ORDER NO. 90456

The 2021-2023 EmPOWER Maryland Program	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9648

Issue Date: December 29, 2022

ORDER ON COST RECOVERY AND UNAMORTIZED BALANCE RETIREMENT

I. INTRODUCTION

1. On August 16, 2022, the Commission determined that the unamortized balance representing unpaid EmPOWER Maryland program costs and interest must be paid in full by the conclusion of the EmPOWER Maryland program in 2029.[1] The Commission also determined that additional information was needed from the utilities in order to determine the most reasonable and appropriate method to pay off the accumulated balance.[2]

2. The utilities were directed to file their respective unamortized balance retirement plan proposals, in accordance with parameters established by the Commission, by October 28, 2022.[3] Parties filing comments on the utilities' proposals were directed to respond by November 18, 2022.[4]

[1] *Md. Ann. Code*, Pub. Util. Art., § 7-211(g)(2)(i) mentions program requirements for "2027 and thereafter." Given that EmPOWER Maryland operates in three-year program cycles, the 2027-2029 program cycle, with an end-date of December 31, 2029, is the latest program cycle currently required by statute. Order No. 90306 at 2 (August 16, 2022).

[2] Order No. 90306 at 8.

[3] *Id*. at 9.

[4] *Id*.

3. In this proceeding, the Commission considered, among other things, filings containing the proposed unamortized balance retirement plans from Southern Maryland Electric Cooperative, Inc. ("SMECO"),[5] The Potomac Edison Company ("Potomac Edison"),[6] Washington Gas Light Company ("WGL"),[7] and the Joint Exelon Utilities (Baltimore Gas and Electric Company ("BGE"), Potomac Electric Power Company ("Pepco"), and Delmarva Power & Light Company (Delmarva").[8] The Commission also considered comments filed by the Maryland Energy Administration ("MEA"),[9] the Maryland Office of People's Counsel ("OPC"),[10] and the Commission's Technical Staff ("Staff").[11]

II. BACKGROUND

4. The cost recovery mechanism for the EmPOWER Maryland program was established in 2007 when the Commission directed the utilities participating in EmPOWER to self-finance their respective programs and recover the costs through a monthly surcharge to ratepayers, with a five-year amortization schedule implemented to reduce the upfront financial impact to ratepayers.[12] Minor modifications have been made over time, including

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[5] Maillog No. 242837: Southern Maryland Electric Cooperative, Inc. Proposed EmPOWER Maryland Program Unamortized Balance Retirement Plan ("SMECO Plan") (October 28, 2022).

[6] Maillog No. 242847: Potomac Edison Proposed EmPOWER Maryland Program Unamortized Balance Retirement Plan ("Potomac Edison Plan") (October 28, 2022).

[7] Maillog No. 242854: Washington Gas Light Company's EmPOWER Maryland Unamortized Balance Retirement Scenarios ("WGL Plan") (October 28, 2022).

[8] Maillog No. 242856: Joint Exelon Utilities' Proposed EmPOWER Maryland Program Unamortized Balance Retirement Plan ("Exelon Plan") (October 28, 2022).

[9] Maillog No. 300230: MEA's Comments on Utilities' Proposed EmPOWER Maryland Program Unamortized Balance Retirement Plan ("MEA Comments") (November 18, 2022).

[10] Maillog No. 300238: OPC Comments on Utilities' Unamortized Balance Retirement Plans for EmPOWER ("OPC Comments") (November 18, 2022).

[11] Maillog No. 300239: Cost Recovery and Unamortized Balance Retirement Staff Comments ("Staff Comments") (November 18, 2022).

[12] Case No. 9111, *In the Matter of the Commission's Investigation of Advanced Metering Technical Standards, Demand Side Management Cost Effectiveness Tests, Demand Side Management Competitive*

expensing all administrative and behavioral programs in the same year the expenses were incurred;[13] however, the overall cost recovery structure has remained largely unchanged.

5. While this cost recovery method helped to minimize the impact of EmPOWER's upfront costs to ratepayers and allowed ratepayers to experience a relatively steady monthly surcharge, it has also resulted in the accumulation of uncollected program costs. This, when combined with program costs progressively increasing over time, has led to a current combined balance for the utilities of over $800 million in unamortized program costs and interest.

