ORDER NO. 88964

IN THE MATTER OF THE EMPOWER MARYLAND 2018-2020 ENERGY EFFICIENCY, CONSERVATION AND DEMAND RESPONSE PROGRAM PLANS PURSUANT TO THE EMPOWER MARYLAND ENERGY ACT OF 2008	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9494

Issue Date: December 31, 2018

On October 25 and 26, 2018, the Commission held a legislative-style hearing in the above-captioned case[1] to review, *inter alia*, the semi-annual EmPOWER Maryland reports for the first and second quarters of 2018 as filed by The Potomac Edison Company ("Potomac Edison"),[2] Baltimore Gas and Electric Company ("BGE"),[3] Potomac Electric Power Company ("Pepco"),[4] Delmarva Power & Light Company ("Delmarva"),[5] Southern Maryland Electric Cooperative, Inc. ("SMECO") (collectively,

[1] On October 24, 2018, by Order No. 88883, the Commission consolidated six individual matters that pertained to utilities' respective energy efficiency, conservation, and demand response programs into one matter for the sake of efficiency, effectiveness, and the conservation of resources. Specifically, the dockets in Case No. 9153 (Potomac Edison Company), Case No. 9154 (Baltimore Gas and Electric Company), Case No. 9155 (Potomac Electric Power Company), Case No. 9156 (Delmarva Power & Light Company), Case No. 9157 (Southern Maryland Electric Cooperative, Inc.), and Case No. 9362 (Washington Gas Light Company) were closed, and a docket in the instant matter was initiated.

[2] Maillog ("ML") #221671: The Potomac Edison Company - 2018 EmPOWER Maryland Semi-Annual Report January 1 – June 30 ("Potomac Edison Report") (Aug. 15, 2018).

[3] ML#221689: Baltimore Gas and Electric Company - 2018 Mid-Year EmPOWER Maryland Report ("BGE Report") (Aug. 15, 2018).

[4] ML#221685: Potomac Electric Power Company - First 2018 Semi-Annual EmPOWER Maryland Efficiency and Conservation and Demand Response Report ("Pepco Report") (Aug. 15, 2018).

[5] ML#221683: First 2018 Semi-Annual EmPOWER Maryland Energy Efficiency and Conservation and Demand Response Report ("Delmarva Report") (Aug. 15, 2018).

"Electric Utilities"),[6] Washington Gas Light Company ("WGL")[7] (collectively, along with the Electric Utilities, "the Utilities"), and the Maryland Department of Housing and Community Development ("DHCD").[8] The Commission reviewed the comments pertaining to the semi-annual reports as filed by the Commission's Technical Staff ("Staff"),[9] the Office of People's Counsel ("OPC"),[10] the Maryland Energy Administration ("MEA"),[11] the National Resources Defense Council ("NRDC"),[12] and the Maryland Alliance of Energy Contractors ("MAEC").[13] The Commission also reviewed several other filings, including, but not limited to, Status Reports, and any comments thereon, on the implementation of the Midstream Incentive Program,[14] the Auto-Pay and Budget Billing Proposal,[15] the transition of incentive structure for the

[6] ML#221680: Southern Maryland Electric Cooperative, Inc. - 2018 Q1/Q2 Semi-Annual EmPOWER Maryland Report ("SMECO Report") (Aug. 15, 2018).
[7] ML#221693: Washington Gas Light Company - EmPOWER Maryland Semi-Annual EE&C Report ("WGL Report") and EmPOWER Maryland Energy Efficiency Programs 2018-2020, Revised Plan ("WGL Revised Plan") (Aug. 15, 2018).
[8] ML#221706: Maryland Department of Housing & Community Development's 2018 Q1/Q2 Semi-Annual EmPOWER Maryland Report ("DHCD Report") (Aug. 16, 2018); ML#221871: Maryland Department of Housing & Community Development's Errata to 2018 Q1/Q2 Semi-Annual EmPOWER Maryland Report ("DHCD Errata") (Aug. 28, 2018); ML#221908: Maryland Department of Housing & Community Development's Second Errata to 2018 Q1/Q2 Semi-Annual EmPOWER Maryland Report ("DHCD Second Errata") (Aug. 30, 2018); ML#222212: Maryland Department of Housing & Community Development's Third Errata to 2018 Q1/Q2 Semi-Annual EmPOWER Maryland Report ("DHCD Third Errata") (Sept. 21, 2018).
[9] ML#222520: Office of Staff Counsel - EmPOWER MD Finance Work Group Status and Semi-Annual Report ("Staff Comments") (Oct. 15, 2018).
[10] ML#222519: Office of People's Counsel - EmPOWER Maryland 2018 Q1-Q2 Semi-Annual Review Report ("OPC Comments") (Oct. 15, 2018).
[11] ML#222514: Maryland Energy Administration - Comments on Semi-Annual EmPOWER Maryland Reports ("MEA Comments") (Oct. 15, 2018).
[12] ML#222513: Natural Resources Defense Council - EmPOWER Maryland Semi-Annual Reports for First and Second Quarters - January 1 through June 30, 2018 ("NRDC Comments") (Oct. 15, 2018).
[13] ML#222509: Maryland Alliance of Energy Contractors - Heating and Air Conditioning Contractors of Maryland, Inc. - Comments EmPOWER Maryland Semi-Annual Reports ("MAEC Comments") (Oct. 15, 2018).
[14] ML#221704: Office of Staff Counsel - Status Report of the Midstream Program Implementation EmPOWER Maryland Plans ("Midstream Status Report") (Aug. 15, 2018).
[15] ML#222543: Office of Staff Counsel - Auto-Pay and Budget Billing Proposal Empower Maryland Behavior Work Group ("Behavior Work Group Report") (Oct. 17, 2018).

