

HOUSE BILL 904

M5, C5

3lr1207
CF SB 689

By: **Delegates Qi, Barve, Embry, Foley, Fraser–Hidalgo, Stewart, Vogel, Watson, and Wu**

Introduced and read first time: February 9, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Energy Efficiency and Greenhouse Gas Emissions Reductions**
3 **– Alterations and Requirements**
4 **(Energy Savings Act)**

5 FOR the purpose of altering the goals and requirements of certain energy efficiency
6 programs to include certain greenhouse gas emissions reductions from electric
7 companies and gas companies beginning on a certain date; requiring the EmPOWER
8 Maryland Program to provide consumer rebates, and promote the use of certain
9 federal rebates, for certain technologies; requiring the Department of Housing and
10 Community Development and electric utilities to promote fuel switching from gas to
11 electricity; eliminating EmPOWER Maryland Program incentives for certain
12 fossil–fuel–powered products beginning on or before a certain date; requiring home
13 energy audits and home energy checkups to include a certain evaluation beginning
14 on or before a certain date; requiring the Department to establish a program for
15 issuing certain rebates; requiring the Department to contract with navigators to
16 facilitate whole–home retrofits; requiring a certain percentage of EmPOWER
17 Maryland Program energy savings to come from behind–the–meter programs; and
18 generally relating to energy efficiency and greenhouse gas emissions reductions in
19 the State.

20 BY repealing and reenacting, with amendments,
21 Article – Public Utilities
22 Section 7–211(d), (g), (h), (i), and (k)
23 Annotated Code of Maryland
24 (2020 Replacement Volume and 2022 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Public Utilities
27 Section 7–211(e) and (f)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2020 Replacement Volume and 2022 Supplement)

BY adding to

Article – Public Utilities

Section 7–211.1

Annotated Code of Maryland

(2020 Replacement Volume and 2022 Supplement)

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

Article – Public Utilities

7–211.

(d) Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote:

(1) the efficient use and conservation of energy by consumers, gas companies, and electric companies; AND

(2) **THE REDUCTION OF GREENHOUSE GAS EMISSIONS TO SUPPORT THE REQUIREMENTS OF § 2–1204.1 OF THE ENVIRONMENT ARTICLE.**

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

(f) The Commission shall:

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

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

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

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

3 (i) to the extent that the Commission determines that cost-effective
4 energy efficiency and conservation programs and services are available, for each affected
5 class, require each electric company to procure or provide for its electricity customers
6 cost-effective energy efficiency and conservation programs and services with projected and
7 verifiable electricity savings that are designed to achieve a targeted reduction of at least
8 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the
9 electric company's service territory during 2007; and

10 (ii) require each electric company to implement a cost-effective
11 demand response program in the electric company's service territory that is designed to
12 achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of 2013, and
13 15% by the end of 2015, in per capita peak demand of electricity consumed in the electric
14 company's service territory during 2007.

15 (2) (i) Except as provided in subsection (e) of this section, for the
16 duration of the 2021–2023 [and 2024–2026] program [cycles,] **CYCLE**, by regulation or
17 order, the Commission shall, to the extent that the Commission determines that
18 cost-effective energy efficiency and conservation programs and services are available, for
19 each affected class, require each electric company to procure or provide for its electricity
20 customers cost-effective energy efficiency and conservation programs and services with
21 projected and verifiable electricity savings that are designed on a trajectory to achieve a
22 targeted annual incremental gross energy savings of at least [the following annual
23 percentages,] **2.0% PER YEAR THROUGH 2023**, calculated as a percentage of the electric
24 company's 2016 weather-normalized gross retail sales and electricity losses[:

- 25 1. 2.0% per year in 2022 through 2024;
- 26 2. 2.25% per year in 2025 and 2026; and
- 27 3. 2.5% per year in 2027 and thereafter].

