

ORDER NO. 91391

In the Matter of Transforming Maryland’s
Electric Distribution Systems to Ensure that
Electric Service is Customer-Centered,
Affordable, Reliable and Environmentally
Sustainable in Maryland

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

Administrative Docket
PC44

Issue Date: October 25, 2024

**ORDER ON DRIVE ACT ON-SITE GENERATING SYSTEM INCENTIVES AND
DISTRIBUTED ENERGY RESOURCE AGGREGATOR LICENSING**

During its 2024 session, the Maryland General Assembly enacted Senate Bill 959, the Distributed Renewable Integration and Vehicle Electrification (“DRIVE”) Act, codified in *Annotated Code of Maryland.*, Public Utilities Article (“PUA”), Title 7, Subtitle 10. The DRIVE Act requires investor-owned electric companies to file with the Commission on or before July 1, 2025 one or more time-of-use tariffs designed to implement pilots or temporary tariffs in 2025. The Drive Act further authorizes the Public Service Commission to approve or require an investor-owned electric company to offer upfront incentives or rebates to customers enrolled in one of these pilots or tariffs to acquire and install renewable on-site generating systems,¹ including enhanced incentives or rebates for low- or moderate-income customers.

¹ The DRIVE Act defines a renewable on-site generating system as an energy system located on a customer's premises that generates or stores electricity from a non-greenhouse-gas-emitting renewable source that is capable of providing electricity for customer use and the electric distribution system, is paired with an energy storage device configured to charge from the renewable source and from the electric distribution system unless, for the purpose of eligibility for net energy metering, the energy storage device is required to be charged only from the renewable source. A renewable on-site generating system may include bidirectional electric vehicle service equipment.

The Commission issued Order No. 91218 on DRIVE Act Pilot Programs Implementation on July 11, 2024.² In this Order, the Commission requested the following:

(1) That the Maryland Energy Administration (“MEA”) and other stakeholders provide comments on or before September 1, 2024, on the advisability of requiring an electric utility incentive or rebate for renewable on-site generating systems to supplement other available state and federal incentives. These incentives and rebates should be established to coordinate with the effective date for a pilot program or temporary tariff for electric distribution system support services pursuant to PUA § 7–1006.

(2) That stakeholders provide comments on or before September 1, 2024 regarding the licensing of distributed energy resource aggregators (“DERAs”). The Commission specifically requested comments on the existing Code of Maryland Regulations (“COMAR”) 20.51.02.01 licensing requirements, and COMAR 20.51.02.02 application requirements, or modifications thereof, that are applicable to distributed energy resource aggregators along with any additional minimum requirements for these aggregators to maintain their licenses in good standing.

In response to this request for comments, filings were received from several parties.³

Regarding the advisability of requiring an electric utility incentive or rebate for renewable on-site generating systems (such as combined solar + storage systems) to supplement other available State and federal incentives, several stakeholders expressed

² Maillog No. 310790.

³ Fermata Energy (Maillog No. 312199), Maryland Energy Administration (Maillog No. 312068), Solar United Neighbors (Maillog No. 312082), Office of People's Counsel (Maillog No. 312085), Enerwise Global Technologies, LLC D/B/A CPOWER (Maillog No. 311999), Baltimore Gas and Electric Company and Potomac Electric Power Company (Maillog No. 312017), Advanced Energy United (Maillog No. 312028), Sunrun Inc. (Maillog No. 312037), Potomac Edison Company (Maillog No. 312041), Maryland Rooftop Solar Coalition (Maillog No. 312042) and Mobility House (Maillog No. 312033).

support for incentives. No stakeholder explicitly supported the Commission *requiring* incentive programs.

The Maryland Energy Administration discussed a number of their current and upcoming solar and storage programs but does not currently have a combined solar+storage program. According to MEA, customers may apply for existing solar programs and storage programs and receive both concurrently. MEA noted that the agency is also contemplating a solar+storage incentive for its upcoming 2026 budget.

In its comment, the Office of People's Counsel (“OPC”) generally opposed any utility incentive programs but supported the MEA incentives. OPC further recommended that any utility incentives that the Commission *does* authorize be limited to low-to-moderate income (“LMI”) households.

No other developers provided comments on incentives, potentially calling into question how seriously they are needed. However, some stakeholders indicated that LMI uptake would be low without incentives.

Commission Decision

1. Incentive Programs for Renewable On-Site Generating Systems

The Commission authorizes utilities or other entities to propose incentive programs for renewable on-site generating systems in the future, but the Commission does not mandate an incentive program at this time. Any utility that proposes a renewable on-site generating system incentive program should include a component for LMI customers in its proposal and should also include components that first leverage existing MEA and/or federal funds. Any ratepayer-funded program should include a cost-benefit analysis using frameworks

established in Case No. 9674⁴ and include a rate design that avoids both imposing program costs on LMI customers and using regulatory assets. The Commission also encourages MEA to advise the Commission on future decisions to develop a solar+storage incentive for its upcoming 2026 budget.