Home Performance with ENERGY STAR ("HPwES") Program,[16] and by the EmPOWER Maryland Finance Work Group.[17]

The filings put before the Commission analyzed the performance of the Utilities' and DHCD's portfolios during the first two quarters of 2018, offered recommendations for programmatic improvements, provided status reports and data, and requested approval and direction from the Commission regarding future programming. The semi-annual hearing held in the above-captioned matter provided supplemental information on the filings considered, thereby further assisting the Commission with providing the directions and decisions outlined in this Order.

The conclusion of the first half of 2018 marks the first semi-annual reporting period for the fourth EmPOWER Maryland program cycle. As has often been the case with the first reporting period of a new cycle, results were mixed across the Utilities in the performance metrics for both the residential and commercial sectors. The Commission notes that, while the performance in the first half of 2018 fell short of forecasts and performance in previous periods, it did far exceed the performance of first reporting periods of previous EmPOWER cycles.[18] The Commission also notes that many of the lower-than-forecast results can be attributed to time spent on the negotiation and re-negotiation of contracts with vendors and contractors, the start-up of activities that

[16] ML#221695: Potomac Electric Power Company - Delmarva Power & Light Company - Home Performance with Energy Star Program Report ("HPwES Status Report") (Aug. 15, 2018).
[17] ML#222520: Office of Staff Counsel - EmPOWER MD Finance Work Group Status and Semi-Annual Report ("Finance Work Group Report") (Oct. 15, 2018).
[18] Staff Comments, page 5.

are new to or expanded for this program cycle, and other administrative matters.[19] As such, the Commission finds that the Utilities and DHCD can still achieve the goals they established in their respective 2018-2020 EmPOWER Maryland Plans.

Among the highlights in the semi-annual reports, Potomac Edison achieved 100% of its 2018 energy savings target for the Quick Home Energy Checkup ("QHEC") Program,[20] Delmarva has achieved 208% of its 2018 energy savings target for the Residential New Construction Program,[21] and BGE reported reaching 1.06% of its 2.0% annual energy savings goal while using only one-third of its annual budget.[22] Pepco reported a diversified portfolio in that approximately 25% of its total energy savings came from the two programs that typically dominate the Utilities' savings, i.e., Residential Lighting and Behavioral Programs.[23] SMECO continued the Members Helping Members Campaign, which provided thank you packages from the Lighting Program to members that donated resources to limited-income customers.[24] Finally, enrollment in DHCD's Limited Income Energy Efficiency Program ("LIEEP") increased by 58% in the past year, due in large part to DHCD's continued marketing efforts.[25]

This is a small sampling of the successes that have come from the start of the current program cycle. The Commission now addresses the requests and suggestions made by the Utilities and DHCD to modify their respective programs.

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[19] *See*, *e.g.*, PE Report, page 1; WGL Report, page 3; Staff Comments, page 5. The Commission notes that, while WGL did encounter these listed issues, its delays were much more significant than the other utilities', including a nine-month process to enter into a contract with a consultant. WGL's delays led to the reporting of no savings for the first and second quarters of 2018, despite the EmPOWER surcharge having been collected from ratepayers during that same time period.
[20] PE Report, page 3.
[21] Delmarva Report, page 9.
[22] BGE Report, pages 4 and 12.
[23] Pepco Report, page 26.
[24] SMECO Report, Attachment 1, page 1.
[25] DHCD Report, page 11.

Program Addition, Modification, and Budgetary Requests

BGE requests approval for the addition of a Non-Profit Energy Advance ("NPEA") Pilot to its Smart Energy Savers Program.[26] The NPEA will assist certain non-profit organizations by providing funds to cover the remaining customer cost of energy saving measures that are not covered by EmPOWER Commercial and Industrial ("C&I") Prescriptive incentives.[27] Any BGE C&I customer who qualifies for a C&I prescriptive lighting incentive, has more than $1,000 in customer contributions for a specific project, and qualifies as a non-profit serving low-income, elderly, disabled, displaced, abused or other groups in need, will qualify for the NPEA subject to the availability of funds.[28] The NPEA will allow participants to spread the customer portion of the project costs over a 12-month period through equal payments and with no interest.[29] The implementation of the NPEA will be funded by the existing Commission-approved Program Investigation, Design, and Development ("PIDD") budget for the 2018-2020 program cycle, thus BGE is making no additional budget request at this time.[30] Recognizing the success that BGE has seen with its similar Small Business Energy Advance ("SBEA") offering, and the potential for the NPEA to increase program participation by reducing or eliminating out-of-pocket expenses for certain energy saving measures, the Commission approves the request and authorizes the addition of the NPEA Pilot, as proposed, to the BGE Smart Energy Savers Program.

[26] BGE Report, Appendix D, page 41.
[27] *Id*.
[28] *Id*.
[29] *Id*.
[30] *Id*.