6. At various times over the course of the EmPOWER program, the Commission has considered how and when to appropriately address the unamortized balance.[14] Some of the factors that have contributed to the delay in addressing the increasing balance are the recent state of emergency and economic issues caused by COVID-19, and the inability of stakeholders to agree on how to retire the uncollected program costs.[15]

7. In Order No. 90306, the Commission found that the continued accumulation of the unamortized balance is not in the public interest and stated its intention to take steps to ensure that the unamortized balance is paid in full by the statutory conclusion of the EmPOWER program in 2029.[16] The Commission expressly stated, "Ratepayers should not pay for EmPOWER program costs when the program will no longer be available to them."[17]

Neutrality, and Recovery of Costs of Advanced Meters and Demand Side Management Programs, Order No. 81637, at 6 (September 8, 2007).

[13] Order No. 89679, paras. 29 and 35 (December 18, 2020).

[14] *See*, *e.g.*, Maillog No. 223596 (January 19, 2019, letter order), Order No. 89189 at18 (July 11, 2019), and Order No. 89679, para. 35 (December 18, 2020).

[15] Maillog No. 240233, at 1 (April 15, 2022); Maillog No. 240203, at 62 (April 15, 2022).

[16] Order No. 90306, para. 23.

[17] *Id*.

8. While there is no ideal time to address this outstanding balance, the Commission has explained that avoiding this issue "not only allows carrying charges to continue to compound indefinitely, but does nothing to slow the growth of the current unamortized balance as it approaches $1 billion."[18] Furthermore, it is undisputed that a full paydown of the balance by the end of 2029 would save ratepayers over $300 million dollars in interest charges (using present dollars) compared to the status quo.[19]

9. Also in Order No. 90306, the Commission noted that none of the payoff methods previously proposed by the utilities appropriately balanced the near-term bill impacts against the longer-term payoff impacts to ratepayers.[20] The Commission further noted that it is necessary to transition to full annual expensing of EmPOWER costs to avoid the unamortized balance from continuing to increase and to develop a plan to recover the accumulated unamortized balance over time.[21] The Commission therefore required additional data from the utilities in order to determine the most reasonable and appropriate structure by which to retire the unamortized balance.

10. The Commission directed the utilities to submit unamortized balance retirement plans to include at least three separate proposals, all of which were to result in a fully paid off unamortized balance[22] by the completion of the 2027-2029 program cycle (*i.e.*, December 31, 2029).[23] The three required proposals were to include one with payoff through the EmPOWER Maryland surcharge mechanism, and two with payoff through

[18] *Id*.
[19] Maillog No. 240203: Future Programming Work Group Report, at 68 (April 15, 2022).
[20] Order No. 90306, para. 24.
[21] *Id*. at para. 25.
[22] The unamortized balance as of December 31, 2023.
[23] Order No. 90306, para. 27.

base rates, one over a five-year period and the other over a 10-year period.[24] The Order allowed the utilities to include an additional proposal - also subject to the payoff date of December 31, 2029 - and to indicate their preferred payoff structure.[25]

III. UTILITY PLANS AND STAKEHOLDER COMMENTS

A. SMECO's Proposed Unamortized Balance Retirement Plan

11. SMECO estimates that, as of December 31, 2023, the unamortized balances for its EmPOWER Program will be $33,464,314 for the residential portfolio and $14,293,483 for the commercial and industrial ("C&I") portfolio. SMECO does not have an unamortized balance for its Demand Response Program because that program has been entirely expensed since its inception.[26]

12. SMECO's plan included the required and optional payoff scenarios detailed below.[27]

Scenario 1: full expensing of EmPOWER program costs beginning in 2024; five-year amortization utilized for pre-2024 costs; balance paid by 2028

> While Scenario 1 has the lowest total cumulative cost of any of the SMECO scenarios examined, it also has the largest single-year rate impact. A typical residential customer would experience a monthly surcharge increase from $12.72 in 2023 to $21.16 in 2024, while a typical C&I customer surcharge would increase from $39.09 to $68.52.

Scenario 2: three-year amortization in 2024, 2025, and 2026; complete expensing of program costs in 2027

> Scenario 2 presents delayed surcharge increases, but by 2027 has the highest monthly surcharge cost for a typical SMECO residential customer of $22.76. From 2024 to 2029, Scenario 2 is estimated to have an overall surcharge cost

[24] *Id*. at para. 26.
[25] *Id*.
[26] SMECO Plan at 1.
[27] *Id*. at 2-4. *See also* MEA Comments at 3-4.

$3 million higher than Scenario 1.[28] Scenario 2 presents the same characteristics for C&I customers.

