plus	5,447,372	6,452,920
Baltimore City	EM &V	409,156	409,156
Baltimore City	Baltimore Energy Challenge	1,118,596	1,000,593
Baltimore City	Co-generation	2,000,000	3,196,555
Baltimore City	Urban Heat Island	530,000	630,000
Baltimore City	Retrofits and Upgrades	1,750,000	6,000,000
Fuel Fund	Fuel Fund	8,334,145	3,883,822
Comprehensive Housing Assistance, Inc.	Energy Home Improvement Loan Fund	666,000	666,000
Public Service Commission	Administrative Costs	1,053,872	0
Total		**$25,815,535**	**$26,272,535**

EM&V: Evaluation, measurement, and verification

Source: Public Service Commission

PSC allocated approximately $1.1 million for administration of the fund for the agency's use. These funds were provided in fiscal 2014 and are not available in fiscal 2015.

Consultant Services

Annually, PSC requires the services of consultants to assist in cases before PSC, which are often driven by activity outside of PSC (such as filings by utilities). In recent years, consultants have participated in cases such as the transactions between Constellation Energy Group and Exelon Corporation and between FirstEnergy Corp. and Allegheny Energy, Inc., as well as the review of whether to require the electric utilities to enter into long-term power purchase agreements for new generation. PSC has also used consultants in its work before the Federal Energy Regulatory Commission. Outside of funds required to be transferred to PSC for consultant services in Chapter 3 of 2013 (the Maryland Offshore Wind Energy Act of 2013), the PSC's fiscal 2015 allowance for consultant services is $247,541. PSC anticipates that this amount will be sufficient based on current PSC staff knowledge and expected filings. Although this amount is well below the average of the three most recent years of actual expenditures (with an average of $2.1 million), the amount is slightly higher than the fiscal 2013 actual expenditures ($212,228).

Issues

1. Public Service Commission Review of Energy Assistance Programs

In January 2012, PSC initiated a comprehensive review of Maryland's energy assistance programs. In the notice initiating the review, PSC expressed its concern over whether Maryland's energy assistance was fulfilling or could fulfill its intended purpose. The first hearing in the review was held on March 20, 2012, and addressed the issues of:

- the scope, causes, and trends over time of arrearages and customers' inability to pay their bills;
- the goals of the current programs and recommendations on changes to the goals;
- the sources of funding;
- the eligibility criteria;
- the coordination with other government programs;
- the logistical, mechanical, and technological issues that need to be addressed to improve program efficiency;
- the relative impact on customer bills between increasing bill assistance contributions and writing off greater proportions of uncollectibles; and
- the best practices of other states.

Following the hearing, PSC directed its staff to prepare recommendations for changes to Maryland's energy assistance programs. The PSC staff worked with the Office of People's Counsel to develop consensus recommendations.

Proposed Changes

The recommendations are collectively referred to as the Affordable Energy Plan (AEP). The AEP is designed as a percentage of income payment plan (PIPP) and would be available for gas and electric use rather than only electricity, as is currently the case with the Electric Universal Service Program (EUSP). In a PIPP, a certain percent of a household's income (a level defined as affordable) is subtracted from a customer's actual (or estimated) energy bill for a year, and the difference is the benefit amount. Under the PSC staff proposal, the affordable level of an energy bill would be defined as 6% of the household income, although a lower monthly amount would apply for households with nonelectric or non-natural gas heating fuel. The credit would be fixed at the time of the benefit eligibility determination and based on a household's estimated energy usage for the year. The benefit would be applied equally throughout the year.

The AEP would include a component to assist with pre-AEP participation arrears only. Under the AEP arrearage forgiveness program, an additional 1% of the household's income, for each electric and natural gas bill (if arrears exist for both) would be added to the 6% required household spending on the energy bill for a set period of time, and the amount of the arrearage not eliminated by the additional payment would be retired.

The PSC staff also recommended a limited amount of funding (5% of total program funds) to provide crisis assistance in certain circumstances. The proposal also suggested that the program be coordinated with the weatherization and EmPOWER Maryland programs. The program also proposed targeting high energy users with treatment to address the high energy use.

The PSC staff estimated that the funding necessary to support the AEP would be $250 million, replacing the existing EUSP and Strategic Energy Investment Fund (SEIF). The funding estimate was based on the participation levels in Maryland's energy assistance programs at the time of development. The estimate had the potential to overstate the amount of funds required for administrative costs but potentially understated the arrearage program costs.

