

ORDER NO. 90798

In the Matter of the Electric
Universal Service Program

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 8903

Issue Date: September 18, 2023

ORDER ON PROPOSED 2024 OPERATIONS PLAN

On June 20, 2023, the Office of Home Energy Programs (“OHEP”), an agency in the Maryland Department of Human Services’ (“DHS”) Family Investment Administration, submitted its Proposed Operations Plan for Fiscal Year 2024 for the Electric Universal Service Program.¹ Written comments were filed by Baltimore Gas and Electric Company (“BGE”),² the Commission’s Technical Staff (“Staff”),³ and the Maryland Office of People’s Counsel (“OPC”).⁴ On July 26, 2023, the Commission held a legislative-style public hearing on this matter to receive additional input from OHEP and

¹ Maryland Department of Human Services, Family Investment Administration, Office of Home Energy Programs, Electric Universal Service Program (EUSP), Proposed Operations Plan for Fiscal Year 2024 (June 20, 2023) (“Proposed Plan”). The Commission issued a Notice of Hearing and Opportunity to Comment in this matter on June 29, 2023 (Maillog No. 303778). Written comments were due July 20, 2023.

² Maillog No. 304175: Comments of Baltimore Gas and Electric Company on FY 2024 Proposed Operations Plan of the Office of Home Energy Programs (“BGE Comments”) (July 20, 2023).

³ Maillog No. 304235: Staff Comments Regarding the Electric Universal Service Program Proposed Operations Plan for FY 2024 (“Staff Comments”) (July 24, 2023).

⁴ Maillog No. 304190: Comments of the Office of People’s Counsel Regarding OHEP’s Proposed EUSP Operations Plan for Fiscal Year 2024 (July 20, 2023); Maillog No. 304233: Errata to Comments of the Office of People’s Counsel Regarding OHEP’s Proposed EUSP Operations Plan for Fiscal Year 2024 (July 24, 2023) (collectively, “OPC Comments”).

interested parties. As discussed below, the Commission approves OHEP's Proposed Operations Plan for implementation in Fiscal Year 2024.⁵

A. Electric Universal Service Program

In 1999, as part of electric restructuring in Maryland, the General Assembly created the Electric Universal Service Program ("EUSP") in order to help low-income electric customers reduce and manage their utility costs by creating affordable payments and to encourage regular and timely monthly payments to maintain their electric service.⁶ The Program consists of three components: bill assistance, arrearage assistance, and weatherization.⁷ Because the EUSP is funded in part by ratepayer funds, the Commission exercises oversight over that part of the program, with OHEP directly administering the program's bill assistance and arrearage assistance components. The weatherization component is administered by the Maryland Department of Housing and Community Development ("DHCD") in combination with DHCD's other weatherization programs.⁸

The EUSP is required to be funded by all ratepayers, with the maximum amount that may be collected from ratepayers being \$37 million.⁹ The General Assembly may appropriate funds that are supplemental to ratepayer funds.¹⁰ The General Assembly may also appropriate up to \$1 million of the EUSP ratepayer collections to DHCD for weatherization. The majority of ratepayer funds flow through the bill assistance component of the EUSP.

⁵ Fiscal Year 2024 runs from July 1, 2023 to June 30, 2024. Proposed Plan at 15.

⁶ Proposed Plan at 2.

⁷ See, Electric Customer Choice and Competition Act of 1999, *Md. Ann. Code*, Pub. Util. Art. ("PUA"), § 7-512.1.

⁸ *Id.*

⁹ \$9.6 million from residential ratepayers and \$27.4 million from commercial and industrial (non-residential) ratepayers. PUA § 7-512.1(e).

¹⁰ *Id.*

Currently, the EUSP must provide assistance to electric customers with annual incomes at or below 200 percent of the federal poverty level.¹¹ EUSP participants may receive arrearage assistance once every five years.¹²

B. OHEP's Proposed Operations Plan for Fiscal Year 2024

OHEP's Proposed Operations Plan for Fiscal Year ("FY") 2024 ("Proposed Plan") states that the available funds to support the EUSP for FY 2024 total \$136,345,042. This amount represents \$400,000 in special State funds from an electric arrearage agreement in the Dominion Cove Point matter,¹³ \$36,865,908 from the EUSP ratepayer funds, and \$99,079,134 from the Maryland Strategic Energy Investment Fund ("MSEIF") with revenues collected through the Regional Greenhouse Gas Initiative ("RGGI").¹⁴ The Commission's statutory oversight and authority extends to the approval of the proposed allocation of the ratepayer fund for the bill assistance and arrearage components of the EUSP.¹⁵ For FY 2024, OHEP proposes to provide arrearage assistance using \$30,261,441 from the MSEIF.¹⁶

¹¹ Certain exceptions are made for households with at least one resident over the age of 65.

