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PUBLIC SERVICE COMMISSION

October 26, 2017

2016 Annual Reports – Maryland Suppliers * Administrative Docket
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PUBLIC DETERMINATION

To: The Public Service Companies that have fully executed the Supplier Diversity Memorandum of Understanding¹ and Interested Persons

Pursuant to the Code of Maryland Regulations (“COMAR”) Section 20.08.01.04, the Maryland Public Service Commission (“Commission”) is pleased to produce this Public Determination.² This eighth year of the modern version of the Commission’s Supplier Diversity program finds all interested parties celebrating the work and efforts of Commissioner Harold D. Williams. Commissioner Williams’ leadership and tireless commitment to the principle of expanding the opportunity for open, competitive markets has resulted in greater opportunities for women-, minority-, and service-disabled-veteran-owned businesses (“WMBE’s”). The Commission joins the chorus of interested parties that expressed a myriad of emotions for Commissioner Williams

¹ The companies that have a fully executed Supplier Diversity Memorandum of Understanding (“MOU”) are: Association of Maryland Pilots; AT&T Corp.; Baltimore Gas and Electric Company; Chesapeake Utilities Corporation – Maryland Division; Choptank Electric Cooperative, Inc.; Columbia Gas of Maryland, Inc.; Comcast Phone of Northern Maryland Inc. and Comcast Business Communications, LLC.; Delmarva Power & Light Company; Easton Utilities; First Transit’s Baltimore Washington International Thurgood Marshall Airport Shuttle Bus Contract; Pivotal Utility Holdings, Inc. d/b/a Elkton Gas; Potomac Electric Power Company; Southern Maryland Electric Cooperative, Inc.; The Potomac Edison Company d/b/a Allegheny Power; Veolia Transportation Services, Inc.; Verizon Maryland LLC.; and Washington Gas Light Company; (individually, “Company,” and collectively, “MOU Companies”).

² COMAR 20.08.01.04 defines “public determination” as “publicly available report prepared by the Commission on the status of the Supplier Diversity Program.

in retirement from this body, and looks forward to marveling at the next series of achievements yet to come. Additionally, the Commission wishes to express its gratitude to the Companies that have voluntarily committed to achieving the goals set forth in the MOU. The Commission also thanks the representatives of the business community, supplier diversity advocates, and interested stakeholders for their interest in and support of this important initiative. Finally, the Commission wishes to express special thanks to The Honorable Catherine E. Pugh, Mayor of Baltimore City, and Jimmy Rhee, Special Secretary of Small, Minority, & Women Business Affairs and Commissioner Emeritus Timothy A. Simon (CA) of TAS Strategies, LLC., for their time and comments at our June 13, 2016 administrative review hearing.

Commission Staff Technical Report

The Commission accepts the Commission Technical Staff's ("Staff") Summary of the 2016 Maryland Supplier Diversity Program Annual *Reporting* ("Report") filed on May 30, 2016³, and incorporates that Report into this Public Determination. The Staff's Report concluded, to the Commission's pleasure, that "the Program continues to progress towards the aspirational goal of encouraging the utility companies to award 25 percent of their total procurement Spend to minority-, women-, service-disabled-veteran-owned businesses as well as not-for-profit companies."⁴ Diverse spend overall increased from \$567.46 million in 2015 to \$698.76 million for 2016, an increase of \$131 million.⁵

³ Updated June 8, 2017.

⁴ Maryland Supplier Diversity Program 2016 Report at 1.

⁵ *Id* at 2

Overall, diverse spend for the 2015 year increased to 21.96 percent of total spend from 15.44 percent, the highest percentage of diverse spend in the modern MOU period⁶. The Commission is pleased to recognize the following companies that met the aspirational goal of 25% for Reporting year 2016, of total procurement spend with women-, minority-, and service-disabled-veteran-owned businesses (“WMBE’s”):

Association of MD Pilots

Baltimore Gas and Electric, Company, an Exelon Company

Potomac Edison, A First Energy Company

Washington Gas Light Company

The Commission applauds the success achieved by these companies, and encourages the remaining utilities to continue their commitment to join them.

The Commission appreciates each utility’s efforts to reach the aspirational goal and recognizes the many individual success stories, such as those presented at our Annual Conferences by diverse-owned firms and advocate organizations. Paula R. Glover, President & CEO, American Association of Blacks in Energy; Laurie Dowling, Executive Director, National Utilities Diversity Council; Sharon R. Pinder, President and CEO, Capital Region Minority Supplier Development Council (CRMSDC); Daryl Corley, Elite Service Disabled Veteran Owned Business Network mid-Atlantic Region and Wayne Frazier, President, Maryland Washington Minority Companies Association, all applauded the utility commitment to supplier diversity and, regaled all attendees with unique stories about Commissioner Harold D. Williams.