Scenario 3: three-year amortization in 2024, 2025, and 2026; two-year amortization in 2027 and 2028; complete expensing of program costs in 2029

The total annual surcharge costs for residential customers under Scenario 3 are lower than Scenario 1 through 2025 and lower than Scenario 2 through 2027 but are above all other methods in 2028 and significantly above them in 2029. Scenario 3 has the highest total estimated surcharge cost to residential and C&I customers.

Rate Base Scenario: unamortized balance placed into a regulatory asset at the end of 2023, added to SMECO's rate base in its next rate case, amortized over five or 10 years

Under the Rate Base Scenario, SMECO estimates that the five-year amortization method would increase the average monthly bill for residential customers by $7.55 and C&I customers by $27.20, and the 10-year amortization method would reduce the increase to $4.23 and $15.21, respectively.

Alternate Scenario: 33 percent of program costs expensed in 2024, 67 percent of program costs expensed in 2025, complete expensing in 2026

SMECO's Alternate Scenario provides a gradual rate increase for residential customers through 2026 followed by a gradual decline through 2029. Its total cumulative cost from 2024 through 2029 is lower than Scenarios 2 and 3. The characteristics are the same for C&I customers as for residential customers.

13. SMECO proposes using its alternate scenario going forward, stating that this method results in a gradual ramping up and then ramping down of annual cost recovery over the retirement period. It has the second lowest total cumulative cost among all of SMECO's scenarios, with the only lower scenario having the largest single-year rate impact.[29]

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[28] From 2024 to 2029, Scenario 1 has a total estimated surcharge cost to residential customers of $191.6 million; Scenario 2 is estimated to be $194.6 million. *Id*. at 2.
[29] *Id*. at 4.

14. Staff,[30] OPC, and MEA[31] support SMECO's proposal to utilize its alternate scenario. OPC further notes that all of the utilities should be directed to implement SMECO's alternate scenario because of its lower cumulative costs, gradual impact to customers' monthly bills, and payoff by the conclusion of 2029.[32]

B. Potomac Edison's Proposed Unamortized Balance Retirement Plan

15. Potomac Edison estimates that, as of December 31, 2023, the unamortized balance for its residential, C&I, and demand response EmPOWER Programs will be $118,176,006.[33]

16. Potomac Edison's plan included the required and optional payoff proposals as detailed below.[34]

Proposal A: full expensing of EmPOWER program costs beginning in 2024; five-year amortization utilized for pre-2024 costs; balance paid by 2028

> Under Proposal A, residential customers can expect a spike in the surcharge rate of 76 percent from 2023 to 2024, with C&I customers experiencing a spike of 128 percent for the same time period, after which the surcharge gradually tapers until 2029.

Proposal B: unamortized balance placed into a regulatory asset at the end of 2023, added to Potomac Edison's rate base in its next rate case, amortized over five or 10 years

> Proposal B on the five-year track increases the surcharge for residential customers 51 percent from 2023 to 2024 and for C&I customers 90 percent for the same time period. On the 10-year track, which would not have the balance paid by 2029 as required by the Commission, the surcharge increases 31 percent for residential customers and 64 percent for C&I customers from 2023 to 2024.

[30] Staff Comments at 4.
[31] MEA Comments at 4.
[32] OPC Comments at 3.
[33] Potomac Edison Plan, Attachment A at 1.
[34] Potomac Edison Plan at 2-4. *See, also,* MEA Comments at 5-6.

Proposal C: full expensing of EmPOWER program costs beginning in 2024, six-year amortization utilized for pre-2024; balance paid by 2029

> Proposal C presents an average surcharge increase from 2023 to 2024 of 44 percent to residential customers and 81 percent to C&I customers.

17. Potomac Edison proposes using Proposal C going forward, stating that this method offers the lowest customer cost impact in 2024 as compared to Proposal A and Proposal B on the five-year track, while still allowing for full payoff by the conclusion of 2029, which Proposal B on the 10-year track does not offer.[35]

18. Staff supports Potomac Edison's Proposal C.[36] OPC prefers SMECO's alternate scenario to Potomac Edison's proposals, noting that, while the Potomac Edison proposals result in a slightly lower cost to ratepayers, they also have a higher immediate rate impact due to the transition to full expensing in 2024, whereas SMECO's alternate scenario offers a gradual transition.[37] MEA prefers Proposal B with the 10-year period because it incurs the lowest monthly rate increases of any of the proposals.[38]

C. WGL's Proposed Unamortized Balance Retirement Plan

19. WGL estimates that, as of December 31, 2023, the unamortized balances for its EmPOWER Program will be $20,500,000 for the residential portfolio and $3,600,000 for the "C&I" portfolio.[39]

20. WGL's plan included the required payoff proposals as detailed below.[40]

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[35] Potomac Edison Plan at 3-4.
[36] Staff Comments at 4.
[37] OPC Comments at 3.
[38] MEA Comments at 6.
[39] WGL Plan at 1.
[40] *Id*. at 2-6. *See, also,* MEA Comments at 11-12.