The AEP would require statutory changes to implement. During the 2013 session, the PSC review was still ongoing, and the 2013 *Joint Chairmen's Report* included committee narrative requesting a report on the outcome of the review.

Status of Review

In December 2013, PSC submitted a status report. PSC had a hearing on the PSC staff proposal in May 2013; however, no further action has been taken on the AEP or the review generally. **PSC should comment on whether or when action on the proposal or any other potential program changes are likely to occur. DLS recommends committee narrative requesting a report on the outcome of the review.**

EUSP Ratepayer Collections Changes

Section 7-512.1(e) of the Public Utilities Article states that the total amount of funds to be collected for EUSP each year shall be $37.0 million and allocates these collections between customer classes ($27.4 million from commercial and industrial classes and $9.6 million from residential classes). PSC is responsible for establishing the mechanism for collections and monitoring the collections to ensure the proper amount is being collected and that the amount being collected does not exceed the amount under law. The residential ratepayer surcharge is set at a flat monthly rate. Commercial and industrial customers are assigned to one of 24 tiers based on the previous year's billing information.

Despite PSC monitoring of collections in recent years, the amount collected from the EUSP ratepayer surcharge has exceeded the authorized level of collections by:

- $1.2 million in fiscal 2009;
- $1.8 million in fiscal 2010;
- $2.0 million in fiscal 2011;
- $2.7 million in fiscal 2012; and
- $4.1 million in fiscal 2013.

The majority of the overcollections has occurred among the commercial and industrial classes, although some overcollection also occurred among residential customers. The committee narrative discussed earlier also requested that PSC include in its report steps that the agency plans to take to limit overcollections of the EUSP surcharge. During 2013, PSC requested its staff to file a proposal for adjustments to the ratepayer surcharges to align the collections with the statutory levels.

The PSC staff proposed to reduce the residential ratepayer surcharge from $0.37 per month, the level since August 2006, to $0.36 per month. This adjustment was expected to result in an undercollection of $40,870 rather than an overcollection of $224,663. The PSC staff proposed to reduce the surcharge for each tier of commercial and industrial customers by 14%, the approximate amount of the overcollection for these customers in fiscal 2013. The amount of the reduction and resulting surcharge varies by tier, but the reductions range from $0.06 per month in Tier 1 to $648.55 per month in Tier 24. The proposal was filed and accepted by PSC in December 2013 and is effective February 1, 2014. Due to the timing of the change, the full impact on collections is not expected until fiscal 2015. Despite the change and resulting impact on EUSP surcharge collections, the fiscal 2015 allowance of the Department of Human Resources assumes $41.0 million will be available from the surcharge.

Recommended Actions

		Amount Reduction	
1.	Increase turnover expectancy to 4.58%. This action maintains the turnover expectancy of the Public Service Commission (PSC) at the level of the fiscal 2014 working appropriation. This level more closely reflects the experience of the agency. This reduction may be allocated among the programs of PSC.	$ 201,593	SF
2.	Reduce funding for contractual employee payroll that is double budgeted. The fiscal 2015 allowance includes funding for 4 contractual full-time equivalents for three months from a grant from the American Recovery and Reinvestment Act of 2009. The fiscal 2015 allowance also includes a full year of funding with special funds for the same contractual full-time equivalents. This action reduces funding for the one quarter for which funds are double budgeted.	57,715	SF

3. Adopt the following narrative:

Outcome of the Review of Energy Assistance Programs: The Public Service Commission (PSC) began a comprehensive review of Maryland's energy assistance programs in calendar 2012. PSC staff and the Office of People's Counsel, as requested, presented a proposal for an alternative energy assistance program. PSC has not made a decision on the proposal or any other changes to the energy assistance programs. The budget committees request that PSC, in consultation with the Department of Human Resources, submit a report on the status or outcome of the review, including the anticipated ratepayer impact and impact to recipients of energy assistance benefits from any program changes.

