ML 212374

ORDER NO. 88007

IN THE MATTER OF POTOMAC EDISON COMPANY D/B/A ALLEGHENY POWER'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9153
IN THE MATTER OF BALTIMORE GAS AND ELECTRIC COMPANY'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	CASE NO. 9154
IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	CASE NO. 9155
IN THE MATTER OF DELMARVA POWER & LIGHT COMPANY'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	CASE NO. 9156
IN THE MATTER OF SOUTHERN MARYLAND ELECTRIC COOPERATIVE, INC.'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	CASE NO. 9157
IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAMS PURSUANT TO THE EMPOWER MARYLAND ENERGY EFFICIENCY ACT OF 2008	*	CASE NO. 9362

Issue Date: February 2, 2017

On October 25 – 26, 2016 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");[1] Baltimore Gas and Electric Company ("BGE");[2] Potomac Electric Power Company ("Pepco");[3] Delmarva Power & Light Company ("Delmarva");[4] Southern Maryland Electric Cooperative, Inc. ("SMECO");[5] and Washington Gas Light Company ("WGL")[6] (collectively, the "Utilities"); as well as the Maryland Department of Housing and Community Development ("DHCD" or the "Department"),[7] for the first and second quarters of 2016. The Commission also reviewed the comments as filed by: the Maryland Chapter of Efficiency First ("Efficiency First");[8] Montgomery County;[9] the Maryland Alliance for Fair Competition and the Heating and Air Conditioning Contractors of Maryland, Inc. (the

[1] ML#195349: *Potomac Edison's 2016 Semi-Annual EmPOWER Maryland Report for the period of January 1 – June 30* ("PE Report") (July 28, 2016).

[2] ML#195567: *BGE's Semi-Annual Report for First and Second Quarters – January 1 through June 30, 2016 in Case No. 9154* ("BGE Report") (Aug. 1, 2016); ML#199181: *Errata to Baltimore Gas and Electric Company's Q1/Q2 2016 Semi-Annual Report* ("BGE Errata") (Sept. 14, 2016).

[3] ML#195512: *Case No. 9155 - Pepco's EmPOWER Maryland Report* ("Pepco Report") (Aug. 1, 2016).

[4] ML#195513: *Case No. 9156 – Delmarva Powers' EmPOWER Maryland Report* ("Delmarva Report") (Aug. 1, 2016).

[5] ML#195380: *Case No. 9157 – Southern Maryland Electric Cooperative, Inc.'s Q1/Q2 2016 Semi-Annual EmPOWER Maryland Report* ("SMECO Report") (July 29, 2016); ML#198885: *Errata, Case No. 9157 – Southern Maryland Electric Cooperative, Inc.'s Q1/Q2 2016 Semi-Annual EmPOWER Maryland Report* ("SMECO Errata") (Sept. 8, 2016).

[6] ML#196331: *Washington Gas Light Company – Semi-Annual EmPOWER Maryland Report covering the period of January 1, 2016 through June 30, 2016* ("WGL Report") (Aug. 15, 2016); ML#196334: *Washington Gas 2017 – 2020 EmPOWER Maryland Regulatory Plan* ("WGL 2017 – 2020 Plan") (Aug. 15, 2016).

[7] ML#195622: *Maryland Department of Housing & Community Development's 2016 Q1/Q2 Semi-Annual EmPOWER Maryland Report* ("DHCD Report") (Aug. 1, 2016); ML#195725: *DHCD's 2016 Errata Q1/Q2 Semi-Annual EmPOWER Maryland Report – Budget Amendment and Over $7500 Cap Documentation* ("DHCD Amendment") (Aug. 4, 2016); ML#199629: *DHCD Errata to Q1/Q2 2016 Semi-Annual Report Program Summary Tables* ("DHCD Errata Tables") (Sept. 23, 2016).

[8] ML#200338: *Comments on 1st Half 2016* ("Efficiency First Comments") (Oct. 3, 2016).

[9] ML#200546: *Comments of Montgomery County, Maryland* ("Montgomery County Comments") (Oct. 6, 2016).

"Alliance");[10] the Maryland Energy Efficiency Advocates ("MD EE Advocates");[11] the Office of People's Counsel ("OPC");[12] the Maryland Energy Administration ("MEA");[13] and the Commission's Technical Staff ("Staff").[14]

The parties' reports and comments discussed requests for program modifications and budget adjustments, as well as recommendations pertaining to programmatic improvements. In this Order, we address these requests and direct certain parties to undertake next steps as detailed below. We also direct the Utilities and DHCD to effectively and aggressively execute the programs associated with the additional funding approved herein, and we direct the Utilities to make related compliance filings, including tariff pages and surcharge provisions, consistent with this Order.