Scenario 1: retire unamortized balance through base rates over five years; gradually decrease the period of amortization until 2029

> WGL proposes to amortize 2024 expenses over four years, 2025 and 2026 expenses over three years, and 2027 and 2028 expenses over two years. In 2029 all program costs will be fully expensed. This scenario produces an 85 percent rise in surcharge rates for residential customers from 2024 to 2029 and a 71 percent rise for C&I customers.

Scenario 2: retire unamortized balance through base rates over 10 years; gradually increase the percentage of program costs to be expensed until 2029

> WGL proposes to expense 70 percent of program costs in 2024 and recover the remainder in 2025, with the same breakdown in 2025, 2026, and 2027. In 2028, WGL will expense 85 percent of program costs and recover the remaining 15 percent in 2029. In 2029 all program costs will be fully expensed. This scenario produces a 36 percent rise in surcharge rates for residential customers from 2024 to 2028 and a 31 percent rise for C&I customers.

Scenario 3: retire unamortized balance through the EmPOWER surcharge; amortize the 2023 unamortized balance over six years

> Scenario 3 produces a 141 percent increase in surcharge rates for residential customers from 2024 to 2029 and a 106 percent increase for C&I customers.

21. Given that all three of the scenarios present a double digit percentage increase above the baseline status quo surcharges, WGL notes its belief that the status quo methodology using a five-year amortization of program costs is appropriate and should remain the methodology used going forward.[41] However, WGL acknowledges the Commission's intent to move away from the current methodology and alternatively proposes using Scenario 2 going forward, stating that it is the only scenario that does not involve a surcharge increase of more than 25 percent over the status quo.[42]

22. Staff does not support WGL's proposal to implement Scenario 2, noting that it would involve collecting EmPOWER program costs in two funds - the surcharge and base

[41] WGL Plan at 7.
[42] *Id*.

rates - and that doing so could be confusing and less transparent to its ratepayers.[43] OPC prefers SMECO's alternate scenario to WGL's proposals, noting that, while the WGL Scenarios 1 and 2 result in a slightly lower cost to ratepayers, they also have a higher immediate rate impact due to the transition to full expensing in 2024, whereas SMECO's alternate scenario offers a gradual transition.[44] MEA supports WGL's use of Scenario 2, finding that it has fewer rate shocks for residential and non-residential customers and is less likely to result in ratepayer dissatisfaction with the program.[45]

D. Joint Exelon Utilities' Proposed Unamortized Balance Retirement Plan

23. BGE estimates that, as of December 31, 2023, the unamortized balances for its EmPOWER Program will be $120,874,609 for the residential electric portfolio,[46] $37,015,469 for the residential gas portfolio,[47] $52,451,321 for the residential demand response portfolio,[48] and $142,515,968 for the C&I electric portfolio.[49] Pepco estimates that, as of December 31, 2023, the unamortized balances for its EmPOWER Program will be $53,791,664 for the residential electric portfolio,[50] $85,723,802 for the C&I electric portfolio,[51] $14,433,760 for the residential demand response portfolio,[52] and $1,133,872 for the C&I demand response portfolio.[53] Delmarva estimates that, as of December 3, 2023, the unamortized balances for its EmPOWER Program will be $19,768,106 for the

[43] Staff Comments at 4-5.
[44] OPC Comments at 3-4.
[45] MEA Comments at 12.
[46] Maillog No. 300232, exhibit 2, attachment 1 (November 18, 2022).
[47] Maillog No. 300231, exhibit 2, attachment 1 (November 18, 2022).
[48] Maillog No. 300232 at 28.
[49] Maillog No. 300232, exhibit 2, attachment 1.
[50] Maillog No. 300197, attachment 4 at 1 (November 16, 2022).
[51] *Id*., attachment 5 at 1.
[52] *Id*., attachment 6at 1.
[53] *Id*., attachment 7 at 1.

