ML 217038

ORDER NO. 88403

IN THE MATTER OF THE MERGER OF EXELON CORPORATION AND PEPCO HOLDINGS, INC.	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9361

Issued: September 27, 2017

This matter comes before the Public Service Commission of Maryland ("Commission") as a compliance filing stemming from the May 15, 2015 Commission Order granting the Application for Approval of the Merger, subject to certain conditions, submitted by Exelon Corporation ("Exelon"), Pepco Holdings, Inc. ("PHI"), Potomac Electric Power Company ("Pepco"), and Delmarva Power & Light Company ("Delmarva"). Order No. 86990 conditioned approval of the merger, *inter alia*, on the good faith discussions of Baltimore Gas & Electric Company ("BGE"), Delmarva, and Pepco with all interested stakeholders for the purpose of developing a mutually agreeable Arrearage Management Plan ("AMP") to further assist limited-income customers in arrears.[1] The parties were directed to commence discussions within 60 days of the merger closing, and subsequently to submit any agreed-upon AMP to the Commission for review and approval.[2] The Commission explicitly retained its discretion to review any

[1] Order No. 86990 (May 15, 2015) at A-24, Condition No. 18.
[2] *Id.*

resulting AMP proposal due to the potential for significant ratepayer impacts associated with such an endeavor.[3]

On December 22, 2016, BGE, Delmarva, and Pepco (collectively, the "Companies") filed a proposal for an AMP in compliance with Merger Condition No. 18.[4] The Companies stated that the AMP proposal was filed with the Commission following six in-person meetings, the exchange of multiple drafts, and the incorporation of extensive comments from interested stakeholders that included: the National Consumer Law Center ("NCLC"); the Maryland Office of People's Counsel ("OPC"); the Maryland Office of Home Energy Programs ("OHEP"); the Fuel Fund of Maryland; representatives of Montgomery County and Prince George's County; the AARP of Maryland; the Apartment and Office Building Association of Metropolitan Washington ("AOBA"); and the Commission's Technical Staff.[5]

The AMP program was proposed by the signatory parties to run as a pilot in order to test the viability and effectiveness of the approach as a potential statewide replacement to the Electric Universal Service Program ("EUSP") Arrearage Grant Program administered by OHEP.[6] Under the proposed AMP pilot, participating customers would be enrolled in the program for 12 to 15 months, and would achieve incremental arrearage forgiveness with each completed monthly payment.[7] To qualify for the AMP pilot, customers must first be deemed eligible for the EUSP Arrearage Grant Program by OHEP, and could not carry a home energy burden in excess of a 6% of monthly income

---

[3] *Id.* at 73, note 293.
[4] ML#207885: *Case No. 9361 – Filing of Arrearage Management Program by Baltimore Gas and Electric Company, Potomac Electric Power Company, and Delmarva Power & Light Company in Compliance with Merger Condition No. 18* ("AMP Proposal") (Dec. 22, 2016).
[5] *Id.* at 1.
[6] *Id.*
[7] *Id.* at 2.

threshold.[8] The target enrollment goal of the AMP pilot was 3,000 customers, apportioned across the BGE, Delmarva, and Pepco service territories.[9] While many aspects of the AMP Proposal achieved consensus, the Companies acknowledged that several areas of disagreement persisted, such as whether to impose a maximum arrearage amount as an eligibility criterion, as well as whether to impose a seven-year gap between customer participation cycles in the AMP program.[10]

On January 12, 2017, the Commission issued a request for comments regarding the AMP Proposal filed by the Companies.[11] In response, on or about February 10, 2017, comments were received from the following parties: the Maryland Department of Human Resources Office of Home Energy Programs ("DHR-OHEP"); Montgomery County, Maryland; AOBA; OPC; a collective of low-income advocates; NCLC; and Technical Staff. Reply comments were filed on February 28, 2017 by NCLC, on March 2, 2017 by the Companies, on March 8, 2017 by the Fuel Fund of Maryland, on March 10, 2017 by AOBA, and on March 17, 2017 by OPC.

