



On May 23 – 24, 2017, the Public Service Commission of Maryland (“Commission”) held a legislative-style hearing in the above-captioned cases to review the semi-annual EmPOWER Maryland reports filed by: The Potomac Edison Company (“PE”);<sup>1</sup> Baltimore Gas and Electric Company (“BGE”);<sup>2</sup> Potomac Electric Power Company (“Pepco”);<sup>3</sup> Delmarva Power & Light Company (“Delmarva”);<sup>4</sup> Southern Maryland Electric Cooperative, Inc. (“SMECO”);<sup>5</sup> and Washington Gas Light Company (“WGL”)<sup>6</sup> (collectively, the “Utilities”); as well as the Maryland Department of Housing and Community Development (“DHCD” or the “Department”),<sup>7</sup> for the third and fourth quarters of 2016. The Commission also reviewed the comments as filed by: the Maryland Chapter of Efficiency First (“Efficiency First”);<sup>8</sup> Montgomery County, Maryland;<sup>9</sup> the Maryland Energy Efficiency Advocates (“MD EE Advocates”);<sup>10</sup> the Office of People’s Counsel (“OPC”);<sup>11</sup> and the Commission’s Technical Staff (“Staff”).<sup>12</sup>

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<sup>1</sup> ML#212157: *Potomac Edison’s 2016 Semi-Annual EmPOWER Maryland Report for the period of July 1 – December 31* (“PE Report”) (Jan. 31, 2017).

<sup>2</sup> ML#212186: *BGE’s Semi-Annual Report for Third and Fourth Quarters – July 1 through December 31, 2016 in Case No. 9154* (“BGE Report”) (Jan. 31, 2017); ML#214078: *Errata to Baltimore Gas and Electric Company’s Q3/Q4 2016 Semi-Annual Report* (“BGE Errata”) (March 17, 2017).

<sup>3</sup> ML#212195: *Case No. 9155 - Pepco’s EmPOWER Maryland Report* (“Pepco Report”) (Jan. 31, 2017).

<sup>4</sup> ML#212196: *Case No. 9156 – Delmarva Power & Light’s EmPOWER Maryland Report* (“Delmarva Report”) (Jan 31, 2017).

<sup>5</sup> ML#212199: *Case No. 9157 – Southern Maryland Electric Cooperative, Inc.’s Q3/Q4 2016 Semi-Annual EmPOWER Maryland Report* (“SMECO Report”) (Jan. 31, 2017).

<sup>6</sup> ML#212858: *Washington Gas Light Company – Semi-Annual EmPOWER Maryland Report for the period of July 1 – December 31, 2016* (“WGL Report”) (Jan. 31, 2017).

<sup>7</sup> ML#212201: *Maryland Department of Housing & Community Development’s 2016 Q3/Q4 Semi-Annual EmPOWER Maryland Report* (“DHCD Report”) (Jan. 31, 2017); ML#214001: *DHCD Plan budget correction for the 2015-2017 EmPOWER Maryland Limited Income Energy Efficiency Program Errata* (“DHCD Errata”) (March 8, 2017).

<sup>8</sup> ML#214961: *Comments on 2<sup>nd</sup> Half 2016* (“Efficiency First Comments”) (May 2, 2017).

<sup>9</sup> ML#214987: *Comments of Montgomery County, Maryland* (“Montgomery County Comments”) (May 3, 2017).

<sup>10</sup> ML#214990: *Comments on the EmPOWER Maryland Spring 2017 Semi-Annual Reports* (“MD EE Advocates Comments”) (May 3, 2017).

<sup>11</sup> ML#214994: *Comments – Case Nos. 9153-9157 & 9362* (“OPC Comments”) (May 3, 2017).

<sup>12</sup> ML#214992: *2016 Semi-Annual EmPOWER Maryland Programmatic Report for the Third and Fourth Quarters* (“Staff Comments”) (May 3, 2017).