28 (ii) [The savings trajectory shall use the approved 2016 plans
29 submitted under subsection (h)(2) of this section as a baseline for an incremental increase
30 of a rate of .20% per year until the minimum savings rate specified in subparagraph (i) of
31 this paragraph is achieved.

32 (iii) The gross retail sales against which the savings are measured
33 shall:

34 1. reflect sales associated with customer classes served by
35 utility-administered programs only; and

1 2. be updated by the Commission for each plan submitted
2 under subsection (h)(2) of this section.

3 [(iv)] (III) The targeted annual incremental gross energy savings
4 shall be achieved based on the 3-year average of an electric company's plan submitted
5 under subsection (h)(2) of this section.

6 [(v) For 2025 and thereafter, the core objective of the targeted
7 reductions under this section shall include development and implementation of a portfolio
8 of mutually reinforcing goals, including greenhouse gas emissions reduction, energy
9 savings, net customer benefits, and reaching underserved customers.]

10 (3) (I) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
11 **BEGINNING JANUARY 1, 2024, BY REGULATION OR ORDER, THE COMMISSION SHALL**
12 **REQUIRE EACH ELECTRIC COMPANY AND GAS COMPANY TO REDUCE GREENHOUSE**
13 **GAS EMISSIONS FROM EACH RATEPAYER CLASS RESULTING FROM THE DIRECT**
14 **CONSUMPTION OF ELECTRICITY AND NATURAL GAS BY AT LEAST 2% BELOW THE**
15 **2016 LEVEL EACH YEAR, WITH A CUMULATIVE IMPACT OF AT LEAST 14% BY 2031,**
16 **TO SUPPORT THE REQUIREMENTS OF § 2-1204.1 OF THE ENVIRONMENT ARTICLE.**

17 (II) 1. **EACH GAS COMPANY SHALL ACHIEVE THE**
18 **GREENHOUSE GAS EMISSIONS REDUCTION TARGETS REQUIRED UNDER**
19 **SUBPARAGRAPH (I) OF THIS PARAGRAPH THROUGH BUILDING SHELL**
20 **IMPROVEMENTS AND FUEL SWITCHING ONLY.**

21 2. **A GAS COMPANY MAY NOT USE THE REPLACEMENT OF**
22 **GAS APPLIANCES TO ACHIEVE THE GREENHOUSE GAS EMISSIONS REDUCTION**
23 **TARGETS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

24 (h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each
25 electric company shall consult with the Maryland Energy Administration regarding the
26 design and adequacy of the electric company's plan to achieve the [electricity savings and
27 demand reduction] targets specified in subsection (g) of this section.

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

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

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

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

5 (5) (i) The plan shall include a description of the proposed [energy
6 efficiency and conservation] programs and services [and the proposed demand response
7 program, anticipated costs], projected electricity savings, and any other information
8 requested by the Commission.

9 (ii) The plan shall address residential, commercial, and industrial
10 sectors as appropriate, including low-income communities and low- to moderate-income
11 communities.

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

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

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

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

28 (i) (1) In determining whether a program or service encourages and promotes
29 the efficient use and conservation of energy, **OR PROMOTES A REDUCTION IN**
30 **GREENHOUSE GAS EMISSIONS**, the Commission shall consider the:

31 (i) cost-effectiveness of the residential sector subportfolio and the
32 commercial and industrial sector subportfolio by utilizing:

33 1. the total resource cost test in order to compare the
34 electricity savings and demand reduction targets of the program or service with the results
35 of similar programs or services implemented in other jurisdictions, including:

36 A. participant nonenergy benefits; and

1 B. utility nonenergy benefits; and

2 2. the societal cost test in order to determine whether
3 cost-effectiveness requirements will be met prospectively, including:

4 A. participant nonenergy benefits;

5 B. utility nonenergy benefits; and

6 C. societal nonenergy benefits;

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

8 (iii) impact on jobs; and

9 (iv) impact on the environment.

10 (2) Nonenergy benefits considered under paragraph (1) of this subsection
11 shall be quantifiable and directly related to a program or service.