Among the many points discussed in the filed comments was the evolving approach to arrearage benefits provided through OHEP. Specifically, in its comments, DHR-OHEP referenced the Supplemental Targeted Energy Program ("STEP") scheduled to be launched by OHEP in fiscal year 2018. According to DHR-OHEP, STEP was designed to offer incentive-based benefits to customers contingent on their participation in services designed to improve long-term bill affordability, and as such, DHR-OHEP observed that potential synergies could arise between the implementation of STEP and an

---

[8] *Id.*
[9] *Id.* at 3.
[10] AMP Proposal at 2-3.
[11] ML#209732: *Notice of Request for Comments* (Jan. 12, 2017).

AMP pilot.[12] DHR-OHEP requested, however, that any AMP pilot approved by the Commission begin no sooner than fiscal year 2019 so that OHEP could gain experience deploying the new benefit structure prior to layering on the AMP pilot, given DHR-OHEP's perceived importance of an effective STEP roll-out to the ultimate success of AMP.[13]

Additionally, while the AMP Proposal and comments thereto presented a range of estimates for likely funding needs for the pilot, the DHR-OHEP comments observed that since 2010, OHEP has paid arrearage benefits from revenues received as a result of the Regional Greenhouse Gas Initiative ("RGGI") auctions, which flow through to DHR-OHEP via the Maryland Strategic Investment Fund ("SEIF").[14] Indeed, DHR-OHEP noted in its comments that "[t]he pilot is not anticipated to impact the total amount of arrearage benefits issued by OHEP as the approach to the pilot changes only the way arrearage benefits are applied to customer accounts."[15] Further, the comments noted that funds directed to OHEP from other sources may offset administrative and outreach costs incurred during the course of implementing the AMP pilot.[16] In sum, DHR-OHEP noted its support for an AMP pilot, subject to certain modifications, and expressed a willingness to cooperate with the Companies moving forward on the implementation and evaluation of the AMP Proposal.[17]

The Commission greatly appreciates the collaboration exhibited by this diverse group of stakeholders in the development of the AMP Proposal pending before us. To

[12] ML#212582: *Maryland Department of Human Resources Comments Regarding Condition 18* (Feb. 09, 2017) at 2.
[13] *Id.* at 3.
[14] *Id.* at 4.
[15] *Id.*
[16] *Id.*
[17] *Id.* at 5.

this end, we find that the Companies have satisfied Merger Condition No. 18, having engaged in good-faith discussions to develop an innovative mechanism to increase the affordability of service for limited-income households in their respective service territories. As a result of these efforts, however, it has come to our attention that the development of new approaches to arrearage management in the State was already underway on a parallel path, resulting in the STEP initiative primed for roll-out by OHEP during this fiscal year. Indeed, we have long deferred to OHEP as the State's primary provider of important energy assistance programs for our most vulnerable customers, and through this Order we similarly affirm this position, especially given that the funding for any AMP pilot effort would be sourced from RGGI SEIF dollars and not from ratepayer-derived EUSP monies. We therefore decline to specifically endorse the implementation of this AMP Proposal, and find that such a decision as to whether to proceed is more appropriately determined by the implementing agency – in this case OHEP.[18] Should OHEP ultimately decide to proceed with an AMP pilot, we recognize that the Companies may incur some administrative costs for customer billing system upgrades, etc. While our utilities are always expected to cooperate in good faith with another State agency, the expenditure of ratepayer dollars that would be associated with an AMP pilot – for which a utility may ultimately seek cost recovery – would necessitate an additional report to the Commission regarding the proposal, including its cost and source of funding prior, to its implementation.

[18] We note, however, that certain deficiencies exist in the AMP Proposal as filed, particularly regarding the objective metrics by which the pilot would be evaluated; although, we do not find this to be a barrier to its implementation by another state agency given that the funding source would be derived from non-ratepayer funds. OHEP, should it choose to move forward with an AMP pilot, may more appropriately refine the proposal to achieve the results and metrics it is best situated to define.

IT IS THEREFORE, this 27th day of September, in the year Two Thousand Seventeen, by the Public Service Commission of Maryland,

ORDERED: (1) That the request to implement an Arrearage Management Program pilot by Baltimore Gas and Electric Company, Potomac Electric Power Company, and Delmarva Power & Light Company, is hereby denied for the reasons discussed above, without prejudice.

W. Kevin Hughes

Michael T. Richard

Anthony J. O'Donnell

Odogwu Obi Linton
Commissioners[19]

[19] Commissioner Mindy L. Herman did not participate in this decision.