Information Request	Author	Due Date
Outcome of the review of energy assistance programs in Maryland	PSC	December 1, 2014

Total Special Fund Reductions **$ 259,308**

Updates

1. Offshore Wind Activities

Background

Chapter 3 of 2013 (the Maryland Offshore Wind Energy Act) includes a number of requirements for PSC. These requirements specify the process for an offshore wind project application, evaluation criteria, offshore wind renewable energy credit (OREC) establishment, and establishment of regulations to implement these requirements. Under the chapter, PSC must adopt regulations by July 1, 2014 that:

- establish an application process and timeframes, including a notification period following receipt of an application; the opening of an application period during which other projects can be proposed after receipt of an application; and a requirement to decide whether to approve, conditionally approve, or deny an application within 180 days of the end of the application period;

- detail the application requirements as specified in the statute, which include the requirements of a cost benefit analysis; the proposed financing; a proposed OREC schedule; a decommissioning plan; commitments in a variety of matters, including to contribute certain funds, apply for grants, rebates, tax credits, and loan guarantees, and to pass along 80% of the value of those funds received; and a plan for small business engagement;

- specify the evaluation criteria to be used by PSC, including those related to the price impacts, impacts on capacity prices, congestion prices, and locational marginal price;

- establish limitations on when PSC can approve a project or must not approve a project including requirements related to seeking minority investors for the project (if investors are being used in the project); providing positive net economic, environmental, and health benefits; the maximum price impacts for customers; and the maximum OREC price;

- specify requirements for an order of approval such as containing the OREC price schedule, the length of the OREC schedule, the number of ORECs to be sold each year, limitations on OREC payments until after generation has begun, hold harmless provisions for cost overruns for ratepayers and purchasers of ORECs, and a statement that debt from the project is not debt of the State;

- establish OREC obligations, including a mechanism to adjust the obligations based on prior year shortfalls;

- establish an escrow account for the purchase of ORECs;

- detail the requirements for the offshore wind project to sell energy, capacity, and ancillary services related to the OREC creation into the markets operated by PJM Interconnection, LLC; and

- create the ability to extend the OREC schedule beyond the initial term for up to two five-year terms under certain conditions and at certain price calculations.

Chapter 3 also requires PSC to contract with independent consultants to evaluate the application for a proposed offshore wind project and calculate the net benefits to the State of a proposed offshore wind project.

Funding

Section 4 of Chapter 3 requires the transfer of funds from the SEIF to PSC in order for PSC to contract for independent consultants needed to carry out the legislation. Specifically, the funds from the SEIF that are to be transferred are from the offshore wind contribution required as one of the conditions of the merger between Constellation Energy Group and Exelon Corporation. Section 4 specifies that $1.0 million is transferred in fiscal 2014, and $2.0 million is to be transferred in fiscal 2015. The first $1.0 million from this transfer was added to PSC's fiscal 2014 appropriation in Supplemental Budget No. 1 during the 2013 session. The fiscal 2015 allowance includes the $2.0 million transfer.

Status

On September 5, 2013, PSC issued an RFP for a consultant to assist the PSC staff in researching, analyzing, and drafting regulations to implement the Maryland Offshore Wind Energy Act and to assist in the Offshore Wind Energy Project Application development, including assisting in the development of criteria to review and evaluate projects, developing specific findings/criteria to be used in PSC orders approving projects, and creating a schedule for rating proposals. The RFP allowed for the selection of up to two consultants for these tasks. Respondents were to either submit a response covering both topics with separate prices or submit a response for one or the other topic. The contractor was selected and approved by the Board of Public Works at the December 18, 2013 meeting.

The leasing process for offshore wind projects is a federally led process. The Bureau of Ocean Energy Management (BOEM) issued a Proposed Sale Notice for the Maryland Wind Energy Area in December 2013. Developers have until February 18 to register with BOEM to qualify to hold a lease. Following the conclusion of this process, a Final Sale Notice will be published by BOEM, and then the lease will be awarded. After the leasing process, developers will submit OREC proposals to PSC, and PSC will evaluate the proposals using the consultants required in the statute.

2. Examination of Power Purchasing Agreements

In July 2009, CPV Maryland, LLC (CPV) filed a motion requesting that PSC order one or more investor-owned utilities to enter into a 20-year power purchase agreement with CPV for the output of a planned new combined cycle natural gas-fired facility. In the filing, CPV claimed that under current conditions, financing for new generation cannot occur without a long-term agreement.