12 (3) The Commission shall monitor and analyze the impact of each program
13 and service to ensure that the outcome of each program and service provides the best
14 possible results.

15 (4) In monitoring and analyzing the impact of a program or service under
16 paragraph (3) of this subsection, if the Commission finds that the outcome of the program
17 or services may not be providing the best possible results, the Commission shall direct the
18 electric company to include in its annual update under subsection (h)(4) of this section
19 specific measures to address the findings.

20 (5) An electric company that enters into a contract or obligation with an
21 affiliate of the electric company to provide heating, ventilation, air conditioning, or
22 refrigeration services in connection with a program or service shall notify the Commission
23 within 30 days after entering into the contract or obligation that the electric company:

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

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

28 (k) On or before May 1 of each year, the Commission, in consultation with the
29 Maryland Energy Administration, shall report, subject to § 2-1257 of the State Government
30 Article, to the General Assembly on:

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

6 (2) a recommendation for the appropriate funding level to adequately fund
7 these programs and services; [and]

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

10 (4) **BEGINNING MAY 1, 2025, PROGRESS MADE TOWARDS REDUCING**
11 **GREENHOUSE GAS EMISSIONS IN ACCORDANCE WITH SUBSECTION (G)(3) OF THIS**
12 **SECTION.**

13 **7-211.1.**

14 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
15 **INDICATED.**

16 (2) (I) **“BEHIND-THE-METER PROGRAMS” MEANS PROGRAMS**
17 **THAT IMPACT THE CUSTOMER SIDE OF THE UTILITY METER.**

18 (II) **“BEHIND-THE-METER PROGRAMS” INCLUDE:**

- 19 1. **ENERGY EFFICIENCY PROGRAMS;**
- 20 2. **BENEFICIAL ELECTRIFICATION PROGRAMS;**
- 21 3. **PASSIVE DEMAND REDUCTION PROGRAMS; AND**
- 22 4. **ACTIVE DEMAND REDUCTION PROGRAMS.**

23 (3) **“DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND**
24 **COMMUNITY DEVELOPMENT.**

25 (4) **“LOW-INCOME RESIDENTIAL CUSTOMERS” MEANS CUSTOMERS**
26 **WHO QUALIFY FOR THE DEPARTMENT’S LOW-INCOME ASSISTANCE PROGRAMS,**
27 **INCLUDING:**

28 (I) **THE EMPOWER MARYLAND PROGRAM;**

1 **(II) THE MULTIFAMILY ENERGY EFFICIENCY AND HOUSING**
2 **AFFORDABILITY PROGRAM; AND**

3 **(III) THE WEATHERIZATION ASSISTANCE PROGRAM.**

4 **(5) “NAVIGATOR” MEANS A PERSON THAT SERVES AS A PROGRAM**
5 **DELIVERY HUB.**

6 **(B) (1) ON OR BEFORE JANUARY 1, 2024, THE EMPOWER MARYLAND**
7 **PROGRAM SHALL PROVIDE CONSUMER REBATES FOR, AND PROMOTE THE USE OF,**
8 **ANY AVAILABLE FEDERAL REBATES AVAILABLE FOR THE ADOPTION OF THE**
9 **FOLLOWING TECHNOLOGIES TO REPLACE FOSSIL-FUEL-POWERED EQUIPMENT AND**
10 **ELECTRIC RESISTANCE HEAT:**

