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ORDER NO. 89563

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

Issue Date: June 3, 2020

ORDER ON 3rd AND 4th QUARTERS 2019 SEMI-ANNUAL REPORTS

1. On May 7, 2020, the Commission held a virtual, legislative-style hearing in the above-captioned case to review, *inter alia*, the semi-annual EmPOWER Maryland reports for the third and fourth quarters of 2019 as 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] (collectively, "Electric Utilities"), Washington Gas Light Company ("WGL")[6] (collectively, along with the Electric

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[1] Maillog No. 228603: The Potomac Edison Company 2019 Semi-Annual EmPOWER Maryland Report for the Period of June 1 – December 31 ("Potomac Edison Report") (February 14, 2020).
[2] Maillog No. 228659: Baltimore Gas and Electric Company Year-End EmPOWER Maryland Report for January 1 through December 31, 2019 ("BGE Report") (February 18, 2020).
[3] Maillog No. 228656: Potomac Electric Power Company's 2019 Second Semi-Annual EmPOWER Maryland Energy Efficiency and Conservation and Demand Response Report ("Pepco Report") (February 18, 2020).
[4] Maillog No. 228655: Delmarva Power & Light Company's 2019 Second Semi-Annual EmPOWER Maryland Energy Efficiency and Conservation and Demand Response Report ("Delmarva Report") (February 18, 2020).
[5] Maillog No. 228627: Southern Maryland Electric Cooperative, Inc.'s Q3/Q4 2019 Semi-Annual EmPOWER Maryland Report ("SMECO Report") (February 14, 2020).
[6] Maillog No. 228616: Washington Gas Semi-Annual EmPOWER Maryland Report for the Period of June 1 – December 31, 2019 ("WGL Report") (February 14, 2020).

Utilities, "the Utilities"), and the Maryland Department of Housing and Community Development ("DHCD").[7] The Commission reviewed the comments pertaining to the semi-annual reports as filed by the Commission's Technical Staff ("Staff"),[8] the Office of People's Counsel ("OPC"),[9] the Maryland Energy Administration ("MEA"),[10] the Maryland Energy Efficiency Advocates ("MEEA"),[11] and the Heating and Air Conditioning Contractors of Maryland, Inc. ("HACC") and the Association of Air Conditioning Professionals ("AACP") (collectively, "HACC/AACP").[12] The Commission also reviewed other filings, and comments thereon, including but not limited to, the Electric and Natural Gas Coordination Work Group Report on the Coordinated Residential New Construction Program[13] and a Joint Utility Request to Allocate Commercial and Industrial Incentive Budget Expenditures Beyond 2023 in their 2021-2023 EmPOWER Maryland Program Cycle Proposals.[14]

[7] Maillog No. 228609: Department of Housing and Community Development 2019 Q3/Q4 Semi-Annual EmPOWER Maryland Report ("DHCD Report") (February 14, 2020).

[8] Maillog No. 229748: Comments of the Public Service Commission Staff 2019 Semi-Annual EmPOWER Maryland Programmatic Reports for the Third and Fourth Quarters ("Staff Comments") (April 15, 2020).

[9] Maillog No. 229746: EmPOWER Maryland 2019 Q3-Q4 Semi-Annual Review Report ("OPC Comments") (April 15, 2020).

[10] Maillog No. 229752: Maryland Energy Administration Comments on the EmPOWER Maryland Semi-Annual Reports July 1, 2019 through December 31, 2019 ("MEA Comments") (April 15, 2020).

[11] Maillog No. 229747: The Maryland Energy Efficiency Advocates' Comments on the EmPOWER Maryland Q3-Q4 2019 Semi-Annual Reports filed by the Utilities and the Department of Housing and Community Development ("MEEA Comments") (April 15, 2020).

[12] Maillog No. 229734: Comments of the Heating and Air Conditioning Contractors of Maryland, Inc. and the Association of Air Conditioning Professionals on BGE's and Pepco's EmPOWER Maryland Semi-Annual Reports ("HACC/AACP Comments") (April 15, 2020).

[13] Maillog No. 229751: Electric-Natural Gas Coordination Work Group Report: Potential Enhancements to the Coordinated Residential New Construction Program ("Coordinated Program Report") (April 15, 2020); Maillog No. 229757: Maryland Energy Efficiency Advocates Comments on the Electric-Natural Gas Coordination Work Group's Coordinated Program Report ("MEEA Comments on the Coordinated Program Report") (April 16, 2020).