residential electric portfolio,[54] $31,905,026 for the C&I electric portfolio,[55] $3,629,488 for the residential demand response portfolio,[56] and $388,295 for the C&I demand response portfolio.[57]

24. The Exelon plan included the required payoff proposals as detailed below.[58]

Scenario 1: retire unamortized balance through the EmPOWER surcharge over six years; full expensing by 2029

> Scenario 1 offers a 24 percent decline in the electric surcharge rate for residential customers from 2023 to 2024, with an 88 percent increase from 2023 to 2029. C&I customers would experience a 33 percent drop from 2023 to 2024, then a 150 percent increase from 2023 to 2029. BGE gas surcharge rates would decrease by 35 percent from 2023 to 2024, then rise 118 percent from 2023 to 2029.

Scenario 2: retire unamortized balance through base rates over five years; declining amortization of ongoing program costs begins in 2024 with full expensing in 2029[59]

> Scenario 2 offers a 22 percent decline in the electric surcharge rate for residential customers from 2023 to 2024, with a 79 percent increase between 2023 and 2029, peaking in 2028 with a 101 percent increase from 2023. C&I customers would experience a 19 percent drop from 2023 to 2024, with an 87 percent increase between 2023 and 2029, peaking in 2028 with a 110 percent increase from 2023. Gas surcharge rates would decrease by 29 percent from 2023 to 2024, then rise 111 percent from 2023 to 2028.

Scenario 3: retire unamortized balance through base rates over 10 years; ongoing program costs amortized over five years or less through 2033

> Scenario 3 offers a 39 percent decline in the electric surcharge rate for residential customers from 2023 to 2024, with a 34 percent increase from 2023

[54] Maillog No. 300196, attachment 4 at 1 (November 16, 2022).
[55] *Id*., attachment 5at 1.
[56] *Id*., attachment 6 at 1.
[57] *Id*., attachment 7 at 1.
[58] Exelon Plan, at 1-3.
[59] The Exelon Plan states that, in the base rate scenarios, Delmarva will begin to amortize beginning in 2026 (for the 2025 balance) based upon the anticipated timing of its next multi-year rate plan. This assumes that the surcharge will continue until transitioned into base rates. *Id*. at 2.

to 2029. C&I customers would experience a 37 percent drop from 2023 to 2024, then a 39 percent increase from 2023 to 2029. Gas surcharge rates would decrease by 49 percent from 2023 to 2024, then increase 33 percent from 2023 to 2029.

25. The Exelon Utilities' preferred method of cost recovery is Scenario 3, cost recovery through base rates over a 10-year period with a rider.[60] The Exelon Utilities contend that Scenario 3 reflects a reasonable cost recovery duration, minimizes customer rate shock, and matches customer expenses with customer benefit.[61]

26. Staff does not support the Exelon Utilities' proposal to implement Scenario 3. In addition to generally finding that the surcharge method is preferable based on the transparency that it provides, Staff also finds Scenario 3 unacceptable because it would continue to carry an unamortized balance beyond the conclusion of the 2029 program year.[62] OPC also opposed the scenario recommended by the Exelon Utilities, finding that it perpetuates amortization.[63] MEA supports the Exelon Utilities' proposal, stating that the rate increases from Scenario 3 are less shocking than from the other two scenarios provided.[64]

IV. COMMISSION DECISION

A. SMECO

27. SMECO's plan included five scenarios for paying off the utility's unamortized balance and addressing future cost recovery. Scenario 1 involves full expensing of

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[60] The Exelon Plan recommends the inclusion of a rider "to facilitate the accurate and transparent tracking of EmPOWER Maryland costs." Exelon Plan at 3.
[61] *Id*. at 2.
[62] Staff Comments at 3.
[63] OPC Comments at 3.
[64] MEA Comments at 9.

EmPOWER costs beginning in 2024, with a five-year amortization of pre-2024 costs. This scenario has the unamortized balance paid by 2028 and offers the lowest total cumulative cost of the scenarios put forward; however, it also has the largest single-year rate impact. From 2023 to 2024, monthly surcharges would nearly double for residential and C&I customers, making this scenario undesirable.

28. Scenario 2 is also not ideal. Its three-year amortization in 2024, 2025, and 2026 and complete expensing by 2027 does not present the immediate surcharge hike of Scenario 1; however, its delayed surcharge increases result in 2027 having the highest surcharge cost of all of SMECO's proposals. Furthermore, Scenario 2 would have a total surcharge cost of $3 million more than Scenario 1.

