

ORDER NO. 90663

2021-2023 EmPOWER Maryland
Program

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9648

Issue Date: June 9, 2023

ORDER ON SEMI-ANNUAL EMPOWER REPORTS**I. INTRODUCTION**

1. On May 2, 2023, the Commission held a legislative-style hearing¹ in the above-captioned case to review, among other things, the semi-annual EmPOWER Maryland reports for the third and fourth quarters of 2022 as filed by The Potomac Edison Company (“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 (“Delmarva”)⁶ (collectively,

¹ Notice of the hearing date and comment period for this matter was provided on February 22, 2023 (Maillog No. 301451). A supplemental notice was provided on March 2, 2023 (Maillog No. 301616).

² Maillog No. 301307: Potomac Edison 2022 Second Semi-Annual EmPOWER Maryland Report for the Period of January 1 - December 31 (“Potomac Edison Report”) (February 14, 2023).

³ Maillog No. 301340: Southern Maryland Electric Cooperative, Inc.’s Q3/Q4 2022 Semi-Annual EmPOWER Maryland Report (“SMECO Report”) (February 15, 2023).

⁴ Maillog No. 301355: Baltimore Gas and Electric Company 2022 Year-End EmPOWER Maryland Report for January 1 through December 31, 2022 (February 15, 2023); corrected by Maillog No. 301364: BGE Errata to Year-End EmPOWER Maryland Report 2022 January 1 through December 31, 2022 (“BGE Report”) (February 16, 2023).

⁵ Maillog No. 301351: Potomac Electric Power Company’s EmPOWER Maryland Report YTD Q3 and Q4 2022 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (“Pepco Report”) (February 15, 2023).

⁶ Maillog No. 301350: Delmarva Power & Light Company’s EmPOWER Maryland Report YTD Q3 and Q4 2022 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (February 15, 2023); corrected by Maillog No. 301706: Errata to Semi-Annual February 2023 Report (“Delmarva Report”) (March 9, 2023).

“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 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 and the Maryland Energy Administration (“MEA”).¹¹

3. The Commission also reviewed a status report filed by Staff on behalf of the EmPOWER Midstream Work Group and the EmPOWER Reporting and Process Improvement (“ERPI”) Work Group,¹² a status report filed by Staff on behalf of the Evaluation Measurement and Verification (“EM&V”) Work Group,¹³ filings associated

⁷ Maillog No. 301347: Washington Gas Semi-Annual EmPOWER Maryland Report for the Period of July 1 - December 31, 2022 (“WGL Report”) (February 15, 2023).

⁸ Maillog No. 301332: State of Maryland Department of Housing and Community Development EmPOWER Maryland Limited Income Programs Semi-Annual Report Q3/Q4 2022 (“DHCD Report”) (February 15, 2023); *see, also*, Maillog No. 301848: DHCD EmPOWER Maryland Limited Income Programs ERRATA - Q3Q4 2022 Semi-Annual Report (March 16, 2023).

⁹ Maillog No. 302521: Comments of the Public Service Commission Staff 2022 Semi-Annual EmPOWER Maryland Programmatic Reports for the Third and Fourth Quarters (“Staff Comments”) (April 21, 2023).

¹⁰ Maillog No. 302522: VEIC Comments to the Maryland Public Service Commission on EmPOWER Semi-Annual Reports for Q3-Q4 2022 on behalf of OPC (April 21, 2023); corrected by Maillog No. 302716: Corrected Version of VEIC Comments to the Maryland Public Service Commission on EmPOWER Semi-Annual Reports for Q3-Q4 2022 on behalf of OPC (“OPC Comments”) (May 2, 2023).

¹¹ Maillog No. 302512: Maryland Energy Administration Comments - EmPOWER Maryland Semi-Annual Reports July 1, 2022 through December 31, 2022 (“MEA Comments”) (April 21, 2023).

¹² Maillog No. 302519: Midstream and EmPOWER Reporting Process Improvement Work Groups Status Report (“Work Group Report”) (April 21, 2023).