The parties' reports and comments analyzed the performance of the Utilities' portfolios during the previous two quarters and offered recommendations for programmatic improvements, as well as commentary regarding outstanding directives from prior Commission orders. With the exception of one budget correction filed by DHCD, the parties' filings did not discuss requests for program modifications or budget adjustments given that the 2015 – 2017 EmPOWER Maryland program cycle was more than two-thirds complete by the date of the spring semi-annual hearing.

In this Order, we accept and note the semi-annual reports filed by the Utilities and DHCD pertaining to the third and fourth quarters of 2016. Further, we address the parties' filings and direct certain next steps as detailed below. We also direct the Utilities and DHCD to effectively and aggressively execute their EmPOWER portfolios for the remainder of the 2015 – 2017 program cycle, and we direct the Utilities and DHCD to make any related compliance filings necessitated by this Order, including updated report tables, tariff pages, and surcharge provisions, as applicable.

## **I. Residential Electric Energy Efficiency and Conservation Programs**

### ***Residential Behavior-Based Programs***

Pursuant to Order No. 87575, the Behavior-Based Programs Work Group convened during the first quarter of 2017 to assess several recommendations offered by OPC during the course of prior semi-annual hearings, including the possibility of additional data collection and the appropriate reporting framework for participation lift

information.<sup>13</sup> Staff, on behalf of the Work Group, filed a report summarizing their discussions on April 10, 2017.<sup>14</sup>

While the Commission appreciates the efforts of the Work Group to address the data collection questions articulated in past orders regarding behavior-based programs, we observe that questions still remain regarding this type of program offering, as evidenced by the discussions at our May 23 – 24, 2017 semi-annual hearings and at our May 25, 2017 Technical Conference on these matters.<sup>15</sup> Indeed, given that behavior-based programs have grown to become one of the largest contributors of annual energy savings to the Utilities’ Residential sub-portfolios,<sup>16</sup> these questions continue to be warranted and timely as we prepare for the launch of the next program cycle. To this end, although we accept the Work Group’s April 10, 2017 filing as in compliance with our prior directive, we direct the Behavior-Based Programs Work Group to continue meeting on at least a quarterly basis to facilitate ongoing consideration of issues raised at our semi-annual hearings. Specifically, in the near-term, the Work Group is charged with considering at a minimum the following items: whether there should be a percentage cap on behavioral-based programs as a component of a utility’s sub-portfolio in future program cycles; whether innovative “M&V 2.0” mechanisms can be piloted in conjunction with these types of offerings for program optimization purposes;<sup>17</sup> and whether the persistence of energy savings associated with behavior-based programs

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<sup>13</sup> See Order No. 87575 (May 26, 2016) at 8-9. “Participation lift” refers to the quantification of how behavior-based programs may influence ratepayers to participate in other EmPOWER programs administered by the Utilities.

<sup>14</sup> ML#214584: *Summary Report on the Directives from Commission Order No. 87575* (“Staff Summary Report”) (April 10, 2017) at 5-7.

<sup>15</sup> See, e.g. May 25, 2017 Tr. at 217-222, 225, 229-230.

<sup>16</sup> Staff Summary Report at 7.

<sup>17</sup> See May 25, 2017 Tr. at 260.

justifies an alternative cost recovery model, including but not limited to possible modified amortization schedules, than is currently utilized. Staff, on behalf of the Behavior-Based Programs Work Group, is directed to file a report on the aforementioned items no later than April 10, 2018.

## **II. Commercial & Industrial Electric Energy Efficiency and Conservation Programs**

### *Treatment of Pre-approved C&I Projects*

During previous semi-annual hearings, we received feedback from contractors participating in various EmPOWER Commercial and Industrial (“C&I”) programs regarding challenges that arose with funding shortfalls for projects that were labeled as “pre-approved” by the utility. As a result, in Order No. 87575, issued on May 26, 2016, the Commission directed the Utilities, on behalf of the EmPOWER Reporting and Process Improvement (“EPRI”) Work Group, to file a report clearly articulating a standardized policy for treatment of pre-approved C&I projects moving forward.<sup>18</sup> In response, the Utilities filed a report on April 10, 2017, in which a summary table was presented to denote the pre-approval structure and budget policy implemented by each of the Utilities.<sup>19</sup> While the Utilities’ April 10, 2017 report did summarize their diverse current practices, as well as their prospective policies regarding the pre-approval of non-CHP C&I projects that will be completed in 2018, the report failed to present a standardized policy as directed by Order No. 87575.<sup>20</sup> Rather, the Utilities noted that

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<sup>18</sup> Order No. 87575 at 18-19.