29. Scenario 3 involves three-year amortization in 2024, 2025, and 2026, two-year amortization in 2027 and 2028, and full expensing by 2029, and is similar to Scenario 2 in that it avoids the initial surcharge hike, but only to have the surcharge in 2028 and 2029 be significantly above those in other scenarios. Scenario 3 also has the highest total surcharge cost to SMECO's customers, making it a poor option for SMECO going forward.

30. SMECO contends, and the Commission agrees, that, while its rate base scenarios would present only moderate monthly surcharge increases, the fact that SMECO does not file rate cases often or regularly would potentially result in an extended delay in cost recovery of the unamortized balance as well as an addition to distribution rates for costs incurred years before, thereby making SMECO's base rate scenarios unjustifiable.

31. SMECO indicates that its alternate scenario is its preferred method, whereby the unamortized balance would be recovered through the monthly surcharge, and 33 percent of 2024 program costs would be expensed, 67 percent of 2025 program costs would be

expensed, full expensing of program costs would begin in 2026, and the remaining uncollected balance of 2024 and 2025 would be amortized over five years.

32. Staff, MEA, and OPC all support SMECO's implementation of its alternate scenario, making it the only scenario proposed by a utility to have received unanimous support.

33. The Commission approves SMECO's proposal to implement its alternate scenario for several reasons. First, it satisfies the Commission's requirement that the unamortized balance be paid in full by the end of 2029. Second, it provides a gradual rate increase for residential and C&I customers through 2026, followed by gradual decline through 2029.[65] This allows ratepayers time to adjust to an increasing surcharge, while also eventually experiencing decreasing surcharges in the near future. Third, its total cumulative cost is lower than all the other scenarios except for Scenario 1, which is only slightly lower and as previously stated, is not a viable option due to its initial rate shock. Finally, the alternate scenario's sole use of the surcharge rather than base rates, or a combination thereof, offers the most transparency for customers in that their monthly billing statements will clearly identify the EmPOWER charge and display the exact amount attributed to the program. This up-front communication should assist in preventing customer confusion and raising customer awareness in the EmPOWER program.

B. Potomac Edison

34. Potomac Edison's plan included three scenarios for paying off the utility's unamortized balance and addressing future cost recovery. Proposal A involves full

[65] MEA Comments at 3.

expensing of EmPOWER costs beginning in 2024, with a five-year amortization of pre-2024 costs. This scenario has the unamortized balance paid by 2028 but comes with an initial surcharge spike from 2023 to 2024 of 74 percent for residential customers and 128 percent for C&I customers, thereby making this payoff proposal unacceptable.

35. Proposal B involves full expensing of new program costs through the surcharge, while placing the unamortized balance into a regulatory asset at the end of 2023 and adding it to Potomac Edison's rate base as part of its next filed rate case, paying down the balance over a period of five or 10 years. This proposal also is not ideal. With the five-year payment period, ratepayers would experience initial surcharge spikes of 51 percent for residential customers and 90 percent for C&I customers. While the initial surcharge increases would be less for the 10-year payment period - 31 percent for residential, 64 percent for C&I - the increases are still high and the unamortized balance would not be paid off by 2029 as required by the Commission.

36. Potomac Edison indicates that its Proposal C is its preferred cost recovery method, whereby new program costs would be fully expensed beginning in 2024, the unamortized balance would be amortized over six years to alleviate some of the high surcharge impact in 2024, and the unamortized balance would be paid in full by 2029.

37. Staff supports Potomac Edison's implementation of Proposal C. OPC commends Proposal C for reducing total ratepayer costs while avoiding unreasonable rate impacts, but favors the gradual transition to expensing found in SMECO's alternate scenario to the immediate transition to full expensing found in Potomac Edison's Proposal C. MEA supports Potomac Edison's Proposal B with the 10-year amortization. MEA notes its

concerns about potential rate shock from significant rate increases and finds that Proposal B, with the 10-year amortization, would present the lowest rate increases.

38. The Commission shares MEA’s stated concerns regarding substantial rate hikes, but does not adopt Potomac Edison’s Proposal B, as it would not have the unamortized balance paid in full by the end of 2029. The Commission also does not approve Proposal C because, despite the attempt by Potomac Edison to minimize the initial rate increase by extending the amortization period to six years from the traditional five, Proposal C still presents a dramatic surcharge rate increase from 2023 to 2024: 44 percent for residential customers and 81 percent for C&I customers.