¹³ Maillog No. 302709: EM&V Work Group Status Report (May 1, 2023).

with WGL’s Gas Heat Pump Pilot Program,¹⁴ and a request for confirmation filed by DHCD regarding prior Commission orders and the recent passage of certain legislation.¹⁵

4. The filings analyzed the performance of the Joint Utilities’ and DHCD’s portfolios for the second half of the 2022 program year, offered recommendations for programmatic and reporting improvements to the 2021-2023 EmPOWER program cycle, and addressed considerations for the Commission regarding the next three-year EmPOWER Maryland program cycle set to begin in 2024, among other things. The May 2 hearing allowed the parties to provide additional testimony to the Commission. Upon review of the filings, testimony, and requests presented, the Commission makes the determinations set forth below.

II. ISSUES AND COMMISSION DECISIONS

A. OPC Request to Terminate WGL’s Gas Heat Pump Pilot Program

5. OPC requests that the Commission direct WGL to end its Gas Heat Pump (“GHP”) Pilot Program.¹⁶ In support of its request, OPC focuses largely on the Preliminary Market Assessment filed by WGL which, OPC alleges, failed to satisfy the standards required by the Commission when it approved the Pilot Program.¹⁷ Specifically, OPC notes that the

¹⁴ Maillog No. 300743: WGL Preliminary Market Assessment: Maryland Gas Heat Pump Technology (“WGL Heat Pump Assessment”) (January 5, 2023); Maillog #301461: OPC Comments on WGL’s Preliminary Market Assessment: Maryland Gas Heat Pump Technology (“OPC Comments on Heat Pump Assessment”) (February 22, 2023); Maillog No. 302429: WGL Response to OPC Comments on Washington Gas’ Preliminary Market Assessment on Maryland Gas Heat Pump Technology (“WGL Response to OPC Comments on Heat Pump Assessment”) (April 17, 2023); Maillog No. 302517: Maryland Energy Efficiency Advocates Comments on Washington Gas Light’s Gas Heat Pump Pilot Proposal (“MEEA Comments on WGL Heat Pump Assessment”) (April 21, 2023); Maillog No. 302520: OPC Reply Comments on WGL’s Preliminary Market Assessment: Maryland Gas Heat Pump Technology (“OPC Reply Comments on Heat Pump Assessment”) (April 21, 2023).

¹⁵ Maillog No. 302616: Department of Housing and Community Development Request for Confirmation or Clarification Relating to PSC Orders and HB 169 (April 27, 2023).

¹⁶ OPC Comments on Heat Pump Assessment at 1.

¹⁷ *Id.* at 2.

first phase of WGL’s Pilot Program was to identify commercialized or near-commercialized GHP units, yet the Preliminary Market Assessment failed to identify any GHPs for acquisition and deployment in the Pilot Program.¹⁸ OPC also alleges that the Preliminary Market Assessment dramatically overstated the benefits of GHPs due to WGL’s use of incorrect assumptions in its analysis.¹⁹ OPC states that WGL is over a year behind in its Pilot Program schedule, and that it would be wrong to continue to invest time and resources on a new type of fossil fuel appliance for a program that will not be available for the 2024-2026 cycle planning.²⁰

6. WGL responded by noting that its Preliminary Market Assessment was not a required filing, thus anything not included in the Assessment should not be deemed a missing requirement.²¹ WGL also points out that, while OPC supported the Commission’s approval of the Pilot Program, it now seems to take the position that only electric heat pumps (“EHPs”) can serve the interest of residential customers.²² WGL characterized OPC’s request to terminate the Pilot Program as the result of a “premature evaluation of the program as a whole based on a voluntary filing that was shared solely in the interest of transparency and assistance to the Commission regarding one of multiple aspects of the GHP Pilot.”²³

7. Staff supports the purpose of the GHP Pilot Program - to explore potential savings and customer interest associated with the utilization of GHP technology in Maryland - as

¹⁸ *Id.* at 2-3.

¹⁹ *Id.* at 4-6.

²⁰ *Id.* at 7.

²¹ WGL Response to OPC Comments on Heat Pump Assessment at 2.

²² *Id.* at 2-3.