BGE also requests approval to raise the incentive caps for its Small and Large Building Tune-Up Programs, proposing to maintain the 75% project incentive while increasing the Small Program cap from $15,000 to $25,000 and the Large Program cap from $30,000 to $50,000 beginning on January 1, 2019.[31] BGE notes that, while the programs are currently on-track to achieve record savings at below budgeted costs, the Company is still seeing resistance from customers and service providers.[32] BGE states, "Potential service providers have communicated that they have not pursued the program because they feel the caps are too restrictive and they present a very real limitation."[33] Given that the program budget is underspent, BGE is not seeking a budget adjustment.[34] The Commission approves BGE's request to raise the incentive caps as evidence exists that the current payments are not sufficient to attract customer interest.

SMECO filed a request under its Small Business Solutions Program for the addition of an SBEA offering with a $250,000 proposed annual incentive budget for 2019 and 2020, as well as a one-time budget request of $25,000 to support the upgrades required by its implementing contractor.[35] The SBEA will allow participants to spread the customer portion of the project costs over a 12-month period with no interest.[36] Recognizing that this offering will reduce the need for customers to make the large, up-front capital investments that often serve as barriers to participation, the Commission

[31] BGE Report, page 13.
[32] *Id*. at 39.
[33] *Id*.
[34] *Id*. at 40.
[35] SMECO Report, page 4.
[36] *Id.*

approves the request and authorizes the increase of $525,000[37] for the addition of an SBEA to the SMECO Small Business Solutions Program.

Finally, WGL requests the Commission's approval of three PIDD pilot programs. In its 2018-2020 EmPOWER Maryland Regulatory Plan, WGL requested approval of a PIDD budget of $1,137,549 for the program cycle.[38] The Commission granted the budget request in Order No. 88514.[39] In its Revised 2018-2020 Plan, WGL requested the Commission's authorization to apply portions of the approved PIDD budget to three proposed pilot programs: a Residential Smart Thermostat Savings Pilot, a Residential Smart Water Heater Controls Pilot, and a Commercial Smart Gas Equipment Controls Pilot.[40] Aside from proposed budgets, WGL's Revised Plan contained no information on the pilot programs.[41] The Commission declines WGL's request for authorization to use its PIDD budget for the three noted pilot programs, without prejudice. WGL is free to re-file a modified request to provide program descriptions and to follow the Commission's systematic approach to developing and evaluating a pilot program as stated in the following guidelines:

- Clear goal(s) established at the beginning of pilot program development;
- Evaluation metrics linked to those goal(s) that will inform whether the goal(s) are achieved;
- An evaluation plan developed before final pilot approval;

[37] $250,000 for 2019 incentives, $250,000 for 2020 incentives, and $25,000 for the administration of the program.
[38] ML# 216730: Washington Gas 2018-2020 EmPOWER Maryland Regulatory Plan, page 6.
[39] Order No. 88514, page 48.
[40] WGL Revised Plan, page 7.
[41] WGL proposed a total budget of $225,000 for the Residential Smart Thermostat Savings Pilot for 2018-2020, a total budget of $250,000 for the Residential Smart Water Heater Controls Pilot for 2019 and 2020, and a total budget of $250,000 for the Commercial Smart Gas Equipment Controls Pilot. *Id.*

- An estimate of pilot program implementation costs;

- Public sharing of key pilot program data after pilot is complete, and at regular intervals during the pilot if appropriate;

- Public review of pilot results by the Commission;

- A clear transition plan for current customers (e.g., customers could remain in the pilot program until the Commission evaluates the results and reaches a decision as to how to proceed, but enrolling new customers is prohibited); and

- A firm sunset date—any extension, amendment or permanent authorization must be affirmatively approved by the Commission. The Commission envisions a pilot program proposal setting a firm post-pilot timeline that outlines milestones for stakeholders to conduct an evaluation of pilot results, present those results to the Commission, and account for a Commission determination how to proceed.[42]

Reporting Modifications

Several utilities allow customers to purchase energy savings products through an on-line store. While the majority of on-line sales appear to be items such as LEDs and low-flow shower heads, the offerings may expand to other products. This will require detailed reporting of all on-line sales for a variety of reasons, including, but not limited to, ensuring the most accurate review of such sales, understanding their potential impact on other measures, and determining whether non-participating utilities should offer similar resources. The Commission therefore directs all utilities with on-line marketplaces at least partially funded by EmPOWER to work with Staff to develop

[42] Case No. 9453, *In the Matter of the Request of Baltimore Gas and Electric Company for Approval of a Prepaid Pilot Program and Request for Waivers of COMAR and Commission Orders*, Order No. 88438 (October 25, 2017) at 20.

appropriate, detailed reporting metrics. The Utilities are to include such data in all future semi-annual filings, beginning with the first- and second-quarter 2019 reports, at which time the Commission will review the metrics for sufficiency. The Commission also directs that any profits earned from utility on-line retail sales be used to offset rate-payer EmPOWER assessments or funding. Finally, it is the intent of the Commission that utility retail ventures should not disadvantage competitive retail enterprises or diminish opportunities for third-party businesses to participate in EmPOWER programs.

As previously stated, SMECO has developed its Members Helping Members Campaign, whereby SMECO customers who donated towards the electric bill payments of other limited-income customers received a thank you package from SMECO, consisting of ENERGY STAR desk lamps and A-Line bulbs, which were partially subsidized through the utility's lighting program.[43] SMECO reported sending over 3,300 thank you packages to customers that contributed to the Campaign.[44] Given that the Campaign is based on donations from customers and is separate from DHCD programs, it may prove to be a cost-effective means to address the needs of limited-income customers within EmPOWER. The Commission directs Staff and interested stakeholders to monitor SMECO's Members Helping Members Campaign to assess whether replication of the Campaign in other utility jurisdictions would be cost-effective. The Commission further directs Staff to include the results of the assessment in its comments to the third- and fourth-quarter 2018 EmPOWER reports.