[14] Maillog No. 228660: Informational Filing of the Joint Utilities to Allow Allocation for Commercial and Industrial Incentive Budget Expenditures Beyond 2023 in Their 2021-2023 EmPOWER Maryland Program Cycle Proposals ("Joint Request for C&I Budget Allocation") (Feb. 18, 2020).

2. The filings analyzed the performance of the Utilities' and DHCD's portfolios for the second half of the 2019 program year, offered recommendations for programmatic improvements, provided status reports and data in response to prior Commission Orders, and requested approval and direction from the Commission regarding future programming. The May 7 hearing provided supplemental information on the written filings, thereby assisting the Commission with providing the directions and decisions contained in this Order.

Electric and Natural Gas Coordination

3. In Order No. 89404, the Commission approved the final plan for a Coordinated Residential New Construction Program as proposed by the Electric and Natural Gas Coordination Work Group, and directed the Work Group to consider offering varying incentives for different types of equipment available within the Program.[15] On April 15, 2020, the Work Group filed its Coordinated Program Report, therein detailing additional incentives identified for the Program's 2021-2023 cycle. Specifically, the Work Group proposed the addition of high-efficiency air conditioners, heat pumps, and heat pump water heaters as electric equipment to be incentivized under the Program,[16] as well as the addition of high-performance incentive tiers including the Department of Energy ("DOE") Zero Energy Ready Home ("ZERH") and Passive House Institute US plus ("PHIUS+") certification pathways.[17] The Commission considers the electric measures and high-performance tiers to be viable options for reaching additional savings under the

[15] Order No. 89404 at 6.
[16] Coordinated Program Report at 3.
[17] *Id.* at 3-4.

Coordinated Residential New Construction Program, and approves both for inclusion in future program planning.

4. MEEA requests that the Commission provide guidance to the Electric and Natural Gas Coordination Work Group and the Utilities generally to consider opportunities to contribute to meeting the state's climate objectives as they develop their 2021-2023 EmPOWER plans.[18] By promoting energy efficiency and conservation, Maryland's EmPOWER programs clearly support the State's environmental policies and emissions reduction efforts. Consequentially, EmPOWER program administrators are always encouraged to consider the State's environmental policies, without explicit direction by the Commission, when developing plans for future program cycles.

Commercial and Industrial Program Budgetary Requests

5. On February 18, 2020, the Utilities made a joint filing requesting that the Commission authorize allocation for Commercial and Industrial ("C&I") incentive budget expenditures beyond 2023 in their 2021-2023 EmPOWER Maryland program cycle proposals.[19] In support of the request, the Utilities provided historical examples of authorized post-cycle expenditures,[20] and therefore noted their anticipation that similar

[18] Maillog No.229757 at 2.
[19] Joint Request for C&I Budget Allocation at 1.
[20] Order No. 88514 (December 22, 2017) authorized the Utilities to pay construction incentives through December 31, 2022 and production incentives through December 31, 2024 for CHP projects that were pre-approved by December 31, 2020, and Order No. 88593 (February 27, 2018) authorized the Utilities to pay Commission-approved incentives for all non-Combined Heat and Power ("CHP") C&I project applications pre-approved by the Utilities before December 31, 2020 and completed no later than December 31, 2021. *Id.* at 2.

expenditures will be pre-approved by the Commission in the 2021-2023 program cycle.[21]

The Utilities specifically requested the following date modifications:

- For CHP projects that are pre-approved by December 31, 2023, the Utilities would be authorized to use funds from the Commission-approved 2021-2023 incentive budget to pay Commission-approved construction incentives through December 31, 2025 and Commission-approved production incentives through December 31, 2027.
- For non-CHP new construction projects that are pre-approved by December 31, 2023, the Utilities would be authorized to use funds from the Commission-approved 2021-2023 incentive budget through December 31, 2025.
- For non-CHP C&I projects that are pre-approved by December 31, 2023 and completed by December 31, 2024, the Utilities would be authorized to use funds from the Commission-approved 2021-2023 incentive budget through December 31, 2024.[22]

The Commission recognizes that these programs involve long time periods from approval to completion, and consequently hereby authorizes the Utilities to allocate C&I incentive budget expenditures beyond 2023 as stated above.