<sup>19</sup> ML#214601: *Summary Report on the Treatment of Pre-approved C&I Projects from Commission Order No. 87575* (April 20, 2017).

<sup>20</sup> *Id.* at 2-3.

further work regarding standardization efforts would continue in advance of filing their 2018 – 2020 program cycle proposals.<sup>21</sup>

While we have acknowledged previously that certain aspects of program implementation may not need to be standardized due to differences in demographics across the service territories, the Utilities have offered no reasoning to support the conclusion that this pre-approval policy is a candidate for such treatment. We restate again our intent to encourage and engage participating contractors in all EmPOWER programs, which we find could be bolstered by transparent implementation policies that transcend service territories whenever possible,<sup>22</sup> and again find no compelling reason that policies relating to the handling of pre-approved non-CHP C&I projects should vary across the Utilities. Thus, we direct the Utilities to present at the October 2017 semi-annual hearings a standardized protocol that will be utilized across the service territories throughout the 2018 – 2020 program cycle for all pre-approved non-CHP C&I projects, or we will consider crafting one ourselves using the information filed on this matter to-date.

### **III. Limited-Income Energy Efficiency and Conservation Programs**

DHCD submitted one request for a budget correction pertaining to the Limited-Income Energy Efficiency Program (“LIEEP”) and the Multifamily Energy Efficiency and Housing Affordability (“MEEHA”) Program.<sup>23</sup> The budget correction submitted by DHCD reflects a change in the funding allocation across the electric Utilities, but does not impact the forecasted units and savings, or the overall 2015 – 2017 program cycle

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<sup>21</sup> *Id.* at 3.

<sup>22</sup> Order No. 87575 at 18.

<sup>23</sup> *See* DHCD Errata.

statewide budgets for the LIEEP and MEEHA Programs.<sup>24</sup> The proportion of funding directed to each service territory is supposed to be derived from the most recent applicable Electric Universal Service Program (“EUSP”) household percentages; although the 2015 – 2017 program cycle proposal was submitted to the Commission in reliance upon 2011 EUSP data. As described in the instant filing, the Department erred in not submitting timely corrected LIEEP and MEEHA budgets with the Commission sooner, given that the 2014 EUSP percentages were available shortly after the December 23, 2014 Commission Order approving DHCD’s 2015 – 2017 program cycle plan.<sup>25</sup>

Because the budget correction is in adherence to current Commission practice regarding the allocation of resources for LIEEP and MEEHA Programs across the service territories on the basis of recent EUSP household percentages, and because the corrected budgets align with the Utilities’ and the Department’s contracts (and thus do not modify the Utilities’ surcharge collections),<sup>26</sup> we accept for filing the revised executive summary tables appended to DHCD’s request.<sup>27</sup> We note, however, Staff’s ongoing concerns regarding the reliability of the reported data it receives from DHCD,<sup>28</sup> and remind the Department of its ongoing responsibility to provide clear and accurate data to the Commission and our Staff so that a transparent review of the spending of ratepayer dollars can occur on a timely basis.

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<sup>24</sup> *Id.* at 2. The budget correction also addressed the segregation of the MEEHA Program commercial administrative costs from the residential administrative costs.

<sup>25</sup> *Id.* at 2.

<sup>26</sup> *Id.* at 3.

<sup>27</sup> *Id.* at Attachment 1 – 22.

<sup>28</sup> Staff Comments at 46-47.