[43] SMECO Report, Attachment 1, page 1.
[44] *Id*.

MEA requests that that Commission direct the Utilities and DHCD to submit an additional graph as part of their semi-annual reports.[45] The graph, duplicated below, is intended to provide readers with an easy-to-read overview to help evaluate program effectiveness in terms of actual versus forecasted energy savings and budgets.[46]

Program Status (based on percent of actual to forecasted energy savings)	Residential or Commercial	Name of Program	Annual Forecasted Energy Savings in MWh	Actual Energy Savings in MWh	Percent of Actual to Forecasted Energy Savings	Annual Budget in Dollars	Percent of Annual Budget Used
Above Target (above 70%)							
On Target (roughly 50%)							
Below Target (below 30%)							

The Commission recognizes that, while the Utilities and DHCD typically include the data contained in the proposed graph in their semi-annual reports, locating it within the reports can be challenging. The proposed graph would offer the convenience of having such high-level information uniformly reported on the same summary page within respective reports. We therefore approve MEA's request and direct the Utilities and DHCD to include the proposed graph and corresponding data in all future semi-annual reports. The Commission further recognizes the collaborative approach taken by the Utilities, DHCD, Staff, MEA, and others to the formatting of reports, and therefore accepts MEA's offer to lead discussion regarding the graph template, should any of the parties suggest modifications thereto. The Utilities and DHCD are directed to include the above graph, or a modified consensus version of the above graph, in their respective semi-annual reports for the first- and second-quarters of 2019.

[45] MEA Comments, page 14.
[46] *Id*. at 14 and 15.

Appliance Rebate Programs

The EmPOWER Appliance Rebate Programs offer instant, online, and paper rebates for select ENERGY STAR products. In 2018, the EmPOWER Electric Utilities launched the ENERGY STAR Retail Products Platform Program ("ESRPP") within the Appliance Rebate Programs to support midstream incentives for specific appliances, namely, ENERGY STAR certified air cleaners, refrigerators, freezers, clothes washers, clothes dryers, sound bars, room air conditioners, and dehumidifiers. In addition to increasing program participation and savings, one of the major goals of the ESRPP is to provide a consistent suite of products to participating retailers.

All Utilities fell short of their energy savings and participation goals for the Appliance Rebate Program for this reporting period.[47] While Potomac Edison had not met its goal, it has seen dramatic increases in participation with refrigerators, clothes washers and dryers when compared to the other Utilities' programs.[48] Potomac Edison is also the only utility offering the full 2018 ESRPP suite of products.[49] In order to provide a level of consistency, all Electric Utilities are directed to include the full 2018 ESRPP suite of products within their Appliance Rebate Programs.[50] While the Commission leaves to the Utilities what incentive level to provide for each category, the decision should be consistent across the Utilities.

[47] OPC Comments, page 32.
[48] *Id.* at 35, "The Company launched its Energy Star Retail Products Platform (ESRPP) in April of 2018, and the first few months of results are exceeding forecasted participation. The Company is behind the 6-month participation target but based on early results from ESRPP, the Company expects to reach the annual MWh savings target for 2018." Potomac Edison Report at 7.
[49] OPC Comments, page 35.
[50] A detailed listing of the 2018 ESRPP suite of products and their respective eligibility criteria can be found on page 35, Table 7 of the OPC Comments.

The Commission recognizes the importance of the Utilities incentivizing the most energy efficient products, and for this reason understands OPC's recommendations that the Utilities: (1) remove the lower "two-speed" performance specification for pool pumps; and (2) include an advanced tier for electric dryers with heat pump technology.[51] With respect to these recommendations, the Commission encourages the Utilities to work together, and with OPC, Staff, MEA, and other interested parties, to determine the appropriate appliances to be incentivized. Should a consensus not be reached, and a resulting impasse be potentially detrimental to EmPOWER in some form, the Commission will provide direction. For now, the Commission encourages the Utilities to consider the recommendations made by OPC.

Behavior Programs

In Order No. 88783, the Commission approved the Budget Billing Pilot proposed by Pepco, Delmarva, and SMECO, the premise of which is that customers on utility budget billing do not see regular price signals and therefore do not respond as favorably to home energy reports and energy savings opportunities as non-budget billing customers, but that, through the use of targeted marketing messages, that segment of the customer population may make informed decisions that lead to energy savings.[52] In that same Order the Commission directed those utilities to submit a plan that follows the Commission's approach for developing and evaluating pilot program proposals. The Behavior-Based Program Work Group submitted a finalized Budget Billing Pilot

[51] OPC Comments, page 22.
[52] Order No. 88783, page 15 (July 27, 2018).

proposal on October 17, 2018.[53] The finalized proposal represents a consensus among Staff, OPC, MEA, the Companies, and Oracle.[54]

The Commission finds that the finalized pilot proposal satisfies its direction in Order No. 88783, and therefore authorizes Pepco, Delmarva, and SMECO to proceed with their respective Budget Billing Pilots. The Commission recognizes that some adjustment may need to be made to the Pilot launch date;[55] however, no modifications are to be made to Pilot conclusion date, final reporting date, or sunset date.