Conservation Voltage Reduction

6. In Order No. 89494, the Commission directed BGE, Pepco, and Delmarva to undergo an evaluation by Itron of the savings methodologies employed for their Conservation Voltage Reduction ("CVR") programs.[23] MEEA subsequently requested clarification from the Commission that the evaluation of the CVR savings methodology

[21] *Id.*
[22] *Id.*
[23] December 20, 2019 at 8-9.

must include an assessment of the appropriate estimated useful lifetime ("EUL"),[24] and that the Commission direct Staff to file the results of the evaluations in this docket.[25] The Commission hereby directs the Evaluation, Measurement, and Verification ("EM&V") Work Group to consider whether an assessment of the appropriate EUL should be included with the evaluation of the CVR savings methodology, and to report its findings within 30 days of the issuance of this Order. The Commission notes Staff's stated intention at the semi-annual hearing to file all results and reports stemming from the evaluation of CVR savings methodologies in this docket.

Limited Income Programs

7. In Order No. 86785, issued December 23, 2014, the Commission directed DHCD to provide detailed documentation on every low-income energy efficiency program ("LIEEP") job exceeding $7,500.[26] Since that directive, DHCD has been producing an individual report for each project that meets the criteria, resulting in a detailed appendix, several hundred pages in length, attached to each semi-annual report.[27] DHCD states that it has successfully controlled costs and increased leveraging by putting certain controls and program guidelines in place, and contends that the current reporting requirement is overly-burdensome and unnecessary.[28] DHCD requests that the Commission remove the detailed filing requirement for jobs exceeding $7,500.[29] Staff supported this request and no party opposed it; therefore, the Commission approves DHCD's request, and directs

[24] Maillog No. 228650 (Feb. 18, 2020).
[25] Maillog No. 229747 (Apr. 15, 2020).
[26] December 23, 2014 at 22-23.
[27] DHCD Report at 10.
[28] *Id.*
[29] *Id.*

DHCD to a) include in future semi-annual reports the total number of LIEEP jobs that exceeded $7,500; and b) retain the relevant documentation and data pertaining to LIEEP jobs that exceed $7,500 to provide upon request from Staff or other party to the case.

8. DHCD also requests the inclusion of eligible master-metered projects in its multi-family energy efficiency and housing affordability ("MEEHA") program.[30] DHCD previously made this request, most recently as part of its 2018-2020 Program Plan.[31] The Commission rejected that request, without prejudice, citing interest in receiving and considering the EM&V results from the multi-family Customer Investment Fund ("CIF") to assist in determining the value of including master-metered projects in DHCD's EmPOWER program.[32] DHCD filed the CIF EM&V report on December 31, 2019,[33] and in support of its pending request notes that the report showed similar savings by master-metered and non-master-metered projects.[34] The Commission recognizes the report findings, and that no additional funds will be required for the inclusion of master-metered projects in the remainder of this EmPOWER cycle.[35] The Commission approves DHCD's request and directs DHCD to report the results of the master-metered projects as a subset of the reported MEEHA metrics.

9. In Order No. 89404, the Commission addressed the possibility of developing proposed limited income energy savings goals in order to define expectations for the

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[30] *Id.* at 11.
[31] Maillog No. 216733 (September 1, 2017) at 51-53.
[32] Order No. 88514 (December 22, 2017 at 38.
[33] Maillog No. 228019.
[34] "The CIF evaluation found that master metered projects completed under the program achieved an average of 15% electric savings and 16% gas savings across all projects. Comparatively, non-master metered EmPOWER projects are achieving a program average of 15% electric and 24% for gas savings. These are very similar and positive results." DHCD Report at 11.
[35] "Master-metered projects would be funded utilizing DHCD's existing Commercial Budget and no additional funds are required for the remainder of this cycle." DHCD Report at 11.

Utilities and DHCD. The Commission acknowledged that achieving consensus on an energy savings goal specifically for limited income programs may be difficult, but directed the Limited Income Work Group to continue to work towards establishing such goals nonetheless.[36] The Commission recognizes that some comments on the semi-annual reports contend that savings and participation goals and expectations should be addressed and established by the Commission in this Order;[37] however; in light of the recent directive to the Limited Income Work Group, the status of legislation introduced to establish a clear savings goal,[38] and the impending planning for the 2021-2023 EmPOWER cycle, the Commission declines to take action at this time regarding the establishment of, or the additional direction towards, savings and participation goals.

