Maryland PIRG

HB1035: Electric Companies, Gas Companies, and the Department of Housing and Community Development - Energy Efficiency and Conservation Plans
Economic Matters Committee
Thursday, March 2, 2023
Emily Scarr, Maryland PIRG
Unfavorable

Maryland PIRG is a state based, small donor funded public interest advocacy organization with grassroots members across the state. We work to find common ground around common sense solutions that will help ensure a healthier, safer, more secure future.

We respectfully request an unfavorable report on HB1035. We have several concerns with HB1035 related to the goals, consumer protections, and utility profits for the program. HB904 is a better approach to updating Maryland's energy efficiency programs for electric companies, gas companies, and the Department of Housing and Community Development. As the state makes the transition to align energy efficiency programs with our climate goals , it is urgently important that any adjustments to the EmPOWER program maintain its primary goal: to provide benefits to ratepayers. This bill does not.

While we understand the bill was intended to represent items of consensus from the Future Programming Work Group (FPWG), we are concerned that this "lowest common denominator" approach is not the best way to craft public policy, and are further concerned by provisions in the bill that were not consensus items, as well as aspects of the bill that could be harmful to consumers.

HB1035 puts an end to the legislative goals for energy efficiency that have existed since the program began in 2008. For 15 years, the state's successful energy efficiency programs started by the EmPOWER Maryland Energy Efficiency Act of 2008 were guided by goals set by the General Assembly. The bill turns the goal setting over to the Public Service Commission, but fails to provide detail on the specifics of the goals and how they will be achieved. We worry that without this detail, or sufficient guardrails, we lack assurances that the programs will be of the most benefit to Maryland ratepayers.

For example, while the legislation enables incentives for electrification to help meet greenhouse gas reduction goals, it also leaves the door open for continued incentives for fossil fuel heating and appliances. While some Maryland families will keep using fossil fuel powered heating and appliances for the near term, using ratepayer money to ***subsidize and incentivize*** their use is in direct opposition to the state's goals for building energy performance.

The bill also shifts the way utilities can profit off their energy efficiency program, which was not an item of consensus in the FPWG. HB1035 ***requires***, rather than allows, "reasonable financial incentives" for the utilities, including "the authorized rate of return", whereas the current EmPOWER statute mandates "reasonable financial incentives" in "appropriate circumstances." This is a shift in how the utilities are able to profit on the program, and will negatively impact ratepayers with no clear benefit.

Electric and gas companies making a profit on a successful energy efficiency program is not a bad thing, but those profits should be tied to results. And the same goes for utilities failing, that should also impact their ability to profit off the program. Maryland PIRG Foundation's recent report "Energy Efficiency for Everyone" details this concern:

- Currently, Maryland utilities are profiting significantly more than utilities in other top states for efficiency. For example, Pepco earns a return equivalent to about 16% of its budget while BGE and Potomac Edison earn returns equivalent to over 20% of their annual budgets.
- For reference, efficiency administrators in Massachusetts, Vermont and Rhode Island, which all earn returns equivalent to 5% or less of their program budgets.
- The utilities also earn a much higher return on EmPOWER spending than on their normal expenses: for example, the PSC set a 9.5% return on BGE's costs of providing electricity service for the 2021-2023 cycle.
- **The current profit model is going to change as the PSC shifts the utilities towards a financing model, but *requiring* a profit, as this bill does, is not in the public interest. It would be wiser to establish a performance based system that enables profits for reaching goals, incentives for beating goals, and penalties for failing to meet goals.**

For these reasons, we respectfully request an unfavorable report.