

ORDER NO. 90003

2021 – 2023 EmPOWER Maryland Program

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9648

Issue Date: December 14, 2021

ORDER ON SEMI-ANNUAL EMPOWER REPORTS

I. INTRODUCTION

1. On November 16, 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 first and second quarters of 2021 as filed by Potomac Edison,² Southern Maryland Electric Cooperative, Inc. (“SMECO”),³ Baltimore Gas and Electric Company (“BGE”),⁴ Potomac Electric Power Company (“Pepco”),⁵ Delmarva Power & Light Company

¹ Notice of the hearing date and comment period for this matter was provided on August 17, 2021 (Maillog No. 236683). Notice that the hearing would be conducted virtually was provided on November 10, 2021 (Maillog No.237755).

² Maillog No. 236599: Potomac Edison 2021 First Semi-Annual EmPOWER Maryland Report for the Period of January 1 - June 30 (“Potomac Edison Report”) (August 13, 2021).

³ Maillog No. 236623: Southern Maryland Electric Cooperative, Inc.’s Q1/Q2 2021 Semi-Annual EmPOWER Maryland Report (“SMECO Report”) (August 13, 2021).

⁴ Maillog No. 236667: Baltimore Gas and Electric Company 2021 Mid-Year EmPOWER Maryland Report for January 1 through June 30, 2020 (“BGE Report”) (August 16, 2021).

⁵ Maillog No.236669: Potomac Electric Power Company’s Mid-Year EmPOWER Maryland Report YTD Q2 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (August 16, 2021); Maillog No.237289: Errata to Potomac Electric Power Company’s Mid-Year EmPOWER Maryland Report YTD Q2 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (“Pepco Report”) (October 4, 2021).

(“Delmarva”),⁶ (collectively, “the Electric Utilities”), Washington Gas Light Company (“WGL”),⁷ (collectively, with the Electric Utilities, “the Joint 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 the Maryland Energy Efficiency Advocates (“MEEA”),¹² Virginia Towers, LLC,¹³ Maryland State Senator Chris West,¹⁴ and Baltimore County Councilman David Marks.¹⁵

3. The Commission also reviewed additional filings by Staff, including an Evaluation of the Fuel Savings and Behavioral Disaggregation Reports by the Evaluation, Measurement, & Verification Work Group,¹⁶ the Rate Design and Performance Incentive

⁶ Maillog No. 236670: Delmarva Power & Light Company’s Mid-Year EmPOWER Maryland Report YTD Q2 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (August 16, 2021); Maillog No. 237285: Errata to Delmarva Power & Light Company’s Mid-Year EmPOWER Maryland Report YTD Q2 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (“Delmarva Report”) (October 4, 2021).

⁷ Maillog No. 236674: Washington Gas Semi-Annual EmPOWER Maryland Report for the Period of January 1 – June 30, 2021 (“WGL Report”) (August 17, 2021).

⁸ Maillog No. 236653: Department of Housing and Community Development EmPOWER Maryland Limited Income Programs Semi-Annual Report Q1/Q2 2021 (“DHCD Report”) (August 16, 2021).

⁹ Maillog No. 237442: Comments of the Public Service Commission Staff 2021 Semi-Annual EmPOWER Maryland Programmatic Reports for the First and Second Quarters (“Staff Comments”) (October 15, 2021).

¹⁰ Maillog No. 237450: OPC Comments on the EmPOWER Utilities’ and DHCD’s Semi-Annual Reports for Q1-Q2 of the 2021 EmPOWER Maryland Program Cycle (“OPC Comments”) (October 15, 2021).

¹¹ Maillog No. 237422: Maryland Energy Administration Comments on the EmPOWER Maryland Semi-Annual Reports January 1, 2021 through June 30, 2021 (“MEA Comments”) (October 15, 2021).

¹² Maillog No. 237436: The Maryland Energy Efficiency Advocates’ Comments on the EmPOWER Maryland Q1-Q2 2021 Semi-Annual Reports filed by the Utilities and the Department of Housing and Community Development (“MEEA Comments”) (October 15, 2021).

¹³ Maillog No. 237452: Virginia Towers, LLC - Comments on EmPOWER Maryland Semi-Annual Reports January 1, 2021 through June 30, 2021 (“Virginia Towers Comments”) (October 18, 2021).

¹⁴ Maillog No. 237814: Comments in Support of the Virginia Towers Comments (November 15, 2021).

¹⁵ Maillog No. 237815: Comments in Support of the Virginia Towers Comments (November 15, 2021).