Low-Income Efforts

The Commission has determined that improving the energy efficiency of limited-income households is a critical area of focus for Maryland.[56] While NRDC noted that "Marylanders of limited means continue to receive an inequitable share of the benefits provided by EmPOWER,"[57] NRDC also acknowledges "that the Utilities are expanding opportunities for limited-income Marylanders to participate in their programs."[58] For example, BGE has entered into a three-year partnership agreement with The Maryland Food Bank, Inc. to donate 1.5 million LEDs, with 177,392 LEDs having been delivered to the Food Bank as of the filing of BGE's semi-annual report.[59] Similarly, SMECO's Lighting Program distributed more than 25,000 LEDs through a food bank distribution, with SMECO including an educational flyer in each LED 4-pack to highlight other

[53] Behavior Work Group Report, ML#222543
[54] *Id.*, page 2.
[55] *Id.*, page 11.
[56] *See*, *e.g.*, Order No. 87575.
[57] NRDC Comments, page 3.
[58] *Id.*
[59] BGE Report, page 5.

SMECO energy efficiency programs.[60] Potomac Edison, Pepco, and Delmarva are all preparing a fall launch of their comparable Food Bank initiatives.[61] Further, in addition to strong marketing efforts by DHCD,[62] DHCD's ongoing engagement with the Limited-Income Work Group has contributed to many of the new program approaches that it is now implementing, such as the Maryland Energy Efficiency Tune-Up ("MEET") Program.[63]

The measures taken by the Utilities and DHCD to address the needed increase of energy efficiency in low-income households are positive, however, more can be done. The recently released Maryland Low-Income Market Characterization Report ("APPRISE Report")[64] identified roughly 450,000 low-income households in Maryland, with only nine percent of the households having received weatherization services through DHCD's EmPOWER programs and/or the federally-funded Low-Income Home Energy Assistance Program and Weatherization Assistance Program from 2010 to 2017.[65]

OPC contends that coordination between the Utilities and DHCD could drive deeper savings and higher participation levels.[66] OPC proposed suggestions for coordination, including the following:

> Utilities should share QHEC data on energy efficiency improvement opportunities with DHCD, thereby enabling DHCD to track the measures that have been installed in low-income customers' homes and perform outreach to

[60] SMECO Report, Attachment 1, page 1.
[61] Potomac Edison Report, page 5; Pepco Report, page 2; Delmarva Report, page 2.
[62] DHCD Report, page 11.
[63] *Id*., page 10.
[64] The APPRISE Report, which was prepared at the request of OPC by the Applied Public Policy Research Institute for Study and Evaluation ("APPRISE"), was filed by OPC on October 3, 2018.
[65] NRDC Comments, page 6.
[66] OPC Comments, page 3.

> customers that could benefit from more substantial energy efficiency improvements.[67]
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> Utilities should coordinate with DHCD and determine whether DCHD's contractors could streamline the installation of eligible thermostats in its weatherization program by enrolling limited-income customers in the utilities' demand response programs,[68] or by allowing DHCD's weatherization contractors to install eligible thermostats and provide information on the demand response program.[69]
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> Potomac Edison and SMECO should collaborate with DHCD by leveraging the energy efficiency kits sent to Office of Home Energy Programs ("OHEP") participants to drive interest in DHCD's comprehensive weatherization program.[70]

The Commission concurs with OPC that better collaboration and cross-marketing by DHCD and the Utilities could result in increased participation rates and energy savings. The Commission therefore tasks DHCD and the Low-Income Work Group with developing efficient and effective means by which DHCD and the Utilities can work together on cross-marketing. The resulting findings are to be filed by the Low-Income Work Group on or before April 15, 2019.

With the increasing efforts by the Utilities to reach low-income families comes the need to accurately report such efforts, as well as the results. Given that information on participant income is not always apparent or available, there may be difficulty in the reporting of low-income participation and results by the Utilities, but the difficulty must be overcome. DHCD and the Low-Income Work Group are directed to investigate how to identify low-income participation in EmPOWER Programs and how to report and track

[67] *Id.*, page 57.
[68] *Id.*, pages 78 and 79.
[69] *Id.*, page 70.
[70] *Id.*, pages 79 and 80.

the data as part of the semi-annual filings. DHCD and the Low-Income Work Group should also develop proposed low-income energy savings goals so as to define expectations, encourage the development of program plans, and align EmPOWER's low-income programs with those of other leading jurisdictions. The resulting findings and proposal are to be filed by the Low-Income Work Group on or before April 15, 2019.

Midstream Programs

In Order No. 88514, the Commission approved proposals by the Electric Utilities to offer midstream incentives under their respective Appliance Rebate and HVAC programs within their 2018-2020 plans.[71] The Commission later directed the EmPOWER Marketing Work Group to file status reports on the implementation of the Midstream Incentive Programs on the same schedule as the filing of the semi-annual reports.[72] On August 15, 2018, the Midstream Program Work Group filed its first Status Report of the Midstream Program Implementation.[73] The Report, which was not a consensus filing, detailed the Electric Utilities' implementation activities to date as well as plans for the second half of 2018 and the first half of 2019. It also noted concerns expressed by OPC and MAEC regarding the lack of consistency in the implementation of the programs as well as in the distribution of incentives.

[71] December 22, 2017.
[72] Order No. 88783, July 27, 2018.
[73] ML #221704.