²³ *Id.* at 3.

well as its continuation, noting that some GHP installations have occurred and that the Pilot Program is still operating within its approved budget.²⁴

8. MEEA supports OPC's request, asserting that the Pilot Program is inconsistent with Maryland's climate policy and that the Preliminary Market Assessment fails to demonstrate that GHPs have "promising potential."²⁵

9. The Commission finds it premature to terminate WGL's Pilot Program at this time and believes it should continue subject to certain modifications as laid out below. The premise of this pilot was to determine "whether GHPs are a viable energy-saving technology for WGL's customers and EmPOWER Maryland programs."²⁶ Specific goals of the Pilot included identifying the best technology, market sector, and application of the pilot; training two contractors to implement the program; installing at least five GHPs; and demonstrating GHP efficiency and emissions reduction through a third party evaluation.²⁷ To accomplish these goals, WGL was going to conduct a market assessment, identify customers, engage contractors, install field test units, and monitor installed units to gather data necessary to evaluate the pilot.

10. The Pilot Program is not performing on schedule. At this time WGL has only installed two residential GHP units, with two more residential GHP units prepared for installation and one commercial customer expressing interest in participating. Additionally, the Market Assessment was filed nearly one year later than planned.²⁸ WGL

²⁴ Staff Comments at 60-61; *see, also*, Tr. 149:9-151:17.

²⁵ MEEA Comments on WGL Heat Pump Assessment at 1.

²⁶ Maillog No. 236756: Washington Gas Light Company's Second Pilot Program Proposal at 18 (August 23, 2021).

²⁷ *Id.*

²⁸ WGL's initial application included a timeline that stated the market assessment would be completed in early 2022. Maillog No. 236756: Washington Gas Light Company's Second Pilot Program Proposal at 17 (August 23, 2021). In a later filing, WGL stated its intention to file the market assessment no later than

provided several reasons for not meeting the approved pilot schedule, such as delays in contractor training and permitting, and the high level of customer engagement needed to field program participants.

11. It is clear the Commission and parties will be unable to utilize the results of the Pilot Program before the start of the next program cycle; however, terminating the Pilot Program at this time would guarantee that all funds and efforts spent thus far would result in little to no data usable towards satisfying the program's objectives. While the Commission will permit the Pilot Program to continue, modifications must be made to ensure a usable product, specific to Maryland, and with vetted assumptions prior to the submission of the final report.

12. The Commission denies OPC's request to end the WGL GHP Pilot Program, allowing WGL to continue the Pilot Program subject to the following parameters:²⁹

- a. No additional GHPs may be installed, including the two that are in the process of installation and the commercial customer noted at the hearing. If significant funds have already been spent on any of the three units at the time of this Order, WGL may petition the Commission for inclusion of the unit(s) in the Pilot Program;
- b. GHPs may not be included in WGL's programming until the Pilot Program is finalized and has been subject to the EmPOWER evaluation, measurement, and verification ("EM&V") process;
- c. The analysis performed on the Pilot Program shall:

September 1, 2022. Maillog No. 241910: Washington Gas Semi-Annual EmPOWER Maryland Report for the period of January 1 - June 30, 2022 at 19 (August 15, 2022).

²⁹ Commissioners Linton and Richard would end WGL's Gas Heat Pump Pilot Program.

- i. Utilize Maryland-specific assumptions;
 - ii. Be over the lifespan of the asset;
 - iii. Include a comparative analysis between GHPs and EHPs³⁰; and
 - iv. Assume changing emissions from the electric grid over time and assess both current Maryland state policy and zero emissions grid by 2045 for electric emissions,³¹ providing both marginal and average emissions results.
- d. All assumptions used in the analysis of the Pilot Program shall be vetted by the EmPOWER EM&V Work Group. If WGL chooses to deviate from any of the EM&V Work Group's recommendations, WGL must document its reasoning for the deviation, and must provide an analysis based on their assumption as well as an analysis based on the Work Group's recommended assumption;
- e. The Pilot Program final report must include all work papers and relevant citations for all data;
- f. WGL must file a new schedule for the Pilot Program, and confirm that it will complete the project within the current budget; and
- g. If WGL cannot accomplish the above within the current budget, it must immediately discontinue the Pilot Program and the Commission will consider disallowances for failing to stay on schedule and produce adequate information.

³⁰ There have been multiple EHPs installed in the State of Maryland through the EmPOWER program. WGL shall coordinate with the other EmPOWER utilities to gather the data necessary to perform the comparative analysis.

³¹ WGL should consult MDE for this information.