I. Residential Electric Energy Efficiency and Conservation Programs

Residential Appliance Rebate Program

In Order No. 87575, we directed the Appliance Rebate Work Group to convene for purposes of discussing whether and how the Residential Appliance Rebate Program should continue for the remainder of this program cycle. We noted that changing market dynamics and increasing federal appliance energy efficiency standards have contributed to a decline in the Program's performance during recent periods, and thus certain program modifications

[10] ML#200772: *Comments on Pepco's Semi-Annual EmPOWER Maryland Report* ("The Alliance Comments") (Oct. 7, 2016).
[11] ML#200706: *Comments on the EmPOWER Maryland Fall 2016 Semi-Annual Reports* ("MD EE Advocates Comments") (Oct. 7, 2016).
[12] ML#200754: *Comments – Case Nos. 9153-9157 & 9362* ("OPC Comments") (Oct. 7, 2016).
[13] ML#200752: *Maryland Energy Administration's Comments Regarding the EmPOWER Utilities' Q1/Q2, 2016 Semi-Annual Reports* ("MEA Comments") (Oct. 7, 2016).
[14] ML#200792: *2016 Semi-Annual EmPOWER Maryland Programmatic Report for the First and Second Quarters* ("Staff Comments") (Oct. 7, 2016).

may be warranted.[15] Staff, on behalf of the Appliance Rebate Work Group, filed a report on September 15, 2016, recommending that the Program be restructured for certain measures to reflect a midstream incentive payment approach.[16] At the October, 2016 semi-annual hearings, however, the Utilities reported that recent guidance provided by the United States Environmental Protection Agency ("EPA") (the administrator of the midstream incentive program) indicated that changes would need to be made in order to make the Utilities' proposal conform to the model implemented through the EPA's Energy Star Program.[17] Consequently, the Utilities requested during our October, 2016 semi-annual hearings that the Commission return the matter to the Appliance Rebate Work Group for further discussion.

While we grant the Utilities' informal request to return this matter to the Work Group (and thus deny the proposal before us, without prejudice), we are concerned about the timing of a revised proposal given that the initial directive contained in Order No. 87575 was intended to address the continuation of this Program for the remainder of the 2015 – 2017 program cycle. Thus, while the timing of a revised proposal may limit the degree to which prospective changes become effective during the remainder of this program cycle, the overarching directive to the Work Group remains the same: assess whether and how the Appliance Rebate Program should continue.

Residential Home Performance with Energy Star Program

The Utilities' Residential Home Performance with Energy Star ("HPwES") Programs have evolved significantly since their inception, including the adoption of several major programmatic enhancements midway through the current program cycle. For that reason,

[15] Order No. 87575 (May 26, 2016) at 6-7.
[16] ML#199275: *Appliance Rebate Work Group Discussion in Compliance with Order No. 87575* ("Appliance Rebate WG Report") (Sept. 15, 2016).
[17] Oct. 26, 2016 Tr. at 357-360.

coupled with measurable progress in the Programs' performance compared to previous semi-annual periods, we declined initially to order a structural overhaul of the Program as advocated by several stakeholders. Instead, in Order No. 87285, we directed the HPwES Work Group to file a report no later than September 1, 2016 that assessed the merits of the current Residential HPwES Program structure and contrasted it with incentive models offered in other jurisdictions.[18] In its subsequent report, the Work Group presented a near-consensus proposal that the current HPwES Program should shift to a performance-based incentive structure, which the Utilities projected could be effectuated by the second quarter of 2017.[19]

While ultimately in support of the performance-based incentive structure from a conceptual standpoint, OPC's consultant Vermont Energy Investment Corp. ("VEIC") articulated several reservations regarding the Work Group's proposal.[20] Specifically, VEIC expressed concern that: (1) the proposal lacked minimum performance requirements; and (2) the incentive payments based on modeled energy savings would rely on utility-approved energy modeling software, as opposed to actual results.[21]

We concur with the concerns expressed in OPC's comments, and thus while we are pleased to approve the Work Group's proposal to shift the HPwES Program to a performance-based incentive structure, we do so on the condition that these two issues are addressed prior to implementation. Therefore, Staff, on behalf of the HPwES Work Group, is directed to file the proposed minimum performance requirements, which must address at

[18] Order No. 87285 (Dec. 8, 2015) at 4.
[19] ML#198351: *Home Performance with Energy Star Work Group Discussion in Compliance with Order No. 87285* ("HPwES Work Group Report") (Sept. 1, 2016) at Appendix B.
[20] OPC Comments at 57-58.
[21] *Id.* at 58. A third concern was also expressed in OPC's comments: that the lower incentive for natural gas savings would yield customer dissatisfaction. The prospective coordination between electric and natural gas energy efficiency programs is addressed later in this Order.

least air sealing, insulation, and health and safety thresholds,[22] no later than 45 days from the issuance of this Order so as not to delay the implementation of the new programmatic structure.[23] Further, the Utilities are directed to begin tracking actual energy savings alongside modeled energy savings once the performance-based incentive structure becomes effective for the HPwES Program. To the extent feasible, the actual energy savings should be tracked in real time, or at a minimum on regular intervals, and should not rely solely on year-end data for impact evaluations. In order to assess whether performance-based incentives should rely on measured savings (rather than modeled savings) in future iterations of this Program, it is crucial that the Utilities provide quarterly true-up reports and rely on best practices and normalization methods when evaluating the modeled versus measured energy savings that result from HPwES installations.[24] Subject to the aforementioned conditions, the Utilities are authorized to transition to the performance-based incentive structure described in the Work Group's September 1, 2016 Report as soon as practicable; although, the existing programmatic budgets are unchanged at this time.