¹² PUA § 7-512.1.

¹³ Order No. 86372: Case No. 9318: *In the Matter of the Application of Dominion Cove Point, LNG, LP for a Certificate of Public Convenience and Necessity to Construct a Generating Station with a Name-Plate Capacity of 130 MW at the Dominion Cove Point Liquefied Natural Gas Terminal in Calvert County, Maryland* at 74 (May 30, 2014).

¹⁴ Maillog No. 241681, Proposed Plan at 3.

¹⁵ PUA § 7-512.1(e).

¹⁶ Proposed Plan at 3.

With respect to the \$36,865,908 from the ratepayer fund, the proposed plan allocates \$4,937,754 for administration, \$200,000 for outreach, \$1,046,931 for OHEP's data management system,¹⁷ and the remaining \$30,681,233 for bill assistance.¹⁸

C. Other EUSP-Related Matters

House Bill 323, which was enacted following the 2023 Legislative Session, established Categorical Eligibility and Automatic Enrollment for EUSP benefits for households that receive benefits through other assistance programs such as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families Program (TNAF), Supplemental Security Income Program (SSI), and certain means-tested Veterans Affairs Benefits.¹⁹ This means that participants in the listed programs will not need to complete a separate application in order to receive energy assistance. The implementation date for Categorical Eligibility and Automatic Enrollment is January 1, 2024, with OHEP currently engaging key stakeholders in the planning process and identifying system and process changes necessary to ensure legislative compliance.²⁰ OHEP will provide detailed plans and a progress report in its required annual EUSP report to the Commission in December 2023.²¹

OHEP plans to re-engage the OHEP Advisory Board and conduct quarterly meetings throughout the year. The Advisory Board is intended to advise OHEP regarding

¹⁷ \$1 million is intended for the OHEP integration into the Maryland Total Human-services Information Network system ("MD THINK") system as well as for the continued maintenance and operations of the OHEP data system. *Id.* at 24. Integration into MD THINK, which is scheduled for a statewide rollout in fall of 2023, will allow for upgraded communications such as real-time interfaces in lieu of paper verifications and service and arrearage information between OHEP and the utilities, all of which are intended to increase EUSP participation. *See*, Order No. 90387, page 6 (October 12, 2022).

¹⁸ Proposed Plan at 3.

¹⁹ *Id.* at 8.

²⁰ *Id.*

²¹ *Id.*

the development of program goals and strategies, utilize its knowledge and experience to address issues affecting low-income families' home energy needs, assist in the dissemination of information regarding OHEP programs and outreach efforts, and facilitate meetings designed to encourage discussion of all ideas presented.²²

In 2023, OHEP hosted three public meetings for the Limited-Income Mechanisms and Assistance Work Group, which was formed in 2021 by the Maryland General Assembly in order to study different systems and forms of available energy assistance, identify inefficiencies and gaps in the processing of applications for assistance, and examine the feasibility of establishing new assistance programs.²³ The Work Group includes representatives from DHS, DHCD, the Attorney General's Office, the Commission, OPC, and the Maryland General Assembly.²⁴ OHEP intends to continue to host meetings and collaborate with the Work Group in FY 2024.²⁵

OHEP noted that the number of EUSP applications received through May 31, 2023 showed a 21 percent increase over the same period in the prior year.²⁶ In FY 2024, OHEP anticipates that the number of applications will continue to increase by roughly 30,000 due to the recently established Categorical Eligibility and Automatic Enrollment mechanisms, as well as the recent increase in the income eligibility limit from 175% to 200% of the federal poverty level.²⁷ OHEP's Proposed Plan involves a decrease in the size of Bill Assistance benefits to 2019 levels, intended to accommodate this anticipated increase in

²² *Id.*

²³ *Id.* at 9.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 2.

²⁷ *Id.* at 16.

bill assistance recipients²⁸ and also resulting from the expiration of one-time and limited-time federal stimulus funds for energy assistance.²⁹

While EUSP Bill Assistance benefits have always been intended to help make payments affordable on an ongoing basis, benefits may be directed at past due amounts if doing so will prevent service terminations.³⁰ OHEP notes that current data collection methods make it difficult to capture what amount of Bill Assistance benefits are applied to past-due amounts. OHEP intends to work with the utilities to improve the tracking of benefits in order to better understand the overall arrearage situation and develop innovative approaches to address it.³¹

OHEP is authorized under PUA § 7-512.1(a)(7) to approve a waiver to the income eligibility guideline for electric customers but stated that it will not grant over-income waivers for EUSP during FY 2024.³²

D. BGE Comments

BGE generally supports OHEP's Proposed Plan for FY2024 but expresses concern regarding the reliability of future funding for the EUSP. A large portion of the funding for FY 2024 comes from the MSEIF, which is derived from revenues generated by the auction of emission allowances from RGGI, as appropriated in the State budget.³³ While the recent trend of RGGI auction proceeds is strong, BGE raises a concern about the future reliance upon auction proceeds. BGE asserts that, as the nation moves away from carbon-based fuels and towards more renewable energy sources, Maryland may not be able to rely as

²⁸ *Id.* at 2.