B. OPC's Request for Single Implementer of Midstream Programs

13. OPC requests that the Commission direct the utilities to use a single implementer for their respective Midstream Heating, Ventilation, and Air Conditioning (“HVAC”) Programs in the 2024-2026 program cycle.³² In support of its request, OPC points to the ongoing underperformance of most of the utilities’ HVAC programs, which OPC claims results from the need for a more effective program design and streamlined, consistent implementation.³³ OPC contends that putting a single implementer in place would constitute a meaningful program change that would engage the supply chain and drive participation.³⁴

14. The Midstream Programs are unique among EmPOWER programs in that their primary target is the contractors and distributors that work across utility jurisdictions. Five utilities are currently using three contractor-implementers for their respective Midstream Programs, subjecting the contractors and distributors to different program fees, customer communications, data processing, and rebate processing requirements, among other things.³⁵ These inconsistent program designs may make it difficult for the contractors and distributors to efficiently engage customers, potentially leading to the low participation and savings numbers seen from the utilities’ Midstream Programs.

15. The Commission recognizes that the Midstream Programs continue to underperform, that their missed opportunities to achieve savings must be addressed,³⁶ and

³² OPC Comments at 52.

³³ “With the exception of SMECO, the other utilities are again performing universally poorly in their HVAC programs. On an aggregated basis, the electric utilities are achieving only half of the forecasted savings.” *Id.* at 5.

³⁴ *Id.*

³⁵ *Id.* at 52.

³⁶ “The HVAC Program is the primary EmPOWER program for influencing replacement of heating and cooling equipment... Space heating and cooling improvements make up over 70% of the opportunity for

that consistent market engagement may help increase participation and savings in the programs. The Commission is willing to consider OPC's request for a single-implementer for the Midstream Programs, but requires additional information. The Midstream Work Group is therefore directed to file a status report with the Commission by October 13, 2023 to include, but not be limited to, the following:

- a. An analysis of models from other states with single-implementer programs;
- b. A recommendation as to whether one utility or one non-utility administrator should be designated as the single implementer for the program;
- c. A timeline for implementation of a statewide program;
- d. An analysis of the cost to achieve, as well as pros and cons, to transitioning to the single implementer structure;
- e. Identification of any other EmPOWER programs that could benefit from transitioning to a statewide single implementer; and
- f. Identification of any other issues that would need to be resolved in order to achieve the new program structure.

16. In Order No. 90433, the Commission directed the Midstream Work Group to continue working on an analysis of ways to improve the performance of the Midstream Programs, specifically requiring, among other things, that more small contractors be included in the research process.³⁷ The Work Group was directed to file a status report by April 17, 2023 to include "updated findings, detail any potential opposition to instant rebates from distributors as well as suggested remediation methods, options for reducing

cost-effective GHG reduction in Maryland homes, but the HVAC Program currently represents only about 5% of EmPOWER GHG reductions." *Id.* at 47.

³⁷ Maillog No. 300377: Order No. 90433, para. 30 (December 2, 2022).

the amount of paperwork associated with current incentives as well as instant rebates, and the positions stated by small contractors interviewed.” The utilities also agreed that there were three areas of the Midstream Programs in which they could pursue greater consistency: more uniform passthrough requirements for incentives; aligning program attribution methods for incentives; and increasing contractor and customer education. The Commission encouraged the utilities to work towards consistency on these issues and to provide updates on the issues in the work group report.

17. The Midstream Work Group filed its status report on April 21, 2023. The report only provided an update regarding payment lag times and contractor notifications. There was no mention of discussions or findings regarding the other matters the Work Group was tasked with, including but not limited to the small contractor interviews, paperwork reduction to process incentives more quickly, and better consistency across the three utilities. The Commission directs the Midstream Work Group to continue to address these issues and to provide an update in the October 13, 2023 status report.

18. The Commission also directs the Midstream Work Group to file an interim status report by August 15, 2023, addressing discussions regarding the single implementer model and all matters identified in Order No. 90433 including, but not limited to those matters identified above.