Residential Program Budget Adjustment Requests

Delmarva and Pepco

Delmarva and Pepco requested budget adjustments pertaining to their Residential

[22] As noted by VEIC, other HPwES programs that offer performance-based incentives – such as New Jersey's – incorporate minimum performance requirements that address these categories. OPC Comments at 57.
[23] To the extent that the filing does not represent a consensus among stakeholders, the Work Group should make every effort to append comments from these parties to its required report.
[24] The quarterly true-up reports should compare and contrast the modeled energy savings with actual energy savings. The reports may be appended to existing quarterly reports submitted to Staff, and also appended to the semi-annual reports filed with the Commission. To the extent that additional costs are incurred due to the required tracking described in this Order, the Utilities may use existing funding from their non-customer incentive budget categories previously-approved for this Program.

HVAC Programs in the amount of $591,000 and $1,719,600, respectively.[25] Both Companies described the request as necessary to meet customer demand, and attributed the depleted funding to increased participation – especially in the categories of higher incentive level measures.[26] Delmarva and Pepco further noted that even if rebate levels are reduced, as generally recommended by the Utilities, a budget adjustment would still be necessary in order to continue operating their HVAC Programs for the remainder of this program cycle. While Staff concurred with the need to reduce customer incentives in this Program, it recommended that we deny the Companies' request as filed.[27] Instead, Staff supported an approach in which the Commission grants a reduced budget increase in combination with revised incentive levels and partial reallocation of funding from a separate underperforming residential program.[28]

We concur with the approach recommended by Staff, and thus deny both Delmarva's and Pepco's budget adjustment requests as filed. We note, however, that insufficient information was provided at our October, 2016 semi-annual hearings in order for us to finalize the approach recommended by Staff. Specifically, we were not presented with a vetted, concrete proposal to shift definitive funds between certain residential programs, nor were we provided with a proposal to revise the HVAC measure incentive levels. However, to ensure that the well-subscribed Residential HVAC Programs operated by Delmarva and Pepco do not experience significant interruptions, we find that it is appropriate to authorize a reallocation of funding between the customer incentive budgets of the Companies' Lighting

[25] Delmarva Report at Appendix D; Pepco Report at Appendix F. Both Companies presented two options for this funding request; although the second option is not discussed here because it was conditioned on the Commission's approval of an earlier motion regarding reallocation authority, which was denied prior to this Order. *See* ML#202443: *Letter Order from August 24, 2016 Administrative Meeting denying request to reallocate funding without Commission approval* (Oct. 27, 2016).
[26] Delmarva Report at Appendix D; Pepco Report at Appendix F.
[27] Staff Comments at 87.
[28] *Id. See also*, Oct. 25, 2016 Tr. at 13-14.

and/or Appliance Programs,[29] to the customer incentive budgets of the Companies' Residential HVAC Programs, in an amount up to 25% of their filed request; this amount equates to the requested funding necessary to support continued programmatic operations for an additional quarter, while the parties execute the directives described herein.[30]

Further, we find that the situation encountered by the PHI Companies with respect to certain over-incentivized HVAC measures is not unique to them; therefore, the Utilities are directed to file within 30 days of the issuance of this Order a revised incentive level proposal applicable to the Residential HVAC Program measures. In conjunction with the Utilities' revised incentive level proposal, Delmarva and Pepco are directed to file an accompanying proposal to address a proposed solution for funding the Residential HVAC Programs through the remainder of the 2015 – 2017 program cycle. This proposal should incorporate a plan to utilize other available funding[31] or to reallocate previously-approved funding from other Residential programs, to the extent practicable, as well as a budget adjustment request reflective of the proposed lower incentives.

Potomac Edison

PE requested a budget adjustment for its Commercial and Industrial ("C&I") Prescriptive Program,[32] for which it offered to offset the total requested increase by proposing to decrease the budgets of two residential programs – the Residential Appliance Rebate Program and the Quick Home Energy Check-up ("QHEC") Program.[33] As noted by Staff, however, a reduction to the budgets of certain residential programs will not in fact

[29] Stakeholders such as the Alliance opined that the Companies could reallocate monies primarily from the Appliance Rebate Programs to cover the shortfall in HVAC Program funding. *See The* Alliance Comments at 7.
[30] Thus, Delmarva and Pepco are directed to achieve 25% of the revised targets for other forecasted metrics as included in their budget adjustment requests. Delmarva Report at Appendix D; Pepco Report at Appendix F.
[31] For example, non-ratepayer funding made available for use in the Delmarva service territory as a condition of the Exelon – PHI merger, as discussed later in this Order.
[32] *See* Part II herein for discussion of the PE C&I Prescriptive Program.
[33] PE Report at Appendix D.

offset an increase to the C&I EmPOWER surcharge (given that costs are recouped from the customer class for which the program is offered).[34] Further, in the event that the Appliance Rebate and QHEC Program budgets remain unused through the end of the program cycle, those costs will not be collected from ratepayers, rendering this an on-paper adjustment only.[35] Therefore, we concur with Staff and deny the Company's requested budget decreases to its Residential Appliance Rebate and QHEC Programs.

SMECO

SMECO submitted three budget adjustment requests for the Commission's consideration, all of which affect the Cooperative's Residential sub-portfolio. The impact, however, is limited to a re-focusing of previously-approved resources toward alternative program offerings, and thus does not constitute a net budget increase. Specifically, the Cooperative requested reallocation of $2,073,846 from its Multifamily Program customer incentive budget to instead support the customer incentive budgets of its Residential HVAC Program ($1,015,552) and its Residential QHEC Program ($1,058,294).[36] SMECO asserts that its reallocation request stems from the continued underperformance of its Multifamily Program, which the Cooperative attributes to the challenges faced by Program sub-contractors in securing qualified leads.[37] Given this feedback on programmatic performance to-date, and based on Staff's recommendation,[38] we approve SMECO's requested budget adjustments pertaining to its Residential HVAC, QHEC, and Multifamily Programs.