²⁹ OPC Comments, Attachment 1.

³⁰ Proposed Plan at 17.

³¹ *Id.* at 18.

³² *Id.* at 15.

³³ BGE Comments at 1.

much on the proceeds of these carbon offset auctions. BGE recommends the start of discussions on how a growing need for OHEP assistance can be met in years when RGGI funding may decline.³⁴

BGE also recommends the start of discussions on the better use of carryover funds to support increased applications.³⁵ BGE notes that OHEP must set its benefit levels months ahead of the start of the fiscal year, making it difficult to predict the level of demand. PUA § 7-512.1 prohibits carrying over unspent funds beyond the first three months of the following fiscal year which, in years when demand increases, causes OHEP to rely on supplemental grants for funding. BGE supports the exploration of changes that would better allow OHEP to retain a cushion for future year-round funding.³⁶

Lastly, BGE contends that, while not mentioned in the Proposed Plan, OHEP should consider applying EUSP funds to participants' community solar subscription fees in order to help ensure that limited-income households have fair and equitable access to the lower rates typically charged by community solar providers.³⁷ At the hearing, Katherine Natafgi, Director of OHEP, noted that OHEP is in the early stages of considering its involvement with community solar programs.³⁸ Director Natafgi acknowledged that "it would be a considerable education process" to prepare for EUSP participants to engage with community solar opportunities, but also that participation would be beneficial.³⁹ OHEP will report any progress towards engagement in the Proposed Plan for FY 2025.⁴⁰

³⁴ *Id.* at 1 - 2.

³⁵ *Id.* at 5.

³⁶ *Id.*

³⁷ *Id.* at 5.

³⁸ Tr. 42:4-43:3.

³⁹ Tr. 43:4-11; 44:3, 4.

⁴⁰ Tr. 44:21-45:2.

E. Staff Comments

Staff supports OHEP's Proposed Plan and requested budget and, as it has in past years, advocates that the majority of ratepayer funds should be utilized for bill payment assistance, and that non-ratepayer money should be used for bill payment assistance, as well.⁴¹

Staff finds it unclear whether OHEP will be able to fund the increased participation likely to result from categorical eligibility, and believes that additional adjustments to the program may be necessary in the future.⁴² For this reason, Staff recommends that the Commission should request quarterly participation and expense reports that indicate participation by poverty level and categorical eligibility by program type.⁴³ At the hearing, Director Natafagi confirmed OHEP's ability and intention to provide the recommended quarterly reports.⁴⁴ The Commission looks forward to receiving and reviewing the reports.

F. OPC Comments

OPC alleges that funding is already insufficient to meet the needs of Maryland's low-income electric customers,⁴⁵ and that bill assistance benefits should not be decreased in order to accommodate the anticipated increase in applicants; rather, additional funds should be appropriated to support the additional applicants.⁴⁶ OPC therefore recommends that the Commission require OHEP to supplement its Proposed Plan with an estimate of the dollars necessary to fully fund FY 2024 at FY 2023 levels.⁴⁷ At the hearing, Director

⁴¹ Staff Comments at 4, 6.

⁴² *Id.* at 6.

⁴³ *Id.* at 7.

⁴⁴ Tr. 19:19-20:8 (July 26, 2023).

⁴⁵ OPC Comments at 18.

⁴⁶ *Id.* at 10.

⁴⁷ *Id.* at 2.

Natafagi agreed to provide “the numbers that OPC had requested about maintaining essentially [OHEP’s] projected application intake draft by ‘24 at 2023 benefits levels.”⁴⁸

The Commission looks forward to receiving and reviewing this data.

The 2022 enactment of the Power to the People Pilot Program Personnel and Uniform Redetermination Process Act (the “OHEP Act”) improved the application process for applicants 65 years or older in several ways, including by requiring local administering agencies to provide accessible locations to complete applications and establish a policy for providing reasonable accommodations to those who are homebound or request accommodation, including a home visit or allowing application by proxy.⁴⁹ OPC recommends that OHEP apply the provisions of