C. OPC’s Request for Limited-Income Participation Goals for Utilities

19. OPC requests that the Commission assign the utilities goals around limited-income participation in DHCD programs.³⁸ In support of its request, OPC contends that such goals would provide the utilities with an increased incentive to help DHCD programs reach

³⁸ OPC Comments at 5.

participants, while decreasing the incentive to promote their own retrofit programs to limited-income households.³⁹ OPC further contends that prioritizing enrollment in DHCD-run programs over utility-run retrofit offerings will assist DHCD in reaching its new statutory goals.⁴⁰

20. The Commission acknowledges that HB169 of the 2023 Legislative Session imposes an incremental savings goal on DHCD, meaning that they have even more incentive than before to increase their program participants. The Commission notes, however, that the utilities also have energy savings goals to attain, and that their service to limited-income customers helps them to meet those goals. Furthermore, DHCD testified that their marketing efforts have resulted in substantially increased applications over the past three years,⁴¹ and that over the past five years, the coordination with the utilities regarding marketing, outreach, and participation has increased at least tenfold.”⁴² DHCD also noted significant cooperation from the Limited-Income Work Group on DHCD’s 2024-2026 program cycle plan.⁴³ Given the progress made by DHCD on participation rates for its programs and the actions DHCD continues to take to further improve its programs and satisfy its statutory requirements, the Commission denies OPC’s request that the utilities be assigned limited-income participation goals for DHCD programs.⁴⁴

³⁹ *Id.*

⁴⁰ *Id.* at 82. House Bill 169 (“HB169”) was enrolled on April 10, 2023, and signed by the Governor on May 8, 2023, and requires DHCD to, among other things, provide for electricity customers energy efficiency and conservation programs and services designed to achieve certain target annual incremental gross energy savings for the 2024-2026 program cycle. <https://legiscan.com/MD/bill/HB169/2023>.

⁴¹ Tr. 125:22-126:2.

⁴² Tr. 126:4-7.

⁴³ Tr. 128:5-9.

⁴⁴ Commissioners Linton and Richard would approve OPC’s request that the Limited-Income Work Group develop participation goals and an appropriate incentivization structure to prioritize enrollment in DHCD-run programs over utility offerings, and the development of an appropriate incentivization structure whereby a portion of the incremental savings in the DHCD programs are attributable to utilities’ incremental savings when driven by the utility.

D. OPC's Request for a Limited-Income Market Study

21. OPC requests that the Commission direct Staff to issue a Request for Proposals (“RFP”) for a comprehensive market study aimed at limited-income populations in order to understand the source of energy unaffordability as well as barriers associated with participation in EmPOWER limited-income programming.⁴⁵ OPC asserts that the findings from the study could be used to increase customer outreach and participation in limited-income programs.⁴⁶

22. OPC's request was not discussed at the May 2 hearing, and neither the utilities nor stakeholders have commented on the request. The Commission also finds that the request is overbroad for the EmPOWER Program, and the recently enacted statutory requirements for DHCD should increase participation within the limited-income community. For these reasons, OPC's request for the issuance of an RFP for a market study of the limited-income population is denied.⁴⁷

E. OPC's Request to Restart Lighting Work Group

23. OPC requests that the Commission direct the EmPOWER Lighting Work Group to reconvene in order to determine if there are remaining savings opportunities for residential lighting based upon new codes and standards.⁴⁸ Due to recent updates in federal standards for general service lighting which effectively transformed residential lighting to higher efficiency LED technology, the 2022 program year would be the final full year of

⁴⁵ OPC Comments at 83.

⁴⁶ *Id.*

⁴⁷ Commissioners Linton and Richard would issue an order directing a new work group and/or public conference to study the source of energy unaffordability as recommended by APPRISE, directing the Limited-Income Work Group to evaluate if DHCD and the utilities are in compliance with the APPRISE report recommendations for limited-income outreach, and directing the new work group and/or public conference to study the source of energy unaffordability as recommended by APPRISE, which could be in the same RFP.

⁴⁸ *Id.* at 37.

traditional retail lighting programs for the EmPOWER utilities unless program modifications are made to address the new federal standards. OPC proposes the Lighting Work Group reconvene for the purpose of determining whether savings can still be captured through a modified lighting program.