Midstream programs are initiated at the retail or distributor level.[74] While this structure is intended to fully engage retailers and distributors in the EmPOWER process, the Commission previously noted a concern that an unintended consequence would be "that customers may be less aware of the source of the benefits and the association between the EmPOWER surcharge and the products they purchase."[75] While the Electric Utilities developed detailed strategies to address this concern,[76] other issues are now raised by OPC and MAEC.

While it appears that all of the Electric Utilities are working to launch their respective midstream programs, individually the utilities are taking different approaches and progressing at different rates. Potomac Edison is using Honeywell as its Midstream Program HVAC implementer and plans to launch all of its HVAC measures in the first quarter of 2019.[77] BGE, Pepco, and Delmarva are using the same program implementer, CLEAResult, and have aligned their midstream programs, beginning with the transition of ductless mini-split heat pumps to midstream delivery in the fourth quarter of 2018 and other HVAC measures to midstream delivery in 2019.[78] SMECO has transitioned all of its HVAC measures to midstream through its program implementer, ICF.

In Order No. 88783, the Commission noted, but declined to follow, OPC's recommendation for the unified statewide administration of the midstream programs.[79]

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[74] At the retail level the incentive payment is shifted from the ratepayer to the retailer or manufacturer as an incentive to stock high efficiency product choices. At the distributor level the incentive payment may go back to the ratepayer and the Distributor will be incentivized to stock and promote energy efficient products as a replacement option for contractors. The contractor typically passes on the incentive to the ratepayer. *Id.*
[75] Order No. 88783, page 6.
[76] ML #219814.
[77] Midstream Status Report, page 6.
[78] OPC Comments, page 55.
[79] Order No. 88783, page 7.

While OPC renews that recommendation,[80] the Commission continues to decline to order that the programs be coordinated statewide. As previously stated, the Commission recognizes the potential for administrative cost savings through a statewide approach, as well as the possibility that manufacturers, distributors, and retailers may be more receptive to the programs if the process and products were coordinated among the utilities. For these and other reasons, the Commission does not rule out the possibility of statewide coordination and/or administration of these programs in the future. For now, however, especially this early in the program launch, the Commission continues to allow the utilities to design and implement their midstream programs as stated in their respective proposals which employ various approaches and marketing tactics. The Commission continues to hold the Work Group to its pledge to monitor the midstream implementation as the 2018-2020 cycle continues, and will review future Status Reports to keep apprised of the need for program modifications.

An additional concern appears to be the lack of structure behind midstream rebate levels. Under the current incentive design, a distributor is given $250 or $400 for the sale of the applicable high-efficiency HVAC equipment, with the distributor retaining as much of the rebate as it chooses, passing whatever rebate funds that remain on to the HVAC contractor, who then can choose to retain the rest of the rebate or pass some on to the customer.[81] OPC instead recommends setting a consistent incentive structure for the following reasons:

> Incentives should reduce the customer's first cost to be most effective at influencing purchase decisions for big-ticket items like HVAC equipment.

[80] OPC Comments, page 56.
[81] MAEC Comments, page 4.

> A set pass-through amount reduces distributor administrative costs (the cost of guessing on an appropriate incentive level) and risk (of setting a pass-through amount that is more or less than competitors, affecting business).
>
> Distributors generally prefer program designs that are more predictable and less risky.
>
> A set incentive level is much easier to promote to end-use customers, supporting utility collaboration with manufacturers, distributors, and contractors on sales and marketing strategies – one of the key benefits of midstream program designs.[82]

The Commission declines OPC's recommendation to require distributors to pass on a set portion of midstream rebates to customers, and also declines the recommendation for a consistent incentive structure within the Midstream Program (i.e., that consistent portions of the rebate would be retained by distributors, passed on to retailers and/or contractors, and fixed administrative fees paid for to distributors and/or retailers for their participation). Rather, in keeping with the previously stated reasoning for not requiring statewide coordination of the Midstream Programs at this time, and given the early stages of the Program, the Commission will continue to allow distributors the flexibility to retain or pass on incentives in the amount and manner believed by the distributors to best further the EmPOWER goals. The Commission does not rule out the possibility of requiring a consistent incentive structure or the payment of a rebate portion to customers in the future, but for now finds value in allowing distributors the flexibility to employ differing approaches and marketing tactics.

The Commission, however, is persuaded by two other recommendations made regarding the Midstream Program. First, the Commission concurs with OPC and MAEC

[82] OPC Comments, page 55.

that the rollout of the midstream programs should be carefully monitored by the Utilities, the Midstream Program Work Group, the Commission, and stakeholders.[83] So as to best determine how to move the programs forward in the most productive manner, the Commission also agrees that a review of initial program results[84] should be conducted prior to the Utilities adding additional HVAC measures to their programs. This will allow for the careful review of the programs, the opportunity for comments to be filed, and the ability to timely address the need for adjustments to the initial programs prior to adding more measures to them. Proposed measures to be added to a Utility's Midstream Program shall be included in the Utility's semi-annual report for the third- and fourth-quarter of 2018.

Second, MAEC raises the issue of contractor requirements under the Midstream Program. Specifically, MAEC notes that past requirements for a contractor to participate in the Utilities' HVAC programs was to be licensed and insured, but that these requirements are not being retained for participation in the Electric Utilities' Midstream Programs.[85] The Commission has determined that additional information is required before an approval or denial of MAEC's request for contractor requirements may be given. The Midstream Program Work Group is therefore directed to file its findings on prior contractor license and insurance requirements under the Utilities' HVAC programs, as well as current contractor license and insurance requirements under the Utilities' Midstream Programs, on or before April 1, 2019. Comments thereon may be filed within thirty days thereafter.