#### IV. Other EmPOWER Matters

##### Transparency of EmPOWER Billing, Benefits Reporting, and Marketing

In Order No. 87575, we directed Staff to convene the EmPOWER Marketing Work Group for purposes of assessing opportunities to enhance the transparency of EmPOWER billing, benefits reporting, and marketing activities, and also to file an assessment of opportunities for increased transparency with respect to these issues no later than September 15, 2016.<sup>29</sup> In its subsequent report, the EmPOWER Marketing Work Group suggested certain messaging for our consideration, which we ultimately declined to adopt. Instead, through Order No. 88007, we specified the language that the Utilities are required to include in customer bill messaging no later than the first billing cycle of the third quarter of 2017.<sup>30</sup> We also solicited the Work Group's feedback regarding comparable messaging for an additional six mediums identified in their prior report.<sup>31</sup>

In response to our request for comments, Staff, on behalf of the EmPOWER Marketing Work Group, filed a report on April 17, 2017 in which the Utilities offered "long" and "short" versions of marketing messages that they propose to incorporate into certain marketing materials on varying timelines as alternatives to the messaging outlined in Order No. 88007.<sup>32</sup> According to the report, the alternative messaging described by the Utilities is derived from a December 27, 2012 Commission Letter Order.<sup>33</sup>

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<sup>29</sup> Order No. 87575 (May 26, 2016) at 43-45.

<sup>30</sup> Order No. 88007 (Feb. 2, 2017) at 16-19.

<sup>31</sup> *Id.* at 18.

<sup>32</sup> ML#214688: *EmPOWER Maryland Marketing Work Group Discussion in Compliance with Order No. 88007* ("Marketing Work Group Report") (April 17, 2017).

<sup>33</sup> *Id.* at 5.

We find that the proposed “long” and “short” versions of the messaging suggested by the Utilities do not constitute “enhancements to [the] language” as requested in Order No. 88007, but rather offer an alternative to our deliberately worded messaging that is not justified by any compelling reasoning presented in the Work Group’s report. As articulated in prior orders, we find it imperative to convey to our ratepayers the connection between the program’s funding source, the program’s potential, and information on how to participate in the EmPOWER program offerings.<sup>34</sup> We affirm this intent and thus direct the Utilities to incorporate the following messaging into the six mediums identified in the September 15, 2016 report (*i.e.* rebates; emails; bill inserts; press releases; enhanced website messaging; and call center scripts) no later than the first billing cycle of the second quarter of 2018: “EmPOWER Maryland programs are funded by a charge on your electric bill. EmPOWER programs can help you reduce your electricity consumption and save you money. Go to website [xx] to learn more about EmPOWER and how you can participate.”

*EmPOWER Work Group Process and Policy*

At the May 2017 semi-annual hearings we received comments from several stakeholders regarding the current EmPOWER work group process, as well as feedback regarding prospective process improvements that the Commission could consider.<sup>35</sup> In our continuing effort to increase the transparency with which we review and implement the EmPOWER Maryland programs, we take this opportunity to memorialize the work group process and policy that Staff outlined in response to commissioner questions

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<sup>34</sup> Order No. 88007 at 17.

<sup>35</sup> *See, e.g.* May 24, 2017 Tr. at 206 (OPC-Knoll).

during our hearings.<sup>36</sup> Specifically, as noted by Staff during its presentation, work groups are convened regarding EmPOWER-related topics at either the direction of the Commission, or at the request of a stakeholder.<sup>37</sup> If the work group is convened pursuant to a Commission directive, the party responsible for filing the resulting report will be identified in the corresponding order; otherwise, any stakeholder is welcome to lead work group discussions in the absence of a specific directive. While the work groups are encouraged to pursue consensus regarding their stated objective, consensus is not required prior to bringing the matter to the Commission's attention. Rather, as articulated by Staff, non-consensus positions may be appended to the work group's report and further expounded upon at the applicable hearing.<sup>38</sup>

2016 Weather-Normalized Gross Retail Sales

In accordance with Order No. 87285,<sup>39</sup> the Utilities submitted to the Commission information pertaining to their respective 2016 weather-normalized gross retail sales baselines as part of their January 31, 2017 semi-annual reports.<sup>40</sup> For the 2018 – 2020 program cycle, the electric energy efficiency goals will be calculated using the 2016 data, reported by the Utilities as follows:

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<sup>36</sup> See May 24, 2017 Tr. at 310 – 313 (Staff-Hurley); ML#215362: *Staff Presentation* (May 25, 2017) at Slide 7.