24. Changes to federal lighting standards have been on the radar of EmPOWER program participants for some time and have been discussed in several filings and at many semi-annual hearings, including the goal-setting hearing for the 2024-2026 program cycle. The Commission is optimistic that the utilities and DHCD have been planning for the adjustments necessary to compensate for any savings lost to the lighting changes, as well as to ensure that all remaining lighting savings are captured. For these reasons, OPC's request to reconvene the Lighting Work Group is denied.⁴⁹

F. OPC's ERPI Work Group Request

25. OPC requests that the Commission direct the EmPOWER Reporting and Process Improvement ("ERPI") Work Group to begin meeting on a monthly basis in order to develop consensus reporting templates for the 2024-2026 program cycle by October 15, 2023.⁵⁰ In support of its request, OPC asserts that planning for a new EmPOWER cycle should include a complete review of the utilities' semi-annual reporting in order to identify reporting deficits and establish clarity and consistency across the utilities. OPC specifically noted, as an example, that the utilities all use different definitions for participants in their respective HPwES programs and stated that the monthly meetings would allow for the development of more consistent reporting.⁵¹

⁴⁹ Commissioner Richard would support OPC's request to reconvene the Lighting Work Group.

⁵⁰ *Id.* at 90.

⁵¹ *Id.* at 89.

26. The Commission notes that, with the inclusion of greenhouse gas (“GHG”) savings targets in the upcoming program cycle, new reporting definitions and changes to reporting tables will need to be developed to include GHG reduction data. Furthermore, the Commission has long held that consistency and uniformity are of the utmost importance in EmPOWER reporting.⁵²

27. The Commission grants OPC’s request and directs the utilities to use the time spent developing GHG reporting to also work with the ERPI Work Group to ensure that all reporting metrics and references are consistent across the utilities for the next program cycle. The ERPI Work Group is to file a status report containing consensus reporting templates and data definitions by January 19, 2024. The status report is to contain all reporting templates to be used in the 2024-2026 program cycle, including those developed for GHG reduction reporting, as well as confirmation that all utilities will be reporting in a uniform and consistent manner or, in the alternative, details on any reporting matter that has not reached a consensus among the utilities.

28. In Order No. 90433, the Commission directed the ERPI Work Group to file a status report by April 17, 2023 on its findings regarding the use of publicly available regional sales data to compare sales in Maryland against sales in the EmPOWER program.⁵³ The status report noted that stakeholders reviewed regional sales data provided through the first quarter of 2022, but that no recommendations had been made as to how to use the data to

⁵² See, e.g., Maillog No. 233021: Order No. 89679, para. 6, which states, “The ability to compare standardized data is paramount to obtaining accurate, dependable cost, savings, and participation results.”

⁵³ Maillog No. 300377: Order No. 90433, para. 38 (December 2, 2022).

benefit the EmPOWER program.⁵⁴ The ERPI Work Group invited stakeholders to share any suggestions as to data usage.⁵⁵

29. The Commission directs the ERPI Work Group to continue to study the issue and work with stakeholders to develop recommendations as to how to best use the publicly available regional sales data to assist with making improvements to the EmPOWER Maryland program. The Work Group is directed to file a status report detailing its findings and recommendations by October 13, 2023.

G. DHCD’s Request to Include MEA’s LMI Program as Eligible

30. DHCD requested authorization from the Commission to add the MEA Low-to-Moderate Income (“LMI”) Program to its list of categorically eligible programs.⁵⁶ The Program provides grants to contractors to perform work in customer homes and is similar in scope to DHCD’s EmPOWER programs despite having a different funding source.⁵⁷ In support of its request, DHCD pointed out that, at times, contractors can leverage funds from both programs to complete more comprehensive projects, but that requires customers to apply to both the MEA and DHCD programs.⁵⁸

31. The Limited-Income Work Group unanimously supported DHCD’s request,⁵⁹ as did Staff⁶⁰ and OPC.⁶¹ Recognizing that adding MEA’s LMI Program to DHCD’s list of categorically eligible programs would streamline DHCD’s current process, the Commission granted DHCD’s request at the May 2 hearing.

⁵⁴ Work Group Report at 2.

⁵⁵ *Id.*

⁵⁶ DHCD Report at 14.

⁵⁷ MEA’s program is funded by the Strategic Energy Investment Fund (“SEIF”). *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 15.

⁶⁰ Staff Comments at 69.

⁶¹ OPC Comments at 78.