[34] Staff Comments at 82.
[35] Additionally, we note that such requests may affect the Utilities' and stakeholders' analysis at the conclusion of a program cycle as to whether the program in question performed as expected, given that a budget reduction (and reduction in accompanying metrics) would have the affect of more closely aligning the program's performance with the approved forecasts noted in the Utilities' reports.
[36] SMECO Report at Appendix D.
[37] *Id.* at D-6.
[38] Staff Comments at 87-90.

We urge caution, however, in the Cooperative's prospective dealings with this sub-portfolio, as well as the stakeholders' evaluation of such requests during the remainder of this program cycle, for two key reasons. *First*, we note that while the Cooperative's proposal reflects a budget neutral request in the aggregate, it does not reflect a one-for-one request in other important programmatic metrics; most notably, today's approval will result in a net negative incremental energy savings of 3,435 MWh, per SMECO's projections. This reduction in SMECO's forecasted energy savings does not relieve it of the annual targets and program cycle goals outlined in Order No. 87082 (issued on July 16, 2015). *Second*, while the budget adjustments approved in today's Order all affect the Residential sub-portfolio on a cost recovery basis, the individual programs target participation by different sub-components of the Residential customer class. We are increasingly concerned by the growing perception that the multifamily sector is not afforded equitable access to the EmPOWER programs offered by both the Utilities and DHCD, especially in the SMECO service territory. We remind the Cooperatives – as well as the other Utilities, DHCD, and all stakeholders participating in the EmPOWER process – of the importance of extending EmPOWER programs to all market segments and in a manner that reflects appropriate geographic dispersion of the funds.[39]

II. Commercial & Industrial Electric Energy Efficiency and Conservation Programs

BGE Program Modification Request

BGE submitted one program modification request as part of its semi-annual report, in which the Company proposed to consolidate its current Building Operator Certification

[39] *See, e.g.*, Order No. 87082 (July 16, 2015) at 28.

("BOC") Program and its C&I Retrocommissioning Program.[40] In support of its request, the Company noted that the consolidated program offerings would align with the model implemented by Delmarva and Pepco, and it would increase the available synergies while reducing the necessary administrative resources associated with program implementation.[41] Staff recommended that we accept BGE's proposal for the reasons stated, and we concur. Thus, the request by BGE to consolidate its BOC and Retrocommissioning Programs is approved.

PE C&I Budget Adjustment Request

PE submitted one budget adjustment proposal pertaining to its C&I sub-portfolio: a request to increase the customer incentive budget for its C&I Prescriptive Program by $3,719,411. The Company stated that the proposed budget increase is necessary to satisfy projected customer demand; however, PE opined to Staff that it could achieve its program cycle energy savings goal with a budget increase of only $1.4 million.[42] Therefore, we concur with Staff's recommendation to limit the requested budget increase to $1,400,000 only,[43] especially given that a significant contributor to the program's premature budget exhaustion, as identified by Staff, has since been resolved.[44]

III. Limited-Income Energy Efficiency and Conservation Programs

[40] BGE Report at 61.
[41] *Id.*
[42] Staff Comments at 84.
[43] Because we denied the Company's request to offset a portion of its C&I budget increase through a decrease to two of its residential program budgets for the reasons described in Part I herein, we note that the adjustment authorized for the Company's Prescriptive Program will be sourced through an increase to PE's overall C&I EmPOWER budget, thus resulting in an increase to the PE C&I EmPOWER charge.
[44] *Id.* at 83. As explained in Staff's comments, "[a] significant contributor to the results was that many contractors focused their efforts on projects in PE's territory when other Maryland utilities suspended their prescriptive programs [during the first and second quarters of 2016, due to budget shortfalls]."

DHCD submitted several requests for Commission guidance and program modifications pertaining to the Limited-Income Energy Efficiency Program ("LIEEP") and the Multifamily Energy Efficiency and Housing Affordability ("MEEHA") Program.[45]

With respect to the implementation of LIEEP, the Department requested that it be permitted to discontinue desk reviews on all jobs that exceed $4,500, which was included initially as a review process established by DHCD to monitor program spending.[46] Given that the Commission directed specific spending guidelines in Order No. 86785, however, DHCD asserted that the desk reviews should now be limited to only 10% of jobs exceeding $4,500. Staff was supportive of DHCD's request, albeit in a sampling range of 10 – 20% and subject to certain conditions (*i.e.* that the process occur in the manner described to Staff in recent data requests and that DHCD provide an update on the percentage of deficiencies uncovered during its desk reviews as part of the next semi-annual report).[47] We too are supportive of DHCD's request; although we concur with the conditions articulated by Staff, and further, we direct DHCD to sample 20% of its LIEEP jobs exceeding $4,500 (rather than only 10%) in order to ensure that systematic deficiencies are recognized and alleviated promptly.