¹⁶ Maillog No.237444: EmPOWER Maryland Evaluation of Fuel Savings and Behavioral Disaggregation Reports (“EM&V Report”) (October 15, 2021).

Mechanism Status Reports by the Cost Recovery Work Group,¹⁷ the Incidental Export of Power Report by the Combined Heat and Power (“CHP”) Work Group,¹⁸ and Cost-Effectiveness and Verification Reports for the 2020 program year.¹⁹

4. The filings analyzed the performance of the Joint Utilities’ and DHCD’s portfolios for the first half of the 2021 program year and offered recommendations for programmatic and reporting improvements to the 2021-2023 EmPOWER program cycle, among other things. The November 16 Hearing provided an opportunity for the parties to provide additional testimony to the Commission. Upon review of the filings and the requests presented, the Commission makes the following determinations.

II. COMMISSION DECISION

A. SMECO’s Virtual Commissioning Program

5. In Order No. 89855, the Commission approved BGE’s Virtual Commissioning Program, noting that the 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.”²⁰ In its semi-annual report, SMECO stated an intention to “explore the feasibility” of implementing a similar program within its Custom or Building Operations & Performance Programs.²¹ SMECO requests that the Commission allow it the flexibility to include a

¹⁷ Maillog No. 237447: Rate Design and Performance Incentive Mechanisms Status Reports (“Cost Recovery Report”) (October 15, 2021).

¹⁸ Maillog No.237499: Incidental Export of Power Report (“CHP Report”) (October 15, 2021).

¹⁹ Maillog No. 237716: Program Verification and Cost-Effectiveness Reports - EmPOWER Maryland Programs (November 4, 2021); Maillog No. 237781: Program Evaluation and Cost-Effectiveness Reports - Washington Gas 2020 EmPOWER Maryland Programs (November 12, 2021).

²⁰ Order No. 89855 at 4 (June 14, 2021).

²¹ SMECO Report at 4.

similar program if it is deemed appropriate for inclusion in the utility’s EmPOWER portfolio.²²

6. The Commission grants SMECO’s request for approval of a Virtual Commissioning Program, and consistent with the direction given to BGE in the approval of its Virtual Commissioning Program, SMECO’s Virtual Commissioning Program will need to be reviewed and approved by the utility evaluators and Maryland’s independent evaluator.²³

B. Greenhouse Gas Reductions Reporting

7. The recently adopted 2030 Greenhouse Gas Reduction Act Plan (“GGRA Plan”)²⁴ aims to cut emissions in Maryland by 40% from 2006 levels by 2030. The GGRA Plan, along with *Annotated Code of Maryland*, Public Utilities Article § 7-211²⁵ and § 2-113,²⁶ require the Commission to consider the impact that utility projects may have on the State’s reduction goals when making program decisions and determinations. Filings and hearing testimony included recommendations as to how the Utilities should modify current programs to prioritize the State’s climate objectives.²⁷ The Commission supports and recognizes the importance of the aforementioned goals; however, it would be premature to direct any programmatic modifications at this time. Instead, the Commission will first require

²² *Id.*

²³ Order No. 89855 at 4 (June 14, 2021).

²⁴ [https://mde.maryland.gov/programs/Air/ClimateChange/Pages/Greenhouse-Gas-Emissions-Reduction-Act-\(GGRA\)-Plan.aspx](https://mde.maryland.gov/programs/Air/ClimateChange/Pages/Greenhouse-Gas-Emissions-Reduction-Act-(GGRA)-Plan.aspx), Appendix B (February 19, 2021)

²⁵ “In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider the [...] impact on the environment.” *Md. Ann. Code*, Public Utilities Article § 7-211(c)(2)(ii).

²⁶ *Md. Ann. Code*, Public Utilities Article § 2-113 lists factors the Commission must consider when supervising and regulating public service companies, including the following *new* factors, effective October 1, 2021: [...] the preservation of environmental quality, including protection of the global climate from continued short-term and long-term warming based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and the achievement of the State’s climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article.

²⁷ *See, e.g.*, OPC Comments at 1 and 2; MEEA Comments at 3, 6, and 8.

information on the contribution of the current EmPOWER program towards greenhouse gas reductions to best determine what, if any, modifications should be made.²⁸ The Commission therefore directs the EmPOWER Reporting and Process Improvement (“ERPI”) Work Group to, in coordination with the Future Programming Work Group, file updated reporting templates designed to include relevant greenhouse gas reduction data, including but not limited to avoided emissions data, by April 15, 2022.