As a result, PSC undertook an examination of whether it should exercise its statutory authority, provided in Section 7-510 of the Public Utilities Article, to issue an order requiring investor-owned utilities to procure Standard Offer Service through bilateral contracts and to require investor-owned utilities to build, acquire, lease, or operate new generation facilities. In September 2011, PSC ordered the utilities to release an RFP for a 20-year agreement. The RFP limited the respondents to natural gas-fired generation in the Southwestern Mid-Atlantic Areas Council region of PJM Interconnections, LLC (PJM) territory (including the Baltimore Gas & Electric (BGE) and Potomac Electric Company (Pepco) service territories).

Contract Award

Three bidders met the minimum requirements of the RFP; the CPV project was determined to have the best price for ratepayers, with an average impact of a $0.49 per month credit over the life of the contract. On April 12, 2012, PSC ordered BGE, Pepco, and Delmarva Power and Light to enter into a contract for differences with CPV for the output of a natural gas-fired combined-cycle generation plant in Charles County. The companies were to enter into the contract in proportion to their share of the load. Under the required contract for differences, payments or credits are determined by the difference between the actual revenue from the PJM capacity auctions and energy sales and the fixed contract price.

Court Decision

On September 30, 2013, U.S. District Court Judge Marvin J. Garbis issued a Memorandum of Decision indicating that the order by PSC violated the Supremacy Clause in the U.S. Constitution but did not violate the Commerce Clause. The decision stated that the order violated the Supremacy Clause because it set a price for wholesale energy and capacity, which is in the domain of the federal government. The order sets the price of wholesale energy and capacity by guaranteeing a certain price for the electricity (the fixed contract price) outside of the auction process by which PJM, acting under federal authority, sets the price for wholesale electricity.

The order does not dispute that states have the authority to regulate and order the development of new generation. The stated issue was over the issue of the pricing mechanism as it was contained in the document. PSC had 30 days to appeal the decision from the date it was entered, October 24, 2013. On November 22, 2013, PSC filed notice of an appeal of the decision. CPV has also filed an appeal.

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 2013					
Legislative Appropriation	$0	$15,915	$579	$0	$16,494
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	108	149	0	257
Reversions and Cancellations	0	-788	-159	0	-948
Actual Expenditures	**$0**	**$15,234**	**$569**	**$0**	**$15,803**
Fiscal 2014					
Legislative Appropriation	$0	$43,350	$425	$0	$43,775
Budget Amendments	0	260	311	0	571
Working Appropriation	**$0**	**$43,610**	**$736**	**$0**	**$44,346**

Note: The fiscal 2014 working appropriation does not include deficiencies or contingent reductions. Numbers may not sum to total due to rounding.

Fiscal 2013

In total, PSC's fiscal 2013 expenditures were $690,732 less than the legislative appropriation. PSC's fiscal 2013 special fund expenditures were $680,574 lower than the legislative appropriation. An increase of $107,600 due to the fiscal 2013 cost-of-living adjustment (COLA) was more than offset by cancellations totaling $788,174, primarily related to lower than expected expenditures for salaries and wages and consultants.

The federal fund expenditures of PSC were $10,157 less than the legislative appropriation. Increases totaling $149,175 occurred by budget amendment. The majority of the increase ($139,617) resulted from a higher than anticipated reimbursement from the federal Office of Pipeline Safety to support salaries and wages ($113,483), rent ($15,942), and maintenance and gasoline expenditures ($10,192). The remainder of the increase was the result of federal Office of Pipeline Safety Funds available from a prior year ($7,840) and the federal share of the COLA ($1,718). These increases were more than offset by federal fund cancellations totaling $159,332, related to a higher than expected vacancy rate for contractual positions, lower than expected travel expenditures, and postage incorrectly budgeted with funds from the ARRA.

Fiscal 2014

PSC's fiscal 2014 appropriation has increased by $570,873 in total funds ($259,889 in special funds and $310,984 in federal funds). A portion of this increase is related to employee compensation change, such as the COLA provided to employees in January 2014 ($162,608 in special funds, $4,099 in federal funds), increments available for employees beginning in April 2014 ($45,678 in special funds), and adjustments resulting from the annual salary review ($11,403 in special funds). Other increases are:

- $231,702 in federal funds available from the ARRA due to a one-year extension granted by the Department of Energy to allow PSC time to expend all available funds, which will be used to support four contractual FTEs, travel, and supplies;

- $75,183 in federal funds is available from federal Pipeline Safety Funds which are expected to be used to purchase equipment; and

- $40,200 in special funds is available from the For-Hire Driving Enforcement Fund and will be used to purchase three vehicles to replace existing vehicles which have more than 100,000 in mileage.