<sup>37</sup> The stakeholder – or authorized representative of an intervening party in one of the EmPOWER dockets (Case Nos. 9153 – 9157, and 9362) – must notify the Director of the Technical Staff's Energy Analysis and Planning Division regarding the request to convene an EmPOWER work group.

<sup>38</sup> May 24, 2017 Tr. at 313 (Staff – Hurley).

<sup>39</sup> Order No. 87285 (Dec. 8, 2015) at 25, 31.

<sup>40</sup> The 2016 data was later updated and finalized by each utility in subsequent filings: BGE – ML#215842; Delmarva and Pepco – ML#214826; PE – ML#214860; and SMECO – ML#215434.

*2016 Weather-Normalized Gross Retail Sales Baseline*

<b>Electric Utility</b>	<b>Retail Electricity Sales (MWh)</b>
BGE	31,621,634
Delmarva	4,205,544
Pepco	14,546,641
PE	7,412,446
SMECO	3,388,854

Thus, using the 2016 weather-normalized gross retail sales baselines, the 2018 – 2020 program cycle annual targets ascribed to each of the Utilities are as follows, pursuant to the methodology articulated in Order No. 87082:<sup>41</sup>

*2018 – 2020 Program Cycle EmPOWER Maryland  
Annual Electric Energy Efficiency Targets*

	<b>2018</b>		<b>2019</b>		<b>2020</b>	
	<b>Incremental Energy Savings Target (MWh)</b>	<b>Energy Savings as a % of 2016 Baseline</b>	<b>Incremental Energy Savings Target (MWh)</b>	<b>Energy Savings as a % of 2016 Baseline</b>	<b>Incremental Energy Savings Target (MWh)</b>	<b>Energy Savings as a % of 2016 Baseline</b>
<b>BGE</b>	632,433	2.00%	632,433	2.00%	632,433	2.00%
<b>Delmarva</b>	78,488	1.87%	84,111	2.00%	84,111	2.00%
<b>Pepco</b>	278,854	1.92%	290,933	2.00%	290,933	2.00%
<b>PE</b>	101,637	1.37%	116,462	1.57%	131,287	1.77%
<b>SMECO</b>	67,777	2.00%	67,777	2.00%	67,777	2.00%

As noted in prior orders, while each utility’s progress will be measured against the annual percentage targets described herein, we note that the achievement of each utility’s 2018 – 2020 goal will be measured using an average of the utility’s three-year program cycle annual targets and realized savings.<sup>42</sup>

<sup>41</sup> The new goal structure was also codified in Public Utilities Article § 7-211, pursuant to Chapter 14, 2017 Laws of Maryland.

<sup>42</sup> Order No. 87285 at 27; Order No. 87082 (July 16, 2015) at A-1.

**IT IS THEREFORE**, this 26<sup>th</sup> day of September, in the year Two Thousand Seventeen, by the Public Service Commission of Maryland,

**ORDERED:**

(1) That Staff, on behalf of the EmPOWER Behavior-Based Programs Work Group, is directed to file by April 10, 2018, an assessment of the topics pertaining to the Residential Behavioral Programs, as described herein;

(2) That the Utilities are directed to present a standardized protocol across all service territories for the treatment of pre-approved, non-CHP C&I projects applicable during the 2018 – 2020 program cycle, in compliance with Order No. 87575, at the October 2017 semi-annual hearings; and

(3) That the Utilities are directed to include the following messaging in the six mediums identified herein no later than with the first billing cycle of the second quarter of 2018: “EmPOWER Maryland programs are funded by a charge on your electric bill. EmPOWER programs can help you reduce your electricity consumption and save you money. Go to website [xx] to learn more about EmPOWER and how you can participate.”

*W. Kevin Hughes*

*Michael T. Richard*

*Anthony J. O'Donnell*  
Commissioners<sup>43</sup>

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<sup>43</sup> Commissioners Odogwu Obi Linton and Mindy L. Herman did not participate in this decision.