C. CEA Pilot Program

8. In Order No. 89855, the Commission approved the Clean Energy Advantage Residential Lending Pilot Program (“CEA Pilot Program”), an off-bill program by the Maryland Clean Energy Center (“MCEC”) and Montgomery County Green Bank (“MCGB”) intended to provide financial assistance to customers, thereby increasing participation in the Utilities’ HPwES and HVAC programs.²⁹ Order No. 89855 noted that the CEA Pilot Program was not a consensus proposal and acknowledged concerns raised by parties, and therefore imposed certain conditions upon the approval of the Program.³⁰ The Commission directed the Finance Work Group to file a report on the status of the conditions by March 1, 2022. The Commission directs the Finance Work Group to also include in the

²⁸ “[OPC’s] initial look at residential program greenhouse gas abatement shows the programs are contributing to substantial GHG reductions. The Home Retrofit and New Construction programs together are responsible for roughly one-third of the programs’ lifetime GHG abatement. Overall, [Vermont Energy Investment Corporation] estimates EmPOWER residential programs are reducing GHG emissions equivalent to approximately 20% of total residential emissions.” OPC Comments at 2.

²⁹ Order No. 89855 at 14 (June 14, 2021).

³⁰ [The Commission] “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...” *Id.*, para. 24; “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...” *Id.* at 15-16.

March 1, 2022 status report the program launch date (anticipated or actual) and the reporting templates to be used for the CEA Pilot Program.

D. Midstream Program

9. Several utilities reported that their midstream program performance for HVAC and heat pump water heaters is falling behind savings and participation forecasts.³¹ The Commission recognizes that some of the shortfall in energy savings may be attributed to impacts from COVID-19 such as material and labor shortages for manufacturers, but notes that SMECO,³² as well as utilities in other states, appear to be effectively employing midstream programs.³³ The Utilities could benefit from a review of successful midstream program strategies, as well as from support in the development and deployment of improved midstream practices. The Commission therefore directs the Midstream Work Group to convene for this purpose, and to file a status report by April 15, 2022 detailing the substance and outcome of the Work Group meeting. The report should include a review of industry best practices, a comparison of the Maryland programs to others nationally, and recommendations to improve the performance of any utility programs not meeting their targets.

³¹ “The HVAC program reported 920 MWh in energy savings, or 22% of the program’s 2021 target... Although the Company is seeing increased interest by HVAC distributors and contractors in this program, it is not expected to meet its full 2021 annual target.” Potomac Edison Report at 3. “The Midstream HVAC Heating and Cooling Program achieved 22% of the annualized energy savings (MWh).” BGE Report at 20. Pepco and Delmarva reported no midstream participation for heat pump water heaters for Q1/Q2. Pepco Report at 27 and Delmarva Report at 26.

³² SMECO’s Midstream Residential Heating and Cooling Rebate Program exceeded its Q1/Q2 2021 targets for savings (achieving 156% of Q1/Q2 savings goal and 61% of the annual savings goal), incentives (achieving 133% of Q1/Q2 incentive goal and 52% of the annual goal), and measures (achieving 167% of Q1/Q2 measures goal and 65% of the annual goal). SMECO Report at 12.

³³ OPC Comments at 1.

10. In Order No. 89855, the Commission determined that the Midstream Work Group would no longer be required to file semi-annual reports on the Joint Utilities' Midstream Programs; rather, the Joint Utilities were directed to include their Midstream Program data, as determined by the ERPI Work Group, in their respective semi-annual reports.³⁴ The Commission specifically directed the ERPI Work Group to establish and communicate to the Joint Utilities the necessary reporting metrics for the Midstream Programs.³⁵ Based upon the information contained in the Joint Utilities' semi-annual reports, it is unclear what, if any, reporting metrics were established and to what extent the Joint Utilities included those metrics in their semi-annual reports. The Commission therefore reiterates its directive to the ERPI Work Group, and further directs the ERPI Work Group to file a report by February 15, 2022 advising the Commission of the metrics established and communications made to the Joint Utilities regarding Midstream Program data.

E. DHCD MEEHA Program

11. Virginia Towers, LLC ("Virginia Towers") filed comments on the DHCD Report, requesting that the Commission direct DHCD to take certain actions intended to allow for greater participation in its Multifamily Energy Efficiency and Housing Affordability ("MEEHA") Program.³⁶ Virginia Towers explained that it applied to the MEEHA Program in Fall of 2020, seeking a grant with which to make upgrades to its 150 residential units and commercial space. DHCD responded to the application, "... because of the existing pipeline, there are currently no funds available in the BGE territory for Residential improvements."³⁷

³⁴ Order No. 89855 at 8 and 9.