39. The Commission does, however, recognize the positive aspects associated with Proposal C, including payment of the unamortized balance in full by 2029, a lower cumulative cost than Potomac Edison’s other two proposals, and sole use of the surcharge rather than combined use of the surcharge and base rates for cost recovery. SMECO’s alternate scenario also offers these aspects but, unlike Proposal C, also offers a more manageable increase, then decrease, in the surcharge rate given its gradual rather than complete expensing of program costs in the first few years of the next EmPOWER cycle. For these reasons, the Commission directs Potomac Edison to implement SMECO’s alternate scenario for its cost recovery and unamortized balance retirement.

40. The Commission further directs Potomac Edison to file, within 15 days of this order, its updated balance retirement and cost recovery plan, reflective of SMECO’s alternate scenario structure.

C. WGL

41. WGL's plan included three scenarios for paying off the utility's unamortized balance and addressing future cost recovery. Scenario 1 involves retiring the unamortized balance through base rates over a period of five years, with a decrease in the amortization period until 2029 when all program costs would be fully expensed. This scenario is undesirable in that it involves an 85 percent rise in the surcharge rate for residential customers from 2024 to 2029 and a 71 percent rise for C&I customers over the same period of time.

42. Scenario 2, WGL's preferred cost recovery method, involves retiring the unamortized balance through base rates over a period of 10 years, with a gradual increase in the percentage of program costs to be expensed until full expensing in 2029. This scenario involves a more moderate rise in surcharge rates: 36 percent for residential customers and 31 percent for C&I customers from 2024 to 2028. While this decreases rate shock and consequent customer dissatisfaction, this scenario does not pay off the unamortized balance by 2029 as required by the Commission. Furthermore, Scenario 2 would collect EmPOWER program costs in two funds: the EmPOWER surcharge for program costs from 2024 to 2029 and base rates for the unamortized program costs. As previously stated, collecting EmPOWER costs from two different funds is less transparent and more likely to cause confusion among ratepayers. For these reasons, the Commission does not approve WGL's proposal to implement Scenario 2.

43. Under Scenario 3, WGL would amortize the 2023 unamortized balance over six years and retire the balance solely through the EmPOWER surcharge. This scenario produces the most volatile surcharge impact - a 141 percent increase for residential

customers and a 106 percent increase for C&I customers from 2024 to 2029. Scenario 3 obviously would have a substantial financial impact on ratepayers.

44. MEA supports WGL's proposed cost recovery method of Scenario 2 based upon it having a lower rate impact than the other scenarios put forth by WGL. However, neither Staff nor OPC support WGL's Scenario 2. Staff suggest having all EmPOWER program costs in the surcharge line item on customer bills to promote awareness to ratepayers. OPC agrees, stating that the EmPOWER surcharge should be used to pay down the unamortized balance. OPC further recommends that the Commission direct WGL to apply SMECO's alternate scenario, finding that it offers the best cost recovery approach to WGL ratepayers for the reasons previously stated.

45. The Commission approves OPC's recommendation and directs WGL to implement SMECO's alternate scenario as its future cost recovery method and structure by which to pay off the unamortized balance. As noted earlier in this Order, SMECO's alternate scenario avoids dramatic rate hikes by taking a more gradual approach to expensing, while still effectively paying off the pre-2024 balance by the end of 2029. While the immediate expensing of all program costs might result in a slightly lower total cost to ratepayers, it also has a higher initial rate impact. Given the rate impact of the unamortized balance itself, the Commission finds it reasonable to phase-in the transition to expensing - an aspect included in SMECO's alternate scenario.

46. The Commission further directs WGL to file within 15 days of this order its updated balance retirement and cost recovery plan, reflective of SMECO's alternate scenario structure.

D. Joint Exelon Utilities

47. The Exelon plan included three scenarios for paying off the utility's unamortized balance and addressing future cost recovery. Scenario 1 involves retiring the unamortized balance through the EmPOWER surcharge over six years with declining amortization of ongoing program costs and full expensing by 2029. This scenario presents an initial decline in the surcharge rates, only to shortly thereafter bring dramatic increases of 88 percent for residential, 150 percent for C&I, and 118 percent for gas customers from 2023 to 2029. These are the highest surcharge increases of any scenario proposed by the utilities, clearly preventing Scenario 1 from being a viable cost recovery option.

48. Scenario 2 involves retiring the unamortized balance through base rates over five years with declining amortization of ongoing program costs and full expensing of costs in 2029. Like Scenario 1, this scenario delays expensing of costs until 2029, thereby creating a large deferral of cost that would cause rates to rise dramatically by 2029.