H. SMECO's Request for Budget Transfers

32. SMECO requested authorization from the Commission to transfer \$800,000 from its Combined Heat and Power (“CHP”) incentive budget to its Business Solutions - Prescriptive Program (\$600,000) and Business Solutions - Custom Program (\$200,000) budgets.⁶² SMECO explained that an in-depth analysis of its CHP Program showed that approximately 45 percent of the program’s budget would remain at the end of the current cycle.⁶³ In support of its request, SMECO states that it would use the transferred funds to generate additional energy savings across its Business Solutions Programs in order to assist with reaching its commercial and industrial (“C&I”) portfolio goal. Specifically, the Business Solutions - Prescriptive Program has built a large pipeline of projects and requires an increased incentive budget to support those that will close in 2023. While the Business Solutions - Custom Program is on track to exceed its cycle goal, increasing its budget allows it to complete additional projects, essentially overperforming in order to make up for the CHP Program not reaching its cycle goal.⁶⁴

33. No party or stakeholder opposed SMECO’s request. The Commission recognized that the budget transfer would allow SMECO to complete additional projects, thereby increasing its chances of meeting cycle goals, and therefore granted SMECO’s request at the May 2 hearing.

I. DHCD's Request for Confirmation

34. DHCD requested the Commission’s confirmation or, in the alternative, clarification, regarding DHCD’s approach to recently enacted HB169. DHCD made the

⁶² SMECO Report at 3.

⁶³ *Id.* at 4.

⁶⁴ *Id.*

request in order to ensure that its developing plan for the 2024-2026 program cycle is in compliance with Commission orders as well as HB169. DHCD's requests involved program targets, the types of energy to be addressed, and the timing of its program plans.⁶⁵

At the May 2 hearing, the Commission confirmed the following:

- a. DHCD is to design its 2024-2026 program cycle plan for MWh savings. The MWh savings can be translated to equivalent GHG savings, but GHG savings will not be the primary focus of the plan in order to meet the legislative mandate of HB169 and to conserve ratepayer funds.
- b. DHCD will continue to serve BGE's and WGL's natural gas customers and report natural gas savings that result from producing savings for those customers.
- c. DHCD will move forward with filing a 3-year plan on August 1, 2023 (covering 2024-2026) to align with the EmPOWER cycle. If necessary, DHCD will submit a "third year" 2027 plan as an addition in 2024.⁶⁶

J. Additional Requests

35. OPC presented the Commission with a number of additional requests for program modifications that pertain to the 2024-2026 program cycle. As stated in the Notice of Hearing and re-stated at the May 2 hearing, the filings noted herein and the testimony taken at the hearing were intended to address the EmPOWER Maryland reports for the third and fourth quarters of 2022, as well as other specified filings that pertain to the current program

⁶⁵ Maillog No. 302616 at 2.

⁶⁶ The language in HB169 requires DHCD to submit a plan for 2024 savings in 2023 *and* a plan for the subsequent three years (2025-2027) in 2024, which does not align with the three-year program plan for 2024-2026 to be submitted this year, as ordered by the Commission. DHCD will follow this HB169 filing requirement if it is not corrected in next year's legislative session. Maillog No. 302616 at 2-3.

cycle. Therefore, this Order does not address OPC's additional requests; however, the utilities should give consideration to OPC's proposals as they are developing their program plans for the next cycle, and OPC is free to renew its requests for the 2024-2026 program cycle in a filing pertaining to that program cycle.

IT IS THEREFORE, this 9th day of June, in the year Two Thousand Twenty-Three, by the Public Service Commission of Maryland, **ORDERED**:

(A) that OPC's request that the WGL Gas Heat Pump Pilot Program be terminated is denied, with the continuation of the Pilot Program being subject to the parameters noted in this Order;

(B) that OPC's request for a single-implementer for the Midstream Programs is denied, without prejudice;

(C) that the Midstream Work Group is directed to file a status report as noted in this Order by October 13, 2023;

(D) that the Midstream Work Group is directed to file an interim status report as noted in this Order by August 15, 2023;

(E) that OPC's request that limited-income participation goals be established for the utilities is denied;

(F) that OPC's request that Staff be directed to issue an RFP for a limited-income market study is denied;

(G) that OPC's request to reconvene the Lighting Work Group is denied;

(H) that the ERPI Work Group is to meet and file a status report as noted in this Order by January 19, 2024; and

(I) that the ERPI Work Group is to file a status report as noted in this Order by October 15, 2023.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

Commissioners