[83] *Id*. at 3 and 57; MAEC Comments, page 6.
[84] This will include the ductless mini-split heat pumps for Potomac Edison, BGE, Pepco, and Delmarva, as well as all of SMECO's HVAC measures.
[85] MAEC Comments, page 5.

Natural Gas and Coordinated Programs

In Order No. 88514, the Commission approved the underlying model of the Residential Natural Gas-Electric Coordinated Program proposed by WGL, in which WGL would serve as a "supporting utility" and purchase from the electric companies the natural gas therm savings derived from existing and expanded energy efficiency programs.[86] However, the Commission declined to approve the specific implementation plan set forth by WGL based on what it considered to be underdevelopment and an absence of valid metrics. Instead, the Commission adopted a procedural schedule for the development and implementation of the Coordinated Program and directed WGL to collaborate with the Electric and Natural Gas Coordination Work Group to develop the measures and individual programs that will fall under the larger Coordinated Program.[87]

Despite delays which led to the modification of the procedural schedule, on September 7, 2018, WGL filed the proposed Coordinated Program which includes the coordination of the HPwES and QHEC programs with Pepco, BGE, and Potomac Edison, and the Home Energy Improvement Program ("HEIP") with SMECO.[88] WGL proposes to execute the Coordinated Program in two phases:

> - Phase I would consist of WGL purchasing the existing gas savings from the three programs and require all utilities to establish processes and procedures to track gas savings and audit jobs associated with WGL customers. Phase I will commence, with Commission approval, on January 1, 2019 and end on December 31, 2019. If Phase I is successfully implemented, Phase II will commence on January 1, 2020.

[86] Order No. 88514, page 33.
[87] *Id*.
[88] ML #222012: Washington Gas Light Company – Status Report and EmPOWER Maryland Utility Coordination Program Plan for Program Years 2019-2020 ("WGL Coordination Plan") (Sept. 7, 2018).

- Phase II would consist of adding gas savings measures, such as natural gas furnaces that could receive a Performance Based Incentive ("PBI") through the lead utility. At the beginning of the year, the share of gas savings cost to be paid by WGL will be calculated to reflect an estimated ratio of annual total gas MMBtu savings relative to the estimated annual gas MMBtu savings produced by WGL program participants.[89]

In response to WGL's proposal, Staff notes that it would prefer that the Coordinated Program offer efficient gas measures to participants from the start of the Program rather than in the second part of a two-phase structure.[90] Staff acknowledged, however, that the two-phase design was supported by WGL and the Electric Utilities, and ultimately supports the proposal as filed, noting, "It provides a first step towards a fully coordinated natural gas and electric program."[91] OPC also takes issue with the fact that the Program "will not, at least initially, bring any additional savings to residential customers."[92] OPC does not support the Program as proposed, but rather recommends that the Commission either direct WGL to eliminate Phase I and require the coordinated programs to include gas measures upon launch, or shorten the duration of Phase I to no longer than six months.[93]

The Commission recognizes that Phase I of the proposed Coordinated Program does not, on its own, hold a lot of value to customers. However, the Commission also recognizes the large undertaking that WGL took on in developing its proposal and preparing to launch the Coordinated Program, and that eliminating or shortening aspects could have a negative impact on the Program's execution. The Commission agrees with

[89] *Id*.
[90] Staff Comments, page 15.
[91] *Id*.
[92] OPC Comments, page 2.
[93] *Id*., pages 16 and 17.

Staff and chooses to view Phase I as a first step towards a fully coordinated natural gas and electric program, as well as an opportunity for WGL to find its bearings in this unchartered territory. The Commission approves WGL's Residential Natural Gas-Electric Coordinated Program as proposed.

With the commencement of the Residential Natural Gas-Electric Coordinated Program scheduled to begin shortly, the Electric and Natural Gas Coordination Work Group is directed to now turn its attention towards the development of a Coordinated Residential New Construction Program intended to address both high-efficiency electric and gas homes. The Work Group is directed to file an initial plan for a Coordinated Residential New Construction Program on or before May 31, 2019 and a final plan for Commission approval on or before September 3, 2019, with the goal launch date of January 1, 2020.

The Work Group is also directed to address the need to better balance the incentive structure of the Utilities' HPwES Programs. The first- and second-quarters of 2018 brought the transition of the Programs from a cost-based incentive ("CBI") to a performance-based incentive ("PBI"), the goal of which, in part, was to encourage deeper energy savings per project. The transition was successful in some respects;[94] however, it also brought a reduction in savings and participation for households with natural gas for three of the five utilities.[95] Undoubtedly, this is due to the fact that incentives for natural gas savings under the PBI structure are far lower than for electric savings.[96] Equitable treatment should be given to both natural gas and electric customers in all EmPOWER

[94] OPC Comments, page 45.
[95] *Id.*, page 46.
[96] *Id*.