11 **(I) HIGH-EFFICIENCY:**

- 12 1. **ELECTRIC HEATING;**
- 13 2. **COOKING APPLIANCES;**
- 14 3. **DRYERS; AND**
- 15 4. **HOT WATER HEATING; AND**

16 **(II) ELECTRIFIED COMMERCIAL COOKING EQUIPMENT.**

17 **(2) PORTABLE HEAT PUMPS AND ELECTRIC STOVES SHALL QUALIFY**
18 **FOR REBATES UNDER THIS SUBSECTION.**

19 **(C) (1) THE DEPARTMENT AND ELECTRIC COMPANIES SHALL PROMOTE**
20 **FUEL SWITCHING FROM GAS TO ELECTRICITY.**

21 **(2) ELECTRIC COMPANIES SHALL PROMOTE THE AVAILABILITY OF**
22 **FEDERAL REBATES THAT CAN BE USED TO SUPPORT FUEL SWITCHING THROUGH A**
23 **PUBLIC SERVICE ANNOUNCEMENTS PROGRAM.**

24 **(D) BEGINNING ON OR BEFORE JANUARY 1, 2024, EMPOWER MARYLAND**
25 **PROGRAM INCENTIVES FOR GAS, PROPANE, OIL, AND OTHER**
26 **GREENHOUSE-GAS-EMITTING APPLIANCES SHALL BE ELIMINATED.**

27 **(E) (1) BEGINNING ON OR BEFORE JANUARY 1, 2024, ALL EMPOWER**
28 **MARYLAND PROGRAM HOME ENERGY AUDITS AND HOME ENERGY CHECKUPS SHALL**

1 INCLUDE AN EVALUATION OF THE READINESS OF A HOME FOR ELECTRIFICATION,
2 INCLUDING:

3 (I) THE CAPABILITY OF BREAKER BOXES AND WIRING TO
4 ACCOMMODATE HOME ELECTRIFICATION; AND

5 (II) ANY OTHER MEASURES THAT ARE NECESSARY FOR HOME
6 ELECTRIFICATION.

7 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
8 DEPARTMENT SHALL ESTABLISH A PROGRAM FOR STATE-ISSUED REBATES OF UP
9 TO \$2,000 PER RESIDENCE FOR BREAKER PANEL AND WIRING REPAIRS,
10 REPLACEMENTS, AND UPGRADES TO SUPPORT HOME ELECTRIFICATION.

11 (II) THE DEPARTMENT SHALL DEDUCT THE VALUE OF ANY
12 AVAILABLE FEDERAL REBATES FROM THE REBATE AMOUNT OFFERED UNDER
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

14 (F) (1) ON OR BEFORE JANUARY 1, 2024, THE DEPARTMENT SHALL
15 CONTRACT WITH NAVIGATORS TO FACILITATE WHOLE-HOME RETROFITS,
16 INCLUDING WEATHERIZATION, ELECTRIFICATION, LEAD REMOVAL, MOLD
17 REMEDIATION, ASBESTOS REMEDIATION, AND BUILDING SHELL IMPROVEMENTS.

18 (2) A NAVIGATOR FACILITATING WHOLE-HOME RETROFITS MUST:

19 (I) PROVIDE A SINGLE POINT OF CONTACT FOR LOW-INCOME
20 RESIDENTIAL CUSTOMERS, CONTRACTORS, AND MULTIFAMILY PROPERTY OWNERS
21 WHO RENT TO LOW-INCOME RESIDENTIAL CUSTOMERS; AND

22 (II) OFFER SERVICES IN ANY LANGUAGE NEEDED BY
23 LOW-INCOME RESIDENTIAL CUSTOMERS IN THE AREA SERVED BY THE NAVIGATOR.

24 (G) BEGINNING JANUARY 1, 2025, AT LEAST 85% OF EMPOWER
25 MARYLAND PROGRAM ENERGY SAVINGS SHALL COME FROM BEHIND-THE-METER
26 PROGRAMS THAT ARE USED IN A CUSTOMER'S RESIDENCE OR BUSINESS.

27 (H) PROGRAMS OPERATED BY THE DEPARTMENT FOR LOW-INCOME
28 RESIDENTIAL CUSTOMERS ARE NOT REQUIRED TO MEET THE EVALUATION,
29 MEASUREMENT, AND VERIFICATION REQUIREMENT IN § 7-211(I) OF THIS SUBTITLE.

30 (I) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
31 SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2023.