Appendix 2

Audit Findings

Audit Period for Last Audit:	October 27, 2009 – December 16, 2012
Issue Date:	July 2013
Number of Findings:	1
Number of Repeat Findings:	1
% of Repeat Findings:	100%
Rating: (if applicable)	N/A

Finding 1: **Adequate documentation was not obtained to support certain payments to a contractor.**

*Bold denotes item repeated in full or part from preceding audit report.

Object/Fund Difference Report
Public Service Commission

Object/Fund	FY 13 Actual	FY 14 Working Appropriation	FY 15 Allowance	FY 14 - FY 15 Amount Change	Percent Change
Positions					
01 Regular	139.00	139.00	139.00	0.00	0%
02 Contractual	8.98	11.60	11.60	0.00	0%
Total Positions	**147.98**	**150.60**	**150.60**	**0.00**	**0%**
Objects					
01 Salaries and Wages	$ 12,911,944	$ 13,263,747	$ 14,166,559	$ 902,812	6.8%
02 Technical and Spec. Fees	390,614	712,227	621,735	-90,492	-12.7%
03 Communication	131,841	115,163	128,298	13,135	11.4%
04 Travel	66,348	136,174	99,935	-36,239	-26.6%
07 Motor Vehicles	135,477	183,495	148,187	-35,308	-19.2%
08 Contractual Services	576,878	3,552,551	2,587,724	-964,827	-27.2%
09 Supplies and Materials	81,243	77,198	81,432	4,234	5.5%
10 Equipment – Replacement	87,239	31,675	31,330	-345	-1.1%
11 Equipment – Additional	97,435	79,184	4,000	-75,184	-94.9%
12 Grants, Subsidies, and Contributions	376,082	25,216,167	26,729,190	1,513,023	6.0%
13 Fixed Charges	947,745	977,951	1,023,452	45,501	4.7%
Total Objects	**$ 15,802,846**	**$ 44,345,532**	**$ 45,621,842**	**$ 1,276,310**	**2.9%**
Funds					
03 Special Fund	$ 15,234,035	$ 43,609,889	$ 45,225,697	$ 1,615,808	3.7%
05 Federal Fund	568,811	735,643	396,145	-339,498	-46.1%
Total Funds	**$ 15,802,846**	**$ 44,345,532**	**$ 45,621,842**	**$ 1,276,310**	**2.9%**

Note: The fiscal 2014 appropriation does not include deficiencies. The fiscal 2015 allowance does not include contingent reductions.

Appendix 3

Fiscal Summary
Public Service Commission

Program/Unit	FY 13 Actual	FY 14 Wrk Approp	FY 15 Allowance	Change	FY 14 - FY 15 % Change
01 General Administration and Hearings	$ 8,699,604	$ 36,757,859	$ 37,750,389	$ 992,530	2.7%
02 Telecommunications, Gas, and Water Division	475,646	614,850	460,883	-153,967	-25.0%
03 Engineering Investigations	1,456,645	1,532,339	1,796,614	264,275	17.2%
04 Accounting Investigations	534,909	604,380	655,450	51,070	8.4%
05 Common Carrier Investigations	1,431,194	1,463,929	1,498,386	34,457	2.4%
06 Washington Metropolitan Area Transit Commission	294,654	373,076	375,227	2,151	0.6%
07 Electricity Division	444,631	449,672	466,490	16,818	3.7%
08 Hearing Examiner Division	748,908	723,675	775,018	51,343	7.1%
09 Staff Attorney	857,707	891,934	966,178	74,244	8.3%
10 Energy Analysis and Planning Division	858,948	933,818	877,207	-56,611	-6.1%
Total Expenditures	**$ 15,802,846**	**$ 44,345,532**	**$ 45,621,842**	**$ 1,276,310**	**2.9%**
Special Fund	$ 15,234,035	$ 43,609,889	$ 45,225,697	$ 1,615,808	3.7%
Federal Fund	568,811	735,643	396,145	-339,498	-46.1%
Total Appropriations	**$ 15,802,846**	**$ 44,345,532**	**$ 45,621,842**	**$ 1,276,310**	**2.9%**

Note: The fiscal 2014 appropriation does not include deficiencies. The fiscal 2015 allowance does not include contingent reductions.