Programs. The Electric and Natural Gas Coordination Work Group is directed to work with the Utilities and stakeholders to address this disparity in the Utilities' HPwES Program and other applicable programs, and to file its proposed new incentive structure intended to resolve the imbalance on or before April 1, 2019.[97]

EmPOWER Marketing and Branding

Commission EmPOWER orders over the past several years have supported MEA and OPC recommendations to properly market and brand EmPOWER programs. The Commission notes that MEA, OPC, and Staff report that the Utilities are using the Commission-directed language and logo in EmPOWER-funded communications, educational materials, and advertising, and directs the Utilities to continue to work with MEA and OPC to advance EmPOWER Maryland branding.

Staff Request for Clarification

In Order No. 88514, the Commission granted Staff the ability to authorize a utility's request to adjust customer incentive amounts within the residential and C&I sub-portfolios by up to 15 percent, with adjustments in excess of 15 percent requiring advance Commission approval through the semi-annual hearing process.[98] Order No. 88514 also granted the Utilities the flexibility to describe and award residential customer incentives in "up to $X amounts" (as opposed to prescribed uniform amounts), as well as

[97] We note OPC's specific request that we require the Home Performance Work Group to reset the PBI incentive levels to a simple $/MMBtu structure, but decline to do so as we find the broader issue of inequitable incentives to be better suited for the Electric and Natural Gas Coordination Work Group, whom we trust will consider OPC's request as part of its tasked duties.
[98] Order No. 88514, page 9.

the ability to reallocate previously-approved funds between programs within their residential sub-portfolio (subject to the appropriate Staff notice).[99] Staff now requests clarification as to whether or not its authority applies if a 15 percent increase "goes over the 'up to $X amount' cap that was authorized by the Commission."[100] The Commission states for clarification that, in any circumstance where either an "up to $X amount" or a 15 percent increase would be exceeded for any reason, the utility must receive authorization from the Commission prior to adjusting the incentive at issue.

IT IS THEREFORE, this 31st day of December, in the year Two Thousand Eighteen, by the Maryland Public Service Commission,

ORDERED:

(1) That the Baltimore Gas and Electric Company Non-Profit Energy Advance Pilot within the Smart Energy Savers Program is hereby approved as proposed;

(2) That the Baltimore Gas and Electric Company request to increase the incentive caps on its Small and Large Building Tune-Up Programs is hereby approved as proposed;

(3) That the Southern Maryland Electric Cooperative, Inc. request to include a Small Business Energy Advance offering within the Small Business Solutions Program is hereby approved as proposed;

(4) That the Washington Gas Light Company proposed Program Investigation, Design, and Development pilot programs are denied without prejudice, subject to the terms stated herein;

[99] *Id.* The same flexibility with regard to the Utilities' C&I sub-portfolio was previously granted in Order No. 87575.
[100] October 25, 2018 Tr., pages 36 and 37.

(5) That Staff and the utilities currently offering an on-line marketplace are to develop appropriate, detailed reporting metrics pertaining to on-line sales, with the utilities including such data in all future semi-annual filings, beginning with the first- and second-quarter 2019 reports;

(6) That Staff shall include in its comments to the third- and fourth-quarter 2018 EmPOWER reports the results of an assessment made by Staff and interested stakeholders as to whether other utilities should develop campaigns replicating Southern Maryland Electric Cooperative, Inc.'s Members Helping Members;

(7) That the Maryland Energy Administration request for the inclusion of a summary graph in the semi-annual reports filed by the Utilities and Maryland Department of Housing and Community Development is granted as stated herein;

(8) That all Electric Utilities are directed to offer the full range of products included in the ENERGY STAR Retail Product Platform Program within their respective Appliance Rebate Programs;

(9) That the incentive levels assigned to the ENERGY STAR Retail Product Platform Program products shall be consistent across the Electric Utilities;

(10) That the finalized Budget Billing Pilot proposal is hereby approved as filed on October 17, 2018, and subject to the terms and conditions stated herein;

(11) That Maryland Department of Housing and Community Development and the Low-Income Work Group are to perform the following tasks, and file a summary report thereon on, or before April 15, 2019:

a. Develop efficient and effective means by which Maryland Department of Housing and Community Development and the Utilities can collaborate on and cross-market low-income programs so as to increase participation rates and energy savings;

b. Investigate the best means by which to clearly link savings, cost, and participation data to low-income participants;

c. Develop an appropriate format for the Utilities to track and report as part of their semi-annual filings the savings, cost, and participation data associated with low-income measures performed by the Utilities; and

d. Develop and propose low-income energy savings goals pertaining to low-income measures performed by the Utilities;

(12) That the Electric Utilities are not to increase the offerings within their respective Midstream Programs until further order of this Commission and subject to the guidelines stated herein;

(13) That the Midstream Program Work Group is directed to file its findings on prior contractor license and insurance requirements under the Utilities' HVAC programs, as well as current contractor license and insurance requirements under the Utilities' Midstream Programs on or before April 1, 2019, with any Comments thereon to be filed within thirty days thereafter;

(14) That the Washington Gas Light Company Residential Natural Gas-Electric Coordinated Program is hereby approved as proposed;

(15) That the Utilities and the Electric and Natural Gas Coordination Work Group are hereby directed to develop a Coordinated Residential New Construction Program, with an initial plan to be filed on or before May 31, 2019, and a final plan for Commission approval to be filed on or before September 3, 2019; and

(16) That the Electric and Natural Gas Coordination Work Group is hereby directed to work with the Utilities and stakeholders on developing fuel-neutral incentives for the Utilities' Home Performance with ENERGY STAR Program and other applicable programs, and to file its proposed new incentive structure on or before April 1, 2019.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Mindy L. Herman
Commissioners