10. MEEA requests that the Commission direct the Utilities to assess and report on whether there are ways they can better target their low and no-cost programs to their limited-income customers to bring the level of limited-income participation in these programs more in line with the fraction of utility customers who meet Office of Home Energy Programs ("OHEP") eligibility criteria.[39] The Commission encourages the participation of OHEP with the Limited Income Work Group to ensure that the Utilities and OHEP have a solid understanding of customer involvement and opportunities.

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[36] Maillog No. 227942 (December 20, 2019) at 9 and 10.
[37] *See* OPC Comments at 2 and 3; MEEA Comments at 7, 10, and 11.
[38] *See* SB 740 and HB 982 of 2020
[39] MEEA Comments at 10.

Reporting

11. BGE requests the Commission's authorization to consolidate its program reporting so as to produce and provide consistent, efficient reports.[40] Specifically, BGE seeks to eliminate and consolidate certain metrics related to the Smart Energy Manager ("SEM") and Smart Energy Rewards ("SER") from its Advanced Metering Infrastructure ("AMI") report to its semi-annual EmPOWER reports.[41] BGE contends that the requested changes would serve several purposes, including to eliminate duplicative reporting of SEM and SER metrics in both the AMI and EmPOWER reports, as well as to provide consistent reporting to all customers.[42] The Commission recognizes several benefits to BGE's request, including, but not limited to, the reduced administrative burden on both BGE and Staff; therefore, the Commission approves BGE's request to modify its reporting metrics as stated in its semi-annual report, beginning with its 2020 mid-year report, and directs Staff to follow through on its stated offer to work with the other utilities to determine if other AMI metric consolidations are warranted.[43]

12. MEA recommends that the Commission require the Utilities to include in their upcoming program proposals for the 2021-2023 cycle incentive mechanisms intended to reduce costs to ratepayers and achieve energy savings.[44] MEA contends such mechanisms could promote the accelerated paydown of outstanding debt, in that the Utilities would be incentivized to seek efficiencies in expenditures and use the efficiency

[40] BGE Report at 46 and 47.
[41] *Id.* at 46.
[42] *Id.* at 46 and 47.
[43] Staff Comments at 20.
[44] MEA Comments at 18.

gains to repay a higher portion of the debt or annual costs each year.[45] In Order No. 89189, the Commission directed the Cost Recovery Work Group to file a report on or before September 1, 2020, that explores EmPOWER cost recovery generally for 2021-2023, and the specific issues of one year cost recovery for the Behavior Program and other appropriate programs and third party participation in the EmPOWER programs. The Commission wants to ensure the proposals from the Cost Recovery Work Group report can be reviewed by the Commission and stakeholders and considered for incorporation by the Utilities in their 2021-2023 program proposals due to the Commission on September 1, 2020. The Commission will then have a more fully developed record to consider and potentially issue a decision in time for the Utilities to update their EmPOWER surcharges before the 2021-2023 program cycle begins. Therefore, the Commission directs the Cost Recovery Work Group to file its report on or before August 14, 2020. The Commission directs the Utilities to include forecasts for the 2021-2023 surcharge in their plans as the surcharge is currently designed and any additional corresponding forecasts for the proposals that may be included in the Work Group report. The Commission also directs the Utilities to include other methods to reduce costs to ratepayers and achieve energy savings in their 2021-2023 plans.

13. For reports beginning in the 2021-2023 program cycle, MEEA requests that the Commission direct the Utilities and DHCD to provide the fully functional Excel files and electronic PDF files with fully functional text search capabilities to MEEA (and other parties that request them) when they file their reports and plans.[46] It is the Commission's

[45] *Id.* at 17 and 18.
[46] MEEA Comments at 17.

understanding that the Utilities and DHCD have historically provided such information in the specified manner when presented with a data request. The Commission finds no basis to direct the Utilities and DHCD to respond otherwise, and notes that, should a party prefer to receive the requested data earlier, an advance data request may be submitted.