With respect to the MEEHA Program, DHCD requested Commission guidance on whether EmPOWER funds could be leveraged to fund participation in the Community Solar Pilot Program.[48] In its comments, Staff argued against the notion that funds derived from an electric ratepayer surcharge intended for energy efficiency programs could be used to support

[45] There was also a budget adjustment request regarding the Utilities' proportionate funding shares, and a request regarding the application of Itron's realization rates to the 2015 – 2017 program cycle forecast, included initially in DHCD's Report. As noted in Staff's comments, however, insufficient information was provided on the requests prior to the October, 2016 semi-annual hearings and thus we do not address the requests in this Order. *See* Staff Comments at 96-97.
[46] DHCD Report at Appendix D-24.
[47] Staff Comments at 95-96.
[48] DHCD Report at 25.

a renewable energy project.[49] We concur with Staff that this form of leveraging would be inappropriate, given that the statutory authority enabling the EmPOWER surcharge is targeted at rate recovery for "programs and services that encourage and promote the efficient use and conservation of energy."[50] To the extent that it was previously unclear, we reiterate herein that EmPOWER dollars are to be used solely for the purpose of providing energy efficiency and conservation programs approved by this Commission; renewable resources are not an eligible measure under any EmPOWER program offering.

We remind DHCD, nonetheless, that leveraging in general (at least good faith efforts to do so) is a practice that is not only encouraged, but is required as an ongoing condition for receipt of EmPOWER funds. The leveraging we intended to achieve through this requirement was a reliance on outside funds and resources *in conjunction with* the EmPOWER dollars so that the leveraged additional resources could fulfill the comprehensive needs of the limited-income sector beyond the scope for which the EmPOWER funds are earmarked. We are seriously concerned by DHCD's assertion, as reported in Staff's comments, that the Department is unable to locate and leverage outside funding for LIEEP,[51] and we remind DHCD of its ongoing obligation to detail its efforts to leverage outside funds and resources in conjunction with each semi-annual report.[52]

Lastly, DHCD requested guidance from the Commission as to whether we would consider receiving (and approving) its applications for the LIEEP and MEEHA Program "well in advance of the start of the [2018 – 2020] program cycle."[53] At our October, 2016

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[49] Staff Comments at 97. Staff also took issue with the insufficient detail provided by DHCD, particularly pertaining to projected budget impacts associated with the request. *Id.*
[50] Public Utilities Article ("PUA") § 7-211(f)(2).
[51] Staff Comments at 97.
[52] Order No. 86785 (Dec. 23, 2014) at ¶60.
[53] DHCD Report at Appendix D-23.

semi-annual hearings, this request was characterized in the alternative as the ability of DHCD to accept funding requests for projects that would occur in the subsequent program cycle in advance of receiving Commission approval of the Department's 2018 – 2020 program cycle proposal. DHCD asserts that its request is necessary to avoid a significant loss in production during the first quarter of the next program cycle – a situation it claims occurred in the first quarter of 2015 due to the uncertainty as to whether the LIEEP and MEEHA Program would continue into the 2015 – 2017 program cycle.[54]

We are sensitive to the potential issues experienced by all program implementers during the transition between program cycles, which is why we have repeatedly taken steps to mitigate any unnecessary interruptions or delays in program offerings. For example, we granted DHCD's request in a November 5, 2014 Order for a one-year extension of its MEEHA program budget so that any project that had completed the underwriting process by December 31, 2014 could continue to draw funds from the previously-approved 2012 – 2014 program cycle budget throughout the 2015 program year.[55] In fact, as a result of this flexibility, the MEEHA Program experienced a surge of completed jobs during the first half of 2015.[56] While DHCD's companion single family program did not experience similar progress during the first half of 2015 (in fact, DHCD failed to offer any weatherization services until mid-March 2015), the interruption in services was attributable to a delay in the renewal of the Department's memorandum of understanding agreements with the Utilities

[54] *Id.*
[55] Order No. 86698 (Nov. 5, 2014) at 16-17.
[56] ML#175302: *Comments of the Public Service Commission Staff – 2015 Semi-Annual EmPOWER Maryland Programmatic Report for the First and Second Quarters* (Sept. 24, 2015) at 88-89.

until midway through the first quarter of 2015 – a process that is not contingent on a pre-approval by the Commission regarding any specific programmatic budgets.[57]

Thus, while similar flexibility options to the one described above may be considered during the transition into the next program cycle, we decline to consider any entity's proposal for the 2018 – 2020 program cycle outside of the timeline for review established generally by the authorizing statute.[58] To do so would disadvantage the many stakeholders involved in these proceedings, and would diminish our ability to consider the appropriateness of the aggregated rate impacts for all program implementers' EmPOWER proposals.

IV. Natural Gas Energy Efficiency and Conservation Programs

As discussed in the previous section, we decline as a matter of policy to consider future program cycle proposals outside the procedural review timeline dictated by the authorizing statute for the aforementioned reasons. Thus, while we appreciate the efforts that WGL expended to propose an expansion plan that would commence in 2017 and ramp up to the 2018 – 2020 program cycle, we must deny the proposal, without prejudice; particularly since Staff, MEA, and other stakeholders were not in a position to comment on the filing during our October, 2016 semi-annual hearings. Although we do not reach a review of WGL's 2017 – 2020 expansion plan on the merits, we note that to the extent the proposal discusses potential coordination between the Company's natural gas energy efficiency

[57] *Id.* at 84.