The Commission's authority to regulate DERAs is clear. As OPC stated in its comment, under the DRIVE Act, PUA § 7-1001(e)(1)(ii) specifies that “electric distribution support services” include aggregators that perform services at the direction of an electricity company. A DERA is one such aggregator, and the Commission regulates electric companies. The Commission aims to regulate DERAs and protect customers without an onerous impact on the market.

In addition to OPC, other parties favor DERA regulation. Enerwise Global Technologies, LLC, d/b/a CPOWER (“CPOWER”) articulated that [demand response] services provided by Curtailment Service Providers (“CSPs”) are included in the category of Commission regulations, including licensing and application requirements for CSPs.⁵ In Case No. 9241, Order No. 84275 issued August 22, 2011, the Commission found that “the services CSPs provide in Maryland fall within the definition of electricity supply services contained in PUA § 1-101(j).” The Commission agrees that it has the authority to regulate DERAs that provide electricity supply services pursuant to PUA § 1-101(j).

Regarding DERA licensing, most of the commenting parties generally agreed that there must be a process for responsible DERA participation requirements for the DRIVE Act pilot programs, although the range of options vary from licensing and application requirements per COMAR 20.51.02—including PJM requirements for Virtual Power Plants

⁴ See Case No 9674, “Unified Benefit Cost Analysis (“BCA”) Framework for Distributed Energy Resources.”

⁵ See COMAR Title 20, Subtitle 51.

(“VPPs”)⁶ participating in wholesale markets—to a simple registration process with the electric distribution company. Several stakeholders argued that DERAs are still in nascent stages and expressed concerns about burdensome licensing requirements potentially slowing VPP adoption, which will likely evolve over time. In addition, in its comment, OPC advised that “that DOE’s DERA Code of Conduct⁷ be a central part of any DER model” in order to “facilitate trust between participating consumer-owners of DERs and DERAs.”

2. *Virtual Power Plants Participating in Wholesale Markets*

The Commission agrees that Maryland VPPs participating in wholesale markets pursuant to Federal Energy Regulatory Commission (“FERC”) Order No. 2222⁸ and retail tariffs, to help control constraints on the grid pursuant to the DRIVE Act and an integrated distribution system planning process,⁹ are an important part of Maryland’s energy future. Therefore, the Commission does not want to impose burdensome requirements. However, stakeholder concerns must also be balanced with protections for consumer-owners of DERs participating in VPPs. In Case No. 9241, the Commission found that “the services CSPs provide in Maryland fall within the definition of electricity supply services contained in PUA § 1-101(j).”¹⁰ In that case, the Commission directed Staff to propose amendments to the electric supplier license application form¹¹ and adapt it for CSPs with the result being a

⁶ A VPP is a collection of distributed energy resources, potentially including energy storage devices, that can provide grid services when aggregated together and coordinated with grid operations. A DERA may operate a single or multiple VPPs.

⁷ See U.S. Department of Energy (“DOE”) DER Aggregator Code of Conduct, November 2023.

⁸ FERC Docket No. RM18-9; Order No. 2222—*Participation of Distributed Energy Resource Aggregations in Markets Organized by Regional Transmission Organizations and Independent System Operators* (Sep. 17, 2020)—with updates in 2021. The main goal of FERC Order No. 2222 is to better enable DERs to participate in the electricity markets run by regional grid operators, including through aggregations that participate in the market, with compensation that is then shared back to the individual DERs.

⁹ See Case No. 9665, *Distribution System Planning for Maryland Electric Utilities*.

¹⁰ See Order No. 84275 dated August 22, 2011.

¹¹ See <https://www.psc.state.md.us/wp-content/uploads/sites/2/Curtailment-Service-Provider-Application.pdf>.

streamlined application. Since CSPs can also be DERAs, the Commission concludes that it is logical for Staff to similarly propose amendments to the CSP license application form and adapt it for DERAs. Furthermore, Staff may propose amendments to implement parts of DOE’s DERA Code of Conduct, where it makes sense while being mindful not to add burdensome requirements. The Commission intends to request stakeholder comments on Staff’s proposal at a later date.

3. *Regulatory Review Docket Established*

OPC also recommends that the Commission “establish, and regularly review, a docket for stakeholders to file comments [...] during the DRIVE Act implementation process.” The Commission agrees with OPC that the DRIVE Act will require numerous filings in the next several years and a separate docket should be created for DRIVE Act filings. Therefore, the Commission also establishes Case No. 9761 to serve as a repository for all filings related to the DRIVE Act implementation, including filings associated with other PC44 workgroups that are related to the DRIVE Act.

IT IS, THEREFORE, this 25th day of October, in the year Two Thousand Twenty-Four by the Public Service Commission of Maryland, **ORDERED** that on or before December 31, 2024, Staff shall propose amendments to the Curtailment Service Providers license application form and adapt it for distributed energy resource aggregators.

/s/ Frederick H. Hoover, Jr. _____

/s/ Michael T. Richard _____

/s/ Kumar P. Barve _____

/s/ Bonnie A. Suchman _____

Commissioners