

ORDER NO. 89855

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

The 2021 – 2023 EmPOWER Maryland
Program

CASE NO. 9648

Issue Date: June 14, 2021

**ORDER ON 2nd AND 3rd QUARTER 2020 SEMI-ANNUAL REPORTS
AND MODIFICATIONS TO THE 2021-2023 EMPOWER CYCLE**

I. INTRODUCTION

1. On May 6, 2021, the Commission held a legislative-style hearing¹ in the above-captioned case to review, *inter alia*, the semi-annual EmPOWER Maryland reports for the third and fourth quarters of 2020 as filed by Southern Maryland Electric Cooperative, Inc. (“SMECO”),² Potomac Edison Company (“Potomac Edison”),³ Potomac Electric Power

¹ Notice of the virtual hearing date and comment period for this matter was provided on March 25, 2021. (Maillog No. 234354.)

² Maillog No. 233736: Southern Maryland Electric Cooperative, Inc.’s Q3/Q4 2020 Semi-Annual EmPOWER Maryland Report (“SMECO Report”) (February 12, 2021).

³ Maillog No. 233740: The Potomac Edison Company 2020 Semi-Annual EmPOWER Maryland Report for the Period of June 1 - December 30 (“Potomac Edison Report”) (February 12, 2021).

Company (“Pepco”),⁴ Baltimore Gas and Electric Company (“BGE”),⁵ Delmarva Power & Light Company (“Delmarva”),⁶ (collectively, “Electric Utilities”), 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

2. The Commission reviewed the comments pertaining to the semi-annual reports as filed by the Commission’s Technical Staff (“Staff”),⁹ the Maryland Office of People’s Counsel (“OPC”),¹⁰ the Maryland Energy Administration (“MEA”),¹¹ and the Maryland Energy Efficiency Advocates (“MEEA”).¹²

3. The Commission also reviewed filings pertaining to reports from Staff on the Midstream Program Implementation,¹³ the Evaluation, Measurement, & Verification

⁴ Maillog No. 233770: Potomac Electric Power Company’s 2020 Second Semi-Annual EmPOWER Maryland Energy Efficiency and Conservation and Demand Response Report (“Pepco Report”) (February 16, 2021).

⁵ Maillog No. 233771: Baltimore Gas and Electric Company 2020 Year-End EmPOWER Maryland Report for January 1 through December 31, 2020 (“BGE Report”) (February 16, 2021).

⁶ Maillog No. 233825: Delmarva Power & Light Company’s 2020 Second Semi-Annual EmPOWER Maryland Energy Efficiency and Conservation and Demand Response Report (“Delmarva Report”) (February 19, 2021).

⁷ Maillog No. 233761: Washington Gas Semi-Annual EmPOWER Maryland Report for the Period of July 1 – December 31, 2021 (“WGL Report”) (February 16, 2021).

⁸ Maillog No. 233759: Department of Housing and Community Development EmPOWER Maryland Limited Income Programs Semi-Annual Report Q3/Q4 2020 (“DHCD Report”) (February 16, 2021) and Maillog No. 235082: Department of Housing and Community Development 2018-2020 EmPOWER Maryland Revised Reporting for 2020 Q3/Q4 (“DHCD Revised Tables”) (April 30, 2021).

⁹ Maillog No. 234818: Comments of the Public Service Commission Staff 2020 Semi-Annual EmPOWER Maryland Programmatic Reports for the Third and Fourth Quarters (“Staff Comments”) (April 15, 2021).

¹⁰ Maillog No. 234822: EmPOWER Maryland 2020 Q3/Q4 Semi-Annual Review Report (“OPC Comments”) (April 16, 2021).

¹¹ Maillog No. 234803: Maryland Energy Administration Comments on the EmPOWER Maryland Semi-Annual Reports July 1, 2020 through December 31, 2020 (“MEA Comments”) (April 15, 2021).

¹² Maillog No. 234807: The Maryland Energy Efficiency Advocates’ Comments on the EmPOWER Maryland Q3-Q4 2020 Semi-Annual Reports filed by the Utilities and the Department of Housing and Community Development (“MEEA Comments”) (April 15, 2021).

¹³ Maillog No. 234815: Status Report of the Midstream Program Implementation 2018-2020 EmPOWER Maryland Program (“Staff Midstream Report”) (April 15, 2021).

(“EM&V”) Work Group,¹⁴ the EmPOWER Reporting and Process Improvement (“ERPI”) Work Group,¹⁵ the Finance Work Group,¹⁶ the Small Business Work Group,¹⁷ and Washington Gas Light Company,¹⁸ as well as comments thereon.¹⁹

4. The filings analyzed the performance of the Utilities’ and DHCD’s portfolios for the second half of the 2020 program year, offered recommendations for programmatic and reporting improvements to the 2021-2023 EmPOWER program cycle, and explored a proposed financing program in further detail, among other things. The May 6 hearing provided supplemental information on the written filings, thereby assisting the Commission with providing the directions and decisions contained in this Order.

II. COMMISSION DECISIONS

A. BGE

5. In Order No. 89679, the Commission denied, without prejudice, BGE’s proposed Virtual Commissioning Program, and “encouraged [BGE] to file more concrete plans for

¹⁴ Maillog No. 234817: Recommended Estimated Useful Life Assumptions for the EmPOWER Upstream Lighting Programs - EmPOWER Maryland Program (“EM&V Report”) (April 15, 2021).

¹⁵ Maillog No. 234821: EmPOWER Reporting and Process Improvement Work Group - EmPOWER Maryland Program (“ERPI Report”) (April 16, 2021).

¹⁶ Maillog No. 234812: Finance Work Group Report - Finance Pilot Program Proposal - 2021-2023 EmPOWER Maryland Program (“Finance Report”) (April 15, 2021).

¹⁷ Maillog No. 234820: Small Business Work Group Report - 2021 - 2023 EmPOWER Maryland Program (“Small Business Report”) (April 15, 2021).

¹⁸ Maillog No. 235073: Washington Gas Light Company - its updated and expanded information on three of six pilot programs of its EmPOWER Maryland Regulatory Plan for the 2021-2023-time period (“WGL Pilot Report”) (April 30, 2021).

¹⁹ Maillog No. 234980: Maryland Clean Energy Center Comments (“MCEC Comments”) (April 27, 2021); Maillog No. 235123: Staff Comments on the EmPOWER Work Group Reports - EmPOWER Maryland Plans (“Staff Work Group Comments”) (May 3, 2021); Maillog No. 235115: Energy Efficiency Experts, LLC Comments (May 3, 2021); Maillog No. 235118: Maryland Building Performance Association Comments (May 3, 2021); Maillog No. 235119: Heating & Air Conditioning Contractors of Maryland, Inc./Association of Air Conditioning Professionals - Comments (May 3, 2021); Maillog No. 235128: Elysian Energy Comments (May 4, 2021).

the program, including but not limited to cost and net present value of costs and savings, as well as savings reported separately for the program in order to monitor the program's effectiveness."²⁰ BGE provided additional information as requested and renewed its proposal for approval of the Virtual Commissioning Program as part of its commercial and industrial ("C&I") portfolio for the 2021-2023 EmPOWER program cycle.²¹ The Virtual Commissioning Program is projected to engage hard-to-reach accounts, be cost-effective, make use of AMI analytics, and engage customers without the need for facility visits.²² The Commission approves the BGE Virtual Commissioning Program, as well as Staff's recommendation that the evaluation of the Virtual Commissioning Program will need to be reviewed and agreed to by the utility evaluators and Maryland's independent evaluator.²³

6. In Order No. 89679, the Commission denied, without prejudice, BGE's proposal to extend the payback period for its Small Business Energy Advance ("SBEA") Program from 12 months to 36 months for the 2021-2023 program cycle.²⁴ In its decision, the Commission noted, among other things, that the extension of repayment would also extend the amortization period, and that it was unclear whether the extension would apply to existing loans, new loans, or both. BGE has modified its proposal to an extension of the repayment term from 12 months to 24 months, with the offering only extended to new loan customers.²⁵ In its comments, Staff notes that BGE's Small Business Program

²⁰ Order No. 89679, para. 65 (Dec. 18, 2020).

²¹ BGE Report at 17.

²² *Id.* at 51-55.

²³ Staff Comments at 31.

²⁴ Order No. 89679, para. 59 (Dec. 18, 2020).

²⁵ BGE Report at 57.

exceeded its forecasted amount by 33 percent for 2020 with the program as currently structured, and therefore does not support the proposed modified repayment period at this time.²⁶ The Commission concurs with Staff and denies BGE's proposed modification. BGE may request that the proposal be reviewed again after the completion of the 2021 program year to determine if the Small Business Program is on track to meet its goals for the 2021-2023 program cycle.

7. In Order No. 89679, the Commission denied pilot program proposals for the 2021-2023 program cycle due to the lack of detail and development necessary for the Commission to properly evaluate the proposals.²⁷ The Commission noted the factors established in Order No. 88438 in Case No. 9453 for developing and evaluating a pilot,²⁸ conditionally approved of the concepts of several pilots where it found value in pursuing the goal of the pilot, and directed the relevant Utilities to file full pilot proposals in accordance with Order No. 88438 for final approval.²⁹

8. The Commission conditionally approved BGE's Quick Home Energy Check-Up ("QHEC") New Measures Pilot in Order No. 89679.³⁰ In accordance with the Commission's direction, BGE provided a full pilot proposal containing the factors required for the Commission to evaluate the pilot.³¹ The Commission approves BGE's QHEC New Measures Pilot and directs that the Pilot be evaluated and verified through

²⁶ Staff Comments at 32.

²⁷ Order No. 89679, paras. 78 and 79 (Dec. 18, 2020).

²⁸ *Id.*, para. 78 (Dec. 18, 2020); *citing, In re Baltimore Gas and Electric Company Request for Approval of a Prepaid Pilot Program and Request for Waivers of COMAR and Commission Orders*, Order No. 88438, pages 19 and 20 (Oct. 25, 2017).

²⁹ Order No. 89679, para. 79 (Dec. 18, 2020).

³⁰ *Id.*, para 80.

³¹ BGE Report at 58-60.

the established EmPOWER EM&V process, including the Maryland Independent Evaluator.

9. The Commission also granted conditional approval to BGE’s Smart TV Pilot in Order No. 89679.³² In response, BGE filed a full proposal for the pilot, which is intended to explore and measure peak demand reduction, energy efficiency and behavioral messaging opportunities through the use of certain smart TVs.³³ The Commission approves BGE’s Smart TV Pilot and directs that the pilot be evaluated and verified through the established EmPOWER EM&V process, including the Maryland Independent Evaluator. The Commission also directs BGE to file tariff revisions reflecting the expensing of the pilot costs over the one year that the pilot will run, rather than amortized over five years as proposed by BGE. Several components of the pilot are behavioral in nature and, given the Commission’s recent determination that behavioral program costs should be recovered in a single year, this pilot should be treated the same for purposes of cost recovery.

B. DHCD

10. In Order No. 89679, the Commission approved DHCD’s Energy Kit, Base Efficiency, Whole Home Efficiency, and Multifamily Energy Efficiency Housing Affordability (“MEEHA”) Programs as proposed for the 2021-2023 program cycle, but denied its proposed Enhanced Weatherization and Net Zero Programs.³⁴ DHCD requests that the \$3,590,934 budgeted for the denied Enhanced Weatherization and Net Zero

³² Order No. 89679, para. 80 (Dec. 18, 2020).

³³ BGE Report at 61.

³⁴ Order No. 89679, paras. 84, 86, 89, and 90 (Dec. 18, 2020).

Programs be allocated to the approved Base Efficiency and Whole Home Efficiency Programs.³⁵ The Commission recognizes that DHCD's overall budget has already undergone State approval and that the fund transfer would allow DHCD to assist a substantial number of additional homes in becoming more energy efficient,³⁶ and therefore approves the budget transfer request.

C. SMECO

11. The Commission conditionally approved SMECO's Energy Savings with Greater Rewards Pilot in Order No. 89679, and directed SMECO to provide additional information to allow the Commission to evaluate a more fully-developed pilot program.³⁷ SMECO provided the additional information as directed, and now requests full approval of the Pilot.³⁸ The Commission approves the Energy Savings with Greater Rewards Pilot and directs that the Pilot be evaluated and verified through the established EmPOWER EM&V process, including the Maryland Independent Evaluator. The Commission also grants two requests from Staff regarding the Pilot: (1) If SMECO determines over the course of the Pilot that they cannot recruit over half of the anticipated participants, SMECO is directed to notify the Commission and provide a plan for how the measurement of goals will still be achieved; and (2) If SMECO plans to consider the Pilot as a full scale program in EmPOWER after 2023, SMECO is directed to file a detailed final report on the Pilot by July 1, 2023.

³⁵ DHCD Report at 10.

³⁶ *Id.*

³⁷ Order No. 89679, para. 80 (Dec. 18, 2020).

³⁸ SMECO Report, Appendix L.

12. In Order No. 89679, the Commission denied, without prejudice, SMECO's Bring Your Own Device ("BYOD") Demand Response Pilot Program, stating, "The Commission does not support the Utilities piloting programs already piloted or implemented in full by other utilities unless there is something new being tested."³⁹ As such, SMECO now proposes to implement BYOD Demand Response as a full program for the 2021-2023 program cycle instead of as a pilot program.⁴⁰ The BYOD Program is similar to programs offered by BGE, DPL, and Pepco, and is projected to be cost-effective. The Commission therefore approves SMECO's BYOD Demand Response Program.

D. Work Group Reports

13. In Order No. 88514, the Commission approved Midstream Programs for the 2018-2020 program cycle.⁴¹ In Order No. 88783, the Commission directed the Midstream Program Work Group to file a status report on the implementation of the Utilities' Midstream Programs at the same time as the Utilities file their respective semi-annual reports.⁴² Staff filed the Status Report on the Midstream Program implementation on April 15, 2021.⁴³ The Midstream Program Work Group requests that the Commission no longer require the semi-annual filing of the Midstream Program Implementation Status report. The Work Group does however request that the Utilities be directed to provide information pertaining to their respective Midstream Programs in their regular

³⁹ Order No. 89679, para. 82 (Dec. 18, 2020).

⁴⁰ SMECO Report, Appendix K.

⁴¹ Order No. 88514, page 47 (Dec. 22, 2017).

⁴² Order No. 88783, page 22 (July 27, 2018).

⁴³ Maillog No. 234815 at 2.

semi-annual reports, and that the EmPOWER Reporting and Process Improvement (“ERPI”) Work Group be tasked with determining what information should be filed on the Midstream Programs.⁴⁴ The Commission grants this request and directs the ERPI Work Group to establish and communicate to the Utilities the necessary reporting metrics for the Midstream Programs.

14. In Order No. 89679, the Commission rejected, without prejudice, the proposal from the Exelon Utilities and Potomac Edison to expand the eligibility restriction for their Small Business Programs from 60 kW to 100 kW, with Potomac Edison requesting the ability to expand further to 150 kW with prior notice to Staff. Citing insufficient justification for the increase, the Commission directed the Small Business Work Group to provide additional information in support of the proposed expansion.⁴⁵ The Work Group filed its report on April 15, 2021, stating, among other things, that the expansion would increase program participants without materially impacting its cost-effectiveness, and that data continues to show that C&I customers with demands less than 60 kW utilize EmPOWER Maryland programs the least.⁴⁶ The proposed expansion was requested by all of the electric utilities except for SMECO, who stated that, if required to increase its eligibility threshold, it would have to modify its budget to accommodate the program change.⁴⁷ In addition to the long-standing goal of consistency among the utilities, the Commission also notes that the eligibility expansion is permissible, not required, and therefore approves the Work Group’s request to allow the Electric Utilities, including

⁴⁴ Staff Midstream Report at 2.

⁴⁵ Order No. 89679, para. 57 (Dec. 18, 2020).

⁴⁶ Small Business Report at 4 and 7.

⁴⁷ *Id.* at 9.

SMECO, to increase their Small Business Program eligibility threshold from 60 kW to 100 kW.

15. In response to a finding by Itron, the Commission's Independent Evaluator, that four-fifths of EmPOWER lighting program incentives were paid to customers who would have purchased the lamps even without the incentives, the Commission in Order No. 89669 directed the EM&V Work Group to determine caps for individual lighting product types for the 2021-2023 program cycle.⁴⁸ The Work Group filed its report on April 15, 2021, providing a Table of Recommended Upstream Program Lamp EUL Assumptions ("Table 1").⁴⁹ The Commission is aware that the Work Group considered various forecasts of lighting markets as well as existing and prospective federal lighting standards when developing its recommendations, and approves the EUL assumptions included in Table 1 for use during the 2021-2023 program cycle.

16. The EM&V Work Group Report contained two additional recommendations. First, the Work Group recommends that it reconvene in November 2021 to discuss EUL assumptions for other program designs and target markets, and to prescribe EULs to be used in the evaluations of the 2021 Upstream Lighting Programs, QHEC Programs, Energy Efficiency Kit Programs, New Construction Programs, and any other residential programs that claim savings from lighting products.⁵⁰ Second, the Work Group recommends that the same model used to guide the Work Group recommendations in Table 1 continue to be used for 2021 and future program years, subject to updates collectively agreed upon by the Work Group, and subsequently approved by the

⁴⁸ Order No. 89669, para. 6 (Nov. 25, 2020).

⁴⁹ EM&V Report at 2.

⁵⁰ *Id.* at 3.

Commission, to reflect available information regarding program free ridership, federal standards, and other factors that could affect the EUL assumptions.⁵¹ The Commission approves both of these recommendations.

17. In Order No. 89679, the Commission directed the EmPOWER Reporting and Process Improvement (“ERPI”) Work Group to research the reporting recommendations made by OPC and MEEA in their respective comments on the 2021-2023 program cycle, as well as the costs to achieve the modified reporting, and to incorporate the changes where feasible.⁵² The ERPI Work Group filed its Report on April 16, 2021, stating therein the proposed changes that have been agreed upon as well as details that have yet to be finalized, but that the Utilities and DHCD have committed to finalizing by June 15, 2021.⁵³ These reporting details to be finalized include, but are not limited to:

1. Revisions to the WGL Coordinated Projects mini-table;⁵⁴
2. Data to be reported by BGE for behavioral program energy savings;⁵⁵
3. A review of the forecasting method for behavioral program savings for consistency among the Utilities;⁵⁶ and
4. A revised template intended to serve as a tracking system for programs across the Utilities;⁵⁷

⁵¹ *Id.*

⁵² Order No. 89679, para. 7 (Dec. 18, 2020).

⁵³ ERPI Report at 1.

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 4.

⁵⁶ *Id.* at 5.

⁵⁷ *Id.* at 6.

18. The Commission notes the following proposed changes that have been agreed upon by the Utilities and DHCD, all of whom confirm that the changes can be implemented without modification to their respective 2021-2023 program cycle budgets:⁵⁸

1. Consistency among the Utilities for reporting natural gas savings, including Potomac Edison who previously was not reporting natural gas savings for the coordinated program;⁵⁹
2. DHCD should not be required to report WGL's gas savings associated with low-income customers;⁶⁰
3. The inclusion of a new mini-table in Utilities' semi-annual reports for consistent reporting of smart thermostat savings;⁶¹
4. The inclusion of a program summary worksheet for consistent behavioral program reporting by the Utilities;⁶²
5. Standardized usage of the titles "Year-to-Date", "Cycle-to-Date", and "Program-to-Date" as the reporting periods for actual performance;⁶³
6. The Utilities will include Home Performance with Energy Star ("HPwES") participation details in their respective mini-tables for the 2021-2023 program cycle, and will further standardize their HPwES participation reporting beginning in 2024;⁶⁴ and
7. The inclusion of only 2021-2023 data in Utilities' respective semi-annual reports, with DHCD exempt from this requirement as stated in the WRPI Work Group Report.⁶⁵

⁵⁸ *Id.* at 9.

⁵⁹ *Id.* at 3.

⁶⁰ *Id.* at 4.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at 5.

⁶⁴ *Id.* at 7.

⁶⁵ *Id.* at 8 and 9.

The Commission approves the reporting modifications listed above as detailed in the ERPI Work Group Report, and further approves the use of the proposed tables in Appendix A of the ERPI Work Group Report for inclusion in future semi-annual reports.

E. Financing Pilot Program

19. In Order No. 89189, the Commission directed the Finance Work Group to continue work on developing off-bill financing, energy services agreements, and tariff-based financing proposals for its consideration for the 2021-2023 program cycle.⁶⁶ A Finance Work Group Report, filed on October 1, 2020, discussed several existing and proposed financing programs.⁶⁷ The Commission found an off-bill program proposal by the Maryland Clean Energy Center (“MCEC”) and Montgomery County Green Bank (“MCGB”) to be the financing mechanism that was most compatible with the EmPOWER Program, but noted that the program was not fully developed. In Order No. 89679, the Commission requested that additional consideration be given to certain aspects of the MCEC Pilot Program and referred the matter to the Finance Work Group for further development.⁶⁸

20. On April 15, 2021, the Finance Work Group filed a Report proposing a revised MCEC and MCGB Finance Pilot Program, referred to as the Clean Energy Advantage Residential Lending Pilot Program (“CEA Pilot Program”). The CEA Pilot Program is intended to provide financial assistance to customers, thereby increasing participation in the Utilities’ HPwES and HVAC programs. MCEC and MCGB are requesting \$2.9

⁶⁶ Order No. 89189 at 19 (July 11, 2019).

⁶⁷ Maillog No. 232018: Finance Work Group Report (October 1, 2020).

⁶⁸ Order No. 89679, para. 22 and 23 (Dec. 18, 2020).

million in EmPOWER funds for the CEA Pilot Program, comprised of \$1 million for a six percent loan loss reserve fund, \$1.2 million for a 12-month buy down of the interest rate to zero percent, and \$719,312 for administrative expenses over the three-year pilot program.⁶⁹ Loans would be available for all customers with credit scores at and above 640 as secured loans for up to ten years and unsecured loans for up to five years. No fees would be assessed to customers through the duration of the pilot.⁷⁰

21. The CEA Pilot Program is not a consensus proposal and the Finance Work Group Report detailed both the support given and the concerns raised by parties.⁷¹ Upon reviewing the arguments in support and in opposition to the CEA Pilot Program, the Commission finds the Program is consistent with the intent of EmPOWER, and therefore approves the proposal, effective immediately.⁷²

22. MEA and OPC both raise concerns that the CEA Pilot Program is not designed to adequately reach the limited-income community,⁷³ noting that there are no income limitations for a customer to participate in the Program. Rather, financing is equally available to all customers with a credit score of 640 or higher.⁷⁴ They note that unfettered availability to this class of customer may be counterproductive to a goal of increased EmPOWER participation, and certainly runs counter to a goal of increasing funding for historically underserved and unserved populations.

⁶⁹ Finance Report at 4 and 5.

⁷⁰ *Id.*

⁷¹ *Id.* at 1.

⁷² Commissioner O'Donnell and Commissioner Herman dissent with respect to approval of the CEA Pilot Program. Their partial dissent is appended to this Order.

⁷³ *Id.* at 18.

⁷⁴ *Id.* at 6.

23. By directing the CEA Pilot Program towards income-challenged or lower-credit customers, it would have a greater chance of increasing EmPOWER participation by reaching those who may not otherwise be able to participate. The Work Group did consider opening the Program to customers with credit scores as low as 600, as customers with credit scores in the 600-640 range may not be in a position to take advantage of better financing options.⁷⁵ However, MCEC and MCGB advised the Work Group that the proposed lender for the Program would require a loan loss reserve of ten percent (instead of six percent) if the credit score requirement was lowered, thereby causing a substantial increase in program costs.⁷⁶

24. The Commission finds the goal of addressing customer socioeconomic equity to be of great importance for an EmPOWER financing program, and therefore directs the Finance Work Group to continue working on the equity issue left unresolved by the CEA Pilot Program in its current form. Notably, the Work Group should reexamine the feasibility of offering financing to customers with credit scores in the 600-640 range, recognizing that there would be an increase in program costs. The Work Group is directed to file a report with proposals to address this issue by March 1, 2022.

25. Additionally, as discussed at the hearing, the relationship between the Utilities and MCEC and MCGB as administrators of the CEA Pilot Program is unclear. Given that MCEC and MCGB have developed and will execute this financing pilot, it is important that the Commission clearly understands the delineation of the roles and responsibilities between the Utilities and administrators. At the hearing, the Utilities

⁷⁵ *Id.* at 19.

⁷⁶ *Id.*

noted that they will accept responsibility for operation of the CEA Pilot Program.⁷⁷ The parties referenced a written agreement or memorandum of understanding which would contain clearly defined roles, accounting processes, and responsibilities for the Utilities and the administrators. Accordingly, the Commission directs the parties to execute and file this agreement with the Commission by March 1, 2022.

26. The Commission also notes the concerns stated by certain members of the Work Group as to the absence of a baseline by which to measure the Program's performance.⁷⁸ While the proposal includes the performance by utility evaluators of a counterfactual analysis to "determine the extent to which the pilot caused additional program savings and/or customer participation," no explanation is given for how such a determination would be made without a baseline.⁷⁹ The Commission acknowledges, however, that the proposal also states that "utility evaluators will use participant surveys and other methods..." and "evaluators will also develop methods for estimating [costs] and conduct a process evaluation to understand the experience of various program users for possible future program improvement."⁸⁰ The Commission further directs that the CEA Pilot Program be evaluated and verified through the established EmPOWER EM&V process, including the Maryland Independent Evaluator. The Finance Work Group is directed to file with the Commission a final report on the CEA Pilot Program by July 15, 2023.

⁷⁷ Hearing Transcript at 192-201.

⁷⁸ *Id.* at 12.

⁷⁹ *Id.* at 17.

⁸⁰ Finance Report, CEA Proposal, at 12.

IT IS THEREFORE, this 14th day of June, in the year Two Thousand Twenty-One, by the Public Service Commission of Maryland, **ORDERED**,

ORDERED: (1) That the BGE Virtual Commissioning Program is approved, subject to the condition stated herein;

(2) That the BGE proposal to extend the repayment term of its Small Business Energy Advance from 12 months to 24 months is denied;

(3) That the BGE QHEC New Measure Pilot Program is approved and shall be subject to the established EmPOWER EM&V process;

(4) That the BGE Smart TV Pilot Program is approved and shall be subject to the established EmPOWER EM&V process;

(5) That BGE shall file tariff revisions reflecting the expensing of the Smart TV Pilot Program costs over one year;

(6) That the DHCD request to transfer \$3,590,934 from the Commission-denied Enhanced Weatherization and Net Zero Programs to the Energy Kit, Base Efficiency, Whole Home Efficiency, and MEEHA Programs for the 2021-2023 program cycle is approved;

(7) That SMECO's Energy Savings with Greater Rewards Pilot Program is approved, subject to the conditions stated herein, and shall be subject to the established EmPOWER EM&V process;

(8) That SMECO's Bring Your Own Device Demand Response Program is approved;

(9) That the Midstream Work Group is no longer required to file semi-annual reports on the Utilities' Midstream Programs; rather, the Utilities are directed to include

their Midstream Program data, as determined by the ERPI Work Group, in their respective semi-annual reports;

(10) That the Small Business Work Group's request to allow an increase of the Small Business Program eligibility threshold from 60 kW to 100 kW is granted for all electric utilities;

(11) That Table 1: Recommended Upstream Program Lamp EUL Assumptions proposed by the EM&V Work Group is approved for use during the 2021-2023 program cycle;

(12) That the EM&V Work Group is directed to reconvene in November 2021 to discuss EUL assumptions for other program designs and target markets, and to prescribe EULs to be used in the evaluations of the 2021 Upstream Lighting Programs, QHEC Programs, Energy Efficiency Kit Programs, New Construction Programs, and any other residential programs that claim savings from lighting products;

(13) That the EM&V Work Group is directed to employ the same model used to develop the recommended EULs in Table 1 for 2021 and future program years, subject to updates collectively agreed upon by the Work Group as stated herein;

(14) That reporting modifications listed herein and detailed more fully in the ERPI Work Group Report are accepted;

(15) That the use of the proposed tables in Appendix A of the ERPI Work Group Report for inclusion in future semi-annual reports is approved;

(16) That the CEA Pilot Program proposed by MCEC and MCGB is granted, as discussed above, and shall be subject to the established EmPOWER EM&V process;

(17) That the Finance Work Group is directed to provide additional information pertaining to any cost differential associated with lowering the credit score requirement for the CEA Pilot Program by March 1, 2022; and

(18) That the Finance Work Group is directed to file with the Commission a final report on the CEA Pilot Program by July 15, 2023.

/s/ Jason M. Stanek _____

/s/ Michael T. Richard _____

/s/ Anthony J. O'Donnell _____

/s/ Odogwu Obi Linton _____

/s/ Mindy L. Herman _____

Commissioners

**Dissent of Commissioner Anthony J. O'Donnell and
Commissioner Mindy L. Herman**

27. We dissent from the majority's decision approving the CEA Pilot Program. While we agree that there could be a number of positive aspects to the CEA Pilot Program we are not comfortable accepting a program with serious and important issues left for future review or attention. We believe that the MOU between the utilities and MCEC will contain essential information about the division of responsibilities that will impact our ability to exercise jurisdiction over the pilot, and therefore we would need to review that MOU prior to accepting the program.

28. Further, we have serious concerns with the level of administrative costs the Pilot will incur out of the EmPOWER funds. The Commission has consistently maintained rules that closely follow those imposed by the State that limit administrative costs to approximately 10%. There are a number of serious, unanswered questions regarding the use of the administrative funds, such as what the funds will cover. Therefore, we would have required additional information regarding how the EmPOWER funds would be used.

29. Like the majority, we also are not persuaded that the Program as proposed would provide any additional access to EmPOWER programs to low or moderate income households due to the proposed credit limit. We appreciate the majority's attempt to address this issue by sending it to the Finance Workgroup, however we would have denied the Program without prejudice and charged the parties to present a more complete

application responding to that issue, as well as the other issues raised here and in the majority opinion.

/s/ Anthony J. O'Donnell

/s/ Mindy L. Herman

Commissioners