[58] PUA § 7-211(h) establishes a review of the plans to occur as follows: on or before July 1, the program implementer shall consult with MEA regarding the design and adequacy of the proposal; and, on or before September 1, the program implementer shall submit its plan to the Commission.

offerings and the counterpart programs and measures offered by the electric utilities, we commend and encourage the continued pursuit of such coordinated efforts in the future.[59]

While we are not persuaded to take up the Company's expansion proposal in today's Order, we will address several budget adjustment requests that WGL submitted to support the continued implementation of two of its residential programs during 2017. WGL submitted budget adjustment requests for its Residential Water Heater Program and its Residential Heating System Replacement Program in the amounts of $406,200 and $366,750, respectively.[60] In support of its request, the Company noted the high customer demand for the tankless water heater measure and the WIFI-enabled thermostats, both of which far outpaced initial Company expectations. WGL also provided evidence of a significant pipeline of anticipated projects slated to occur before the end of the program cycle.[61] Given the Company's projections regarding incremental participation and therm savings that are associated with the budget adjustments, as well as the recommendation by Staff to approve the requests,[62] we grant the budget increases to WGL's Residential Water Heater Program and Residential Heating System Replacement Program to support continued programmatic operations through the remainder of this year.

V. Other EmPOWER Requests

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

[59] WGL 2017 – 2020 Plan at 13 and 19.
[60] WGL Report at Appendix D.
[61] Staff Comments at 90-94.
[62] *Id.*

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.[63] In its subsequent Report, the EmPOWER Marketing Work Group presented an example of a bill message that "could be customized for each utility based on the lifetime energy savings produced by EmPOWER programs for the territory along with their respective websites."[64] The Work Group Report also identified at least six other areas of improvement in which the messaging and transparency of the EmPOWER programs and associated funding could be increased, including: rebates; emails; bill inserts, press releases; enhanced web site messaging, and call centers.[65] The Report, however, noted that the Work Group awaits further Commission directives and guidance regarding additional messaging enhancements.[66]

We appreciate the diligent efforts of the Marketing Work Group in striving for consensus; however, we decline to adopt the proposed language highlighted in the Report. While the bill language suggested by the Work Group focused on lifecycle energy savings attributable to EmPOWER programs, which we agree is an important metric for program cost-effectiveness evaluations, we find that it does not convey the desired link between (1) the program's funding source (*i.e.* charge on the customer's monthly bill); (2) the program's potential (*i.e.* reduced energy consumption, and thus monetary savings); and (3) information on how to participate in the EmPOWER program offerings. Therefore, we find that the transparency and simplicity we are hoping to achieve through customer bill messaging is more appropriately effectuated through the following language: "The EmPOWER MD

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[63] Order No. 87575 (May 26, 2016) at 43-45.
[64] ML#199250: *Marketing Work Group Assessment in Compliance with Order No. 87575* ("Marketing Work Group Report") (Sept. 15, 2016) at 2.
[65] *Id.* at 4.
[66] *Id.*

charge funds programs that can help you reduce your energy consumption and save you money. For more information, including how to participate, go to: [utility's website]." Given the information provided in the Report regarding the Utilities' estimated implementation timelines for the Work Group's proposed message, which we note is of similar length to our language, we direct the Utilities to include the customer bill message delineated above no later than the first billing cycle of the third quarter of 2017.[67]

Further, we agree with the Work Group's assessment that there are additional categories of marketing materials that could benefit from revised messaging regarding EmPOWER. Given that many of the focus areas identified by the Work Group involve print mediums, we find that it may be feasible to expand on the bill language ordered above. Therefore, we direct Staff to convene the EmPOWER Marketing Work Group for purposes of considering the following proposed messaging to be included in, at a minimum, the six mediums identified in the September 15, 2016 Report: "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."[68] Staff, on behalf of the EmPOWER Marketing Work Group, is directed to file a report no later than April 17, 2017 detailing any proposed enhancements to this language, as well as recommended strategies and timelines for incorporating the proposed language into all marketing materials beginning with the 2018 – 2020 program cycle.

Lastly, we have taken note of recent mailings, and printed and radio advertising campaigns in the Baltimore and Washington D.C metropolitan areas, and remind utility

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[67] *Id.* at 3.

[68] This proposal is referred to as the "marketing materials language." We recognize that the proposed messaging would need to be modified for utilities that offer natural gas energy efficiency programs.

EmPOWER program implementers of the requirement to properly and prominently note the use, and customer-source, of EmPOWER funds when referencing EmPOWER programs in promotional and educational materials, and in public advertising campaigns.

2018 – 2020 Program Cycle: Upcoming Technical Conference

In preparation for the 2018 – 2020 EmPOWER Maryland program cycle, the Commission plans to host a public technical conference early this year to provide a forum for stakeholders and other interested parties to discuss the development of future energy efficiency programs. Stakeholders are encouraged to continue work group discussions prior to the Commission's technical conference. Additional information regarding the technical conference, including relevant logistics, will be provided through a subsequent public notice.