14. The semi-annual filings and comments presented several requests and recommendations pertaining to future reporting. The Commission declines to take action at this time on specified reporting requests not already addressed by this Order, but notes the Commission's long-standing preference for consistent reporting among the Utilities and DHCD whenever possible. Parties should work together and continue to improve upon reporting standardization for the 2021-2023 program cycle.

COVID-19

15. The semi-annual hearing and its associated filings presented the Commission with several concerns and recommendations surrounding COVID-19.[47] Proposals were made to use program budget amounts unspent due to COVID-19-related work stoppage to pay down the balance of unamortized program costs,[48] to have programs transition to the use of virtual home audits rather than in-person,[49] to implement emergency loans, and to support distance learning and training for contractors, among other things.[50] The Commission finds it premature to provide direction on the use of these unspent funds.

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[47] COVID-19, or coronavirus disease 2019, is a new coronavirus not previously identified. Its outbreak has led to a worldwide pandemic impacting the United States from the latter part of 2019 through to and including the issuance of the instant Order. COVID-19 impacted the EmPOWER Program through a March 23, 2020 gubernatorial directive to businesses to stop non-essential work, which includes all EmPOWER energy efficiency projects except those necessary to restore heating and hot water services.
[48] OPC Comments at 2.
[49] MEEA Comments at 2.
[50] OPC Comments at 15.

The Commission recognizes the importance of this issue, and therefore directs the Utilities and DHCD to include in the next semi-annual report proposals for the use of the unspent funds, which may include the paydown of unamortized costs, program modifications, and program enhancements. The Utilities and DHCD should identify the likely level of funding and should provide separate proposals for the residential and C&I portfolios. The Commission also invites other interested parties to file proposals with their comments on the Utilities' and DHCD's semi-annual reports.

IT IS THEREFORE, this 3rd day of June, in the year Two Thousand Twenty, by the Public Service Commission of Maryland,

ORDERED: (1) That the Electric and Natural Gas Coordinated Work Group proposals to include specified high-efficiency electric measures and specified certification pathways as high-performance incentive tiers in future program planning are hereby approved;

(2) That the joint request by the Utilities to allocate C&I incentive budget expenditures beyond 2023 in their 2021-2023 EmPOWER Maryland program cycle is hereby approved as proposed;

(3) That the Evaluation, Measurement, and Verification Work Group is directed to consider whether an assessment of the appropriate EUL should be included with the evaluation of the CVR savings methodology, and to report its findings within 30 days of the issuance of this Order;

(4) That Staff is directed to file all results and reports stemming from the Itron evaluations of the Exelon utilities' CVR programs savings methodologies in this docket;

(5) That the Department of Housing and Community Development is no longer required to include detailed data pertaining to LIEEP jobs exceeding $7,500 in its semi-annual reports;

(6) That the Department of Housing and Community Development is hereby directed to retain the relevant documentation and data pertaining to LIEEP jobs that exceed $7,500, and to provide such upon request from Staff or other party to this matter;

(7) That the Department of Housing and Community Development is hereby directed to include in all future EmPOWER semi-annual reports the total number of LIEEP jobs that exceeded $7,500;

(8) That the request by the Department of Housing and Community Development to include master-metered projects in its MEEHA program is hereby approved;

(9) That the Department of Housing and Community Development is directed to report the results of the master-metered projects as a subset of the MEEHA metrics provided in the EmPOWER semi-annual reports;

(10) That BGE's request to eliminate and consolidate certain metrics related to the Smart Energy Manager ("SEM") and Smart Energy Rewards ("SER") programs from its Advanced Metering Infrastructure report to its semi-annual EmPOWER is hereby approved as proposed beginning with the 2020 mid-year report;

(11) That Staff is directed to work with the other Utilities to determine if AMI metric reporting consolidations similar to those requested by BGE are warranted;

(12) That the Cost Recovery Work Group is hereby directed to file its report on or before August 14, 2020 as stated herein;

(13) That the Utilities are directed to include forecasts for the 2021-2023 surcharge in their plans as stated herein;

(14) That the Utilities are directed to include other methods to reduce costs to ratepayers and achieve energy savings in their 2021-2023 plans; and

(15) That the Utilities and DHCD are hereby directed to include in the semi-annual reports to be filed by August 14, proposals on how to utilize the funds unspent due to COVID-19 subject as stated herein; and

(16) That all other requests and recommendations are hereby denied.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

/s/ Mindy L. Herman
Commissioners