49. Scenario 3, the Joint Exelon Utilities' preferred method, involves retiring the unamortized balance through base rates over 10 years with ongoing program costs amortized over five years or less through 2033. While this scenario presents a more favorable rate impact than the extreme rate increases involved in the other two scenarios put forth, it would continue to carry an unamortized balance beyond 2029 in direct contravention to Order No. 90306.

50. MEA supports the Joint Exelon Utilities' proposed cost recovery method of Scenario 3, stating that it provides more moderate rate increases spread over a longer period of time. Staff does not support Scenario 3, noting that it does not comply with the requirement in Order No. 90306 to pay off the unamortized balance by the conclusion of

2029. OPC again recommends that the Commission direct the Joint Exelon Utilities to apply SMECO's alternate scenario, finding that it offers the best cost recovery approach to Exelon ratepayers for the reasons previously stated.

51. The Commission does not support Scenario 3. It does not abide by the Commission's directive for payoff by the conclusion of 2029, it perpetuates amortization, and it is contrary to ratepayer interests by postponing costs associated with the transition to an expensing model, thereby causing a later dramatic increase in rates. Moreover, Scenario 3 would eliminate the EmPOWER Maryland surcharge line item on customer bills and embed the EmPOWER program costs in base rates, effectively hiding the cost and presence of the program in distribution rates and to the benefit of no one.

52. As noted elsewhere in this and prior Orders, in addition to retiring the unamortized balance by the conclusion of the current statutory conclusion of the EmPOWER program, the Commission seeks a balance of near-term bill impacts against the longer-term payoff impacts to ratepayers. This goal involves the avoidance of sudden and significant rate increases, the smooth and gradual transition to an expensing of costs-based system of cost recovery, and the clear, open communication to ratepayers of the EmPOWER program and its associated costs. While the Commission previously acknowledged that different cost recovery structures may work for different utilities, the Commission finds SMECO's alternate scenario to be the cost recovery proposal put forth that accomplishes the desired balance noted above. As such, the Commission directs the Joint Exelon Utilities to implement SMECO's alternate scenario as its future cost recovery method and structure by which to pay off the unamortized balance.

53. The Commission further directs the Joint Exelon Utilities to individually file within 15 days of this order their respective updated balance retirement and cost recovery plans, reflective of SMECO's alternate scenario structure.

54. In advance of the January 2024 implementation of the directives in this Order, and in recognition of the regressive nature of volumetric energy surcharges, the Commission will explore ways to reduce the financial impacts of EmPOWER charges paid by low-income customers who receive energy assistance. Furthermore, in preparation for the next EmPOWER program cycle, the Commission will consider alternative approaches for compensating utility program administrators, including the use of performance incentive mechanisms, which may have an impact on future EmPOWER program expenses.

IT IS THEREFORE, this 29th day of December, in the year Two Thousand Twenty-Two, by the Public Service Commission of Maryland, **ORDERED** that:

(A) all EmPOWER Utilities (Southern Maryland Electric Cooperative, Inc., The Potomac Edison Company, Washington Gas Light Company, Baltimore Gas and Electric Company, Potomac Electric Power Company, and Delmarva Power & Light Company) are to implement the future cost recovery structure and unamortized balance retirement plan detailed in SMECO's alternate scenario, beginning January 1, 2024; and

(B) The Potomac Edison Company, Washington Gas Light Company, Baltimore Gas and Electric Company, Potomac Electric Power Company, and Delmarva Power & Light Company are to file within 15 days of this order their respective updated balance retirement and cost recovery plans, reflective of SMECO's alternate scenario structure.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Odogwu Obi Linton[66]

/s/ Patrice M. Bubar
Commissioners[67]

[66] Concurrence of Commissioner Linton: The proposals presented by SMECO and PE, respectively, are the most effective means to retire these long growing amortized EmPOWER Maryland-related costs before the statutory end of the program. Given the program's current design, I concur with the majority regarding the selection and implementation of a cost retirement strategy. However, it remains true that many thousands of Maryland households will not, and for various reasons could not, participate directly in the EmPOWER programs. They saw no benefit that could help lower their monthly EmPOWER volumetric costs. Those same households are not now exempt from these amortized costs, and future EmPOWER program costs, too. Accordingly, future EmPOWER Maryland programs, in whatever form they take, should be designed to adhere to principles of equity, to better provide benefits and opportunities to participate.

[67] Commissioner O'Donnell, dissenting.