VI. Delmarva Service Territory Energy Efficiency Customer Investment Funds

As a condition for approval of the Exelon – PHI merger, Exelon was directed to provide Delmarva, in equal installments over three years, a total of $11.7 million in customer investment funds to support additional energy efficiency programs in the Delmarva Maryland service territory; Delmarva in turn committed to direct at least 20% of the funds into programs dedicated to energy efficiency investments in affordable multifamily housing.[69] On March 1, 2016, Delmarva filed a proposal with the Commission regarding the expenditure of $2.34 million (20% of $11.7 million) of customer investment funds, in which the Company suggested establishing a parallel program to the MEEHA Program currently implemented by DHCD.[70] The parallel offering would provide flexibility to assist master-

[69] Case No. 9361, Order No.86990 (May 15, 2015).
[70] ML#185186: *Case No. 9361 Condition 3 C* (March 1, 2016).

metered buildings and to upgrade certain energy efficiency measures, as well as the ability to remediate health and safety hazards that extend beyond the scope of EmPOWER funds.[71] On May 3, 2016, Delmarva filed a proposal with the Commission regarding the expenditure of the remaining $9.36 million in available customer investment funds (*i.e.* 80% of the $11.7 million), in which the Company proposed to use $8.166 million to offset the budget increases necessary to continue operating certain non-residential EmPOWER programs, and $1.194 million to expand the Residential QHEC and Residential New Construction Programs.[72]

In Order No. 87575, we granted budget adjustment requests totaling over $24.5 million to Delmarva's C&I sub-portfolio, stating explicitly, "we expect that this impact will be offset by at least $8.166 million derived from merger funds prior to inclusion of the budget increases in the EmPOWER surcharge effective during calendar year 2017."[73] We further observed that there was the potential for additional customer investment funds to offset the Company's requested budget increases for its Multifamily Prescriptive and Multi-Dwelling QHEC Programs given that $2.34 million was earmarked for energy efficiency investments in the multifamily sector.[74] In reaching these determinations, it was our finding that programmatic expansions effectuated through budget adjustments satisfy the intent of the Exelon – PHI merger condition; however, the application of customer investment funds to offset previously-approved budgets (especially those approved prior to consummation of the merger) does not satisfy this condition.

On January 10, 2017, the Company filed a letter with the Commission noting that its May 3, 2016 proposed distribution of the $9.36 million in customer investment funds was in

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[71] *Id.* at 2.
[72] ML#189969: *Case No 9361 Condition 3 C* (May 3, 2016).
[73] Order No. 87575 at 24.
[74] *Id.* at 23.

fact reflected in its 2017 surcharge filing; although, not explicitly discussed by the Company or Staff in the comments or presentation of the material prior to receiving Commission approval.[75] While this application of customer investment funds is appropriate insofar as the $8.166 million was approved through Order No. 87575 to offset certain C&I program budget increases, the Company erred in anticipating that we could authorize the $1.194 million remainder to offset existing residential program budgets given that such an action is not allowed by the Exelon – PHI Merger Condition 3C. Therefore, Delmarva is directed to re-file its residential EmPOWER tariff within 30 days of the issuance of this Order to correct the application of the customer investment funds attributed to the existing budgets of its Residential QHEC and Residential New Construction Programs.[76]

Additionally, it appears that no portion of the $2.34 million earmarked for multifamily energy efficiency programs was used to further offset the multifamily program budget increases included in the 2017 surcharge filing, as contemplated by Order No. 87575.[77] Thus, Delmarva is directed to re-file its 2017 C&I EmPOWER tariff within 30 days of the issuance of this Order to reflect the incremental $1,036,038 customer investment fund credit apportioned to its C&I customers in support of the multifamily energy efficiency program budget increases authorized in Order No. 87575.

Therefore, the March 1, 2016 and May 3, 2016 proposals proffered by Delmarva regarding the expenditure of customer investment funds stemming from the Exelon – PHI merger are denied. After application of the credits authorized herein (and in Order No.

[75] ML#209686: *Case No. 9156* (Jan. 10, 2017).

[76] Delmarva is directed to consider whether the $1.194 million could instead be targeted to offset a residential budget increase that is projected as necessary to support residential program operations through the remainder of this program cycle. For example, earlier in this Order we denied Delmarva's proposed budget increase for its Residential HVAC Program and directed the Company to re-file within 30 days of this Order a revised budget proposal; the $1.194 million in merger funding could be used to offset a budget increase such as this.

[77] Order No. 87575 at 22-23. In that Order, we approved budget increases totaling $1,036,038 to support the expansion of Delmarva's Multifamily Prescriptive and Multi-Dwelling QHEC Programs.

87575), the remainder in available customer investment funds totals $1.194 million earmarked for expansion of residential EmPOWER programs, and $1,303,962 earmarked for expansion of energy efficiency programs targeted at affordable multifamily housing. Delmarva is directed to consider first the aforementioned available offset credits before seeking a budget increase for the applicable programs during the remainder of this program cycle.[78]

IT IS THEREFORE, this 2nd day of February, in the year Two Thousand Seventeen, by the Public Service Commission of Maryland,

ORDERED: (1) That the Utilities' proposal to modify the Residential Appliance Rebate Program, as described in Appendix B to the Appliance Rebate Work Group's September 15, 2016 Report, is denied, without prejudice;

(2) That the Utilities are authorized to transition to the performance-based incentive structure described in Appendix B to the Home Performance with Energy Star Work Group's September 1, 2016 Report as soon as practicable, subject to the conditions described herein;

