

# HOUSE BILL 514

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CF SB 184

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Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 24, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

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

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Public Utilities**

4 7–211.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) the peak demand for that year.

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

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

16 (f) The Commission shall:

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

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

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

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

29 **[(1)] (I)** to the extent that the Commission determines that cost-effective  
30 energy efficiency and conservation programs and services are available, for each affected  
31 class, require each electric company to procure or provide for its electricity customers  
32 cost-effective energy efficiency and conservation programs and services with projected and  
33 verifiable electricity savings that are designed to achieve a targeted reduction of at least

1 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the  
 2 electric company's service territory during 2007; and

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

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

20 (II) THE SAVINGS TRAJECTORY SHALL USE THE APPROVED  
 21 2016 PLANS SUBMITTED UNDER SUBSECTION (H)(2) OF THIS SECTION AS A  
 22 BASELINE FOR AN INCREMENTAL INCREASE OF A RATE OF .20% PER YEAR UNTIL  
 23 THE MINIMUM 2.0% PER YEAR SAVINGS RATE IS ACHIEVED.

24 (III) THE GROSS RETAIL SALES AGAINST WHICH THE SAVINGS  
 25 ARE MEASURED SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (i) ~~(1) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE~~  
37 ~~MEANINGS INDICATED.~~

1                   ~~(II) “PARTICIPANT NONENERGY BENEFITS” INCLUDE REDUCED~~  
 2 ~~BUILDING OPERATING COSTS, INCREASED PROPERTY VALUES, AND IMPROVED~~  
 3 ~~COMFORT, IMPROVED HEALTH, AND IMPROVED SAFETY.~~

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

8                   ~~(IV) “UTILITY NONENERGY BENEFITS”, FOR PURPOSES OF~~  
 9 ~~SCREENING LOW-INCOME PROGRAMS, INCLUDE IMPROVED BILL PAYMENTS AND~~  
 10 ~~REDUCED CUSTOMER ARREARAGES.~~

11                   ~~[(1)] (2)~~ In determining whether a program or service encourages and  
 12 promotes the efficient use and conservation of energy, the Commission shall consider the:

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

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

20                   A. PARTICIPANT NONENERGY BENEFITS; AND

21                   B. UTILITY NONENERGY BENEFITS; AND

22                   2. THE SOCIETAL COST TEST IN ORDER TO DETERMINE  
 23 WHETHER COST-EFFECTIVENESS REQUIREMENTS ARE MET, INCLUDING:

24                   A. PARTICIPANT NONENERGY BENEFITS;

25                   B. UTILITY NONENERGY BENEFITS; AND

26                   C. SOCIETAL NONENERGY BENEFITS;

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

28                   (iii) impact on jobs; and

29                   (iv) impact on the environment.

1           ~~[(2)] (3)~~       The Commission shall monitor and analyze the impact of each  
2 program and service to ensure that the outcome of each program and service provides the  
3 best possible results.

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

9           ~~[(4)] (5)~~       An electric company that enters into a contract or obligation with  
10 an affiliate of the electric company to provide heating, ventilation, air conditioning, or  
11 refrigeration services in connection with a program or service shall notify the Commission  
12 within 30 days after entering into the contract or obligation that the electric company:

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

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

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

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

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

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

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

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

34           (l)       Notwithstanding any other law, the Commission may not require or allow an  
35 electric company to require an electric customer to authorize the electric company to control

1 the amount of the electric customer's electricity usage, including through control of the  
2 electric customer's thermostat.

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

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

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

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

12 (i) increase the efficiency and reliability of the electric distribution  
13 system; and

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

15 (4) Incentives may include:

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

17 (ii) credits on distribution charges;

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

19 (iv) demand response programs; or

20 (v) other incentives approved by the Commission.

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That, beginning on or before  
25 September 1, 2017, and every 3 years thereafter, each electric company shall, after  
26 consulting with the Maryland Energy Administration, submit its plan for achieving annual  
27 incremental gross energy savings to the Commission as required under § 7-211(h) of the  
28 Public Utilities Article.

29 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2022, the  
30 Public Service Commission shall determine the advisability of maintaining the  
31 methodology and magnitude of the savings trajectory established in § 7-211(g)(2) of the  
32 Public Utilities Article, as enacted by this Act, as the basis for designing cost-effective



1 energy efficiency and conservation programs and services in subsequent program cycles  
2 that the Commission shall authorize beginning with the 2024–2026 program cycle.

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.