⁶ The “Modern MOU Period” is time period since the MOU was recommitted to by the companies, and expanded to include additional companies. The MOU’s were recommitted to in 2008, and the Commission began tracking data in 2009.

Revisions to the Memorandum of Understanding

In the first Public Determination, published on October 18, 2016, the Commission noted that despite the accumulation of over nine years lessons learned, there had never been an effort to formally revise the MOU to incorporate new changes. The Commission proposed several issues for consideration to the Maryland Utility Forum (“Forum”), in the hope that there would be some interest in updating the MOU for all companies at the same time. On April 27, 2017, the Forum responded with a series of proposed recommendations. The Commission thanks the Forum and its leadership, Emmett T. Vaughn, President (BGE); Joan M. Hairston, Vice President (EGL); and Valerie M. Shearer, Secretary (First Energy), for the additional time each company contributes to this vital, information sharing initiative. The Commission hereby adopts the recommendations of the Forum, and through this Public Determination, incorporates them into the MOU. The specific recommendations are noted below:

1) **Enhanced Goal Setting**

Each MOU Signatory shall set a short-term goal, defined as 12 months from the current Reporting Year, and a long term goal, defined as three years from the current Reporting Year. As part of the company’s filed Annual Plan, the company shall define its efforts to reach the short term and long-term goal. As part of the company’s Annual Report, the Company shall establish short and long-term goals for individual categories of diverse spend (women owned, minority owned, etc.) and, a total goal for diverse spend. A company may establish short and long-term goals for subsets of minority owned firms (African American, Hispanic, etc.).

2) **Continued Exclusion of Natural Gas Capacity Contract Diverse Spend**

The gas distribution utility companies shall continue to report on gas spend and non-gas spend separately, so that the Commission can monitor the progress made in gas spend.

3) **Annual Plan Filing Date**

The Commission agrees to amend Section 7 of the MOU to align the filing dates for the Annual Plan and the Annual Report to March 31st of the following year. The

Commission agrees that the practice of allowing companies that meet the 25% aspirational goal are not required to file an Annual Plan.

4) Expansion of Tier II Spend to include Indirect Spend

At this time, the Commission agrees to allow for gathering Tier II indirect spend, however the Commission prefers to keep this separate from the total diverse spend calculation at this time. The Commission would like to explore how including this new category would impact existing reporting, which may require that short and long-term goals get revised to reflect the new included spend. Accordingly, MOU signatories may submit 2017 Annual Report data with this category of spend. After an opportunity to review the impact on diverse spend, and review of the Commission Staff's Report for 2017, the Commission will revisit this recommendation for further decision.

5) Definitions

The Commission agrees that the MOU is intended to expand opportunities for all businesses to participate in supplier diversity initiatives. The current MOU definitions are in harmony with similar definitions in the State Finance Procurement Article, 14-301(j)(1). Section 14-301 does not currently include Lesbian, Gay, Bisexual, and Transgender (LGBT) or, Veteran-Owned Business (VOBE) firms. However, the Commission does see some benefit in these new categories, but believes further information is necessary to evaluate the impact inclusion of these new categories will have on short and long term goals and, the overall aspirational goal. Accordingly, the Commission wishes to revisit this issue at the 2018 PC 16 Annual Hearing where parties can provide comment on the new proposed definitions. The Companies are encouraged to maintain data representative of its' contracting with VOBE or LGBT firms and are encouraged to file the data in their 2017 Annual Report. This will provide the Staff the opportunity to review the impact of including these categories, so that the program can be adapted to continue on a successful path.

Notice to Companies that Failed to Submit an Annual Report for 2016

The following companies did not file an Annual Report for 2016:⁷

⁷ These companies did not file an Annual Report for 2015.

CenturyLink
First Transit BWI Airport
Veolia Transit.

Pursuant to COMAR 20.08.01.06, companies that do not file Annual Reports in two or more consecutive years may be removed from the Supplier Diversity Program. The Commission regrets that these companies have not honored their commitment to the voluntary program.

Conclusion

Despite the lack of filed Annual Reports for the companies noted above, the Commission remains pleased that the program is continuing to grow, having enjoyed its' most successful year since its inception. The Commission encourages the parties to continue working towards successful, continuous attainment of the aspirational goals.