(3) That Staff, on behalf of the Home Performance with Energy Star Work Group, is directed to file the proposed minimum performance requirements, which must address at least air sealing, insulation, and health and safety thresholds, no later than 45 days from the issuance of this Order;

(4) That the Utilities are directed to provide quarterly true-up reports as described herein to address the comparison of modeled versus measured energy savings occurring

[78] Delmarva must still complete the budget adjustment template required for all EmPOWER requests; however, the filing should reflect the identification of the amount of applicable merger customer investment funds that are available as an offset.

under the umbrella of the new performance-based incentive structure of the Home Performance with Energy Star Programs;

(5) That an increase to the budget of Delmarva's Residential HVAC Program in the amount of $591,000 is denied;

(6) That an increase to the budget of Pepco's Residential HVAC Program in the amount of $1,719,600 is denied;

(7) That a reallocation from the customer incentive budget of Delmarva's Residential Lighting and Appliances Programs to the customer incentive budget of Delmarva's Residential HVAC Program in an amount of up to $147,750 is approved through the end of the 2015 – 2017 program cycle;

(8) That a reallocation from the customer incentive budget of Pepco's Residential Lighting and Appliances Programs to the customer incentive budget of Pepco's Residential HVAC Program in an amount of up to $429,900 is approved through the end of the 2015 – 2017 program cycle;

(9) That the Utilities are directed to file within 30 days of the issuance of this Order a revised incentive level proposal applicable to the Residential HVAC Program measures;

(10) That Delmarva and Pepco are directed to file within 30 days of the issuance of this Order a revised budget adjustment request for the remainder of the 2015 – 2017 program cycle applicable to the Residential HVAC Programs, consistent with the decisions herein;

(11) That a decrease to the budget of PE's Residential Appliance Rebate Program in the amount of $758,491 for the remainder of the 2015 – 2017 program cycle is denied;

(12) That a decrease to the budget of PE's Residential Quick Home Energy Check-up Program in the amount of $660,075 for the remainder of the 2015 – 2017 program cycle is denied;

(13) That an increase to the budget of SMECO's Residential HVAC Program in the amount of $1,015,552 for the remainder of the 2015 – 2017 program cycle is approved;

(14) That an increase to the budget of SMECO's Quick Home Energy Check-up Program in the amount of $1,058,294 for the remainder of the 2015 – 2017 program cycle is approved;

(15) That a decrease to the budget of SMECO's Multifamily Program in the amount of $2,073,846 for the remainder of the 2015 – 2017 program cycle is approved;

(16) That BGE's request to consolidate its Building Operator Certification Program and its C&I Retrocommissioning Program is approved;

(17) That an increase to the budget of PE's C&I Prescriptive Program in the amount of $1,400,000 for the remainder of the 2015 – 2017 program cycle is approved;

(18) That the request by DHCD to discontinue desk reviews on all LIEEP jobs that exceed $4,500 is granted, subject to the conditions described herein, and that instead DHCD is directed to perform desk reviews for 20% of LIEEP jobs that exceed $4,500;

(19) That the request by DHCD to leverage MEEHA EmPOWER funds in support of a Community Solar Pilot Project is denied;

(20) That the request by DHCD for an expedited acceptance of its 2018 – 2020 program cycle proposal for its LIEEP and MEEHA Programs is denied;

(21) That WGL's 2017 – 2020 EmPOWER Maryland Regulatory Plan is denied, without prejudice;

(22) That an increase to the budget of WGL's Residential Water Heater Program in the amount of $406,200 for the remainder of the 2015 – 2017 program cycle is approved;

(23) That an increase to the budget of WGL's Residential Heating System Replacement Program in the amount of $366,750 for the remainder of the 2015 – 2017 program cycle is approved;

(24) That all revised targets and forecasts filed by the Utilities in conjunction with the budget adjustment requests, as modified herein, are approved and shall be reflected in the next semi-annual filing;

(25) That the Utilities are directed to include the following line item on all monthly customer bills, in a manner consistent with that described in the September 16, 2015 EmPOWER Marketing Work Group Report, no later than with the first billing cycle of the third quarter of 2017: "The EmPOWER MD charge funds programs that can help you reduce your energy consumption and save you money. For more information, including how to participate, go to: [utility's website].";

(26) That Staff, on behalf of the EmPOWER Marketing Work Group, is directed to file a report no later than April 17, 2017 detailing any suggested enhancements to the proposed marketing materials language described herein, as well as recommended strategies and timelines for incorporating the proposed language into all marketing materials beginning with the 2018 – 2020 program cycle;

(27) That Delmarva is directed to re-file its residential EmPOWER tariff within 30 days of the issuance of this Order to correct the application of the customer investment funds attributed to the existing budgets of its Residential QHEC and Residential New Construction Programs;

(28) That Delmarva is directed to re-file its 2017 C&I EmPOWER tariff within 30 days of the issuance of this Order to reflect the incremental $1,036,038 customer investment fund credit apportioned to its C&I customers in support of the multifamily energy efficiency program budget increases authorized in Order No. 87575; and

(29) That the March 1, 2016 and May 3, 2016 proposals proffered by Delmarva regarding the expenditure of customer investment funds stemming from the Exelon – PHI merger are denied.

/s/ W. Kevin Hughes

/s/ Harold D. Williams

/s/ Jeannette M. Mills

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell
Commissioners