³⁵ *Id.*

³⁶ Virginia Towers Comments at 4.

³⁷ *Id.* at 3.

Virginia Towers specifically requests that the Commission 1) increase funding for the MEEHA Program, 2) direct DHCD to provide more frequent funding updates to the Commission, and 3) direct DHCD to provide recommendations as to how it might adjust its funding formula to execute the MEEHA budget sustainably.³⁸

12. The requests by Virginia Towers are intended to address a backlog of unfunded projects within the BGE service territory. The Commission recognizes the importance of available funding for multifamily property owners willing to make energy efficiency improvements, but also notes the difficulty associated with increasing and/or shifting DHCD budgets due to the likely impact on other utility budgets and customer surcharges. The Commission denies the requests by Virginia Towers, but directs DHCD, in conjunction with the Limited-Income Work Group, to conduct an analysis of whether the current MEEHA funding allocation for each service territory is reasonable, and to submit to the Commission for approval a revised budget containing modified funding allocation, if and as appropriate. A status report on the analysis, as well as any revised budgets for approval, are to be filed with the Commission by April 15, 2022.

F. Cost Recovery Work Group

13. OPC raised concerns that the Cost Recovery Work Group lacks a clear work plan to prepare, as directed in Order No. 89679,³⁹ cost recovery and Performance Incentive Mechanism (PIM) proposals for consideration by the Commission no later than April 15, 2022.⁴⁰ In that Order, the Cost Recovery Work Group also was directed to coordinate with

³⁸ *Id.* at 4.

³⁹ Order No. 89679 at 19 and 20 (Dec. 18, 2020).

⁴⁰ OPC Comments at 6 and 7.

the Future Programming Work Group to ensure the program “cost recovery aligns with the recommendations on future goals and cost-effectiveness tests.”⁴¹

14. It is important for cost recovery to align with the goals of the EmPOWER programs. The Commission reaffirms its directive for coordination between the Cost Recovery Work Group and the Future Programming Work Group. The Commission expects the Cost Recovery Work Group to provide assistance to the Future Programming Work Group on any cost recovery issues related to its directive on goals and cost-effectiveness, and for the Cost Recovery Work Group to use the work of the Future Programming Work Group to inform its cost recovery proposals. The Cost Recovery Work Group should file any issues that require the Commission’s attention for possible resolution that may delay or prevent the Cost Recovery Work Group from meeting the objectives of Order No. 89679 by April 15, 2022.

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

(1) That SMECO’s request for flexibility to implement a Virtual Commissioning Program is approved, subject to the condition stated herein;

(2) That the ERPI Work Group is to file updated reporting templates designed to include relevant greenhouse gas reduction data by April 15, 2022;

(3) That the Finance Work Group is to include in its March 1, 2022 status report the launch date (anticipated or actual) and reporting templates for the CEA Pilot Program;

⁴¹ Order No. 89679 at 20. In the hearing, Staff stated that it is committed to working with the Cost Recovery Work Group and Future Programming Work Group to carry out these directives in order to provide the Commission with solutions to address “the growing unamortized balance,” and propose PIMs, such as the ones included in the MEA Cost Analysis, that are appropriate for Commission consideration. All of the participants in these two work groups should cooperate with Staff to meet the Commission's deadlines and provide proposals for Commission consideration within the deadlines established by the Commission.

(4) That the Midstream Work Group convene and file a status report by April 15, 2022 as discussed herein;

(5) That the ERPI Work Group is directed to establish and communicate to the Joint Utilities the necessary reporting metrics for their respective Midstream Programs;

(6) That the ERPI Work Group is directed to file a report by February 15, 2022 advising the Commission of the metrics established and communications made to the Joint Utilities regarding Midstream Program data;

(7) That DHCD and the Limited-Income Work Group are directed to conduct an analysis of whether the current MEEHA funding allocation for each service territory is reasonable and, if and as appropriate, to submit to the Commission for approval the revised budget(s) containing modified funding allocation, with a status report on the analysis and budget revision(s) to be filed with the Commission by April 15, 2022; and

(8) That the Cost Recovery Work Group and Future Programming Work Group are directed to coordinate on cost recovery and PIM proposals as stated in Order No. 89679.

/s/ Jason M. Stanek _____

/s/ Michael T. Richard _____

/s/ Anthony J. O'Donnell _____

/s/ Odogwu Obi Linton _____

/s/ Mindy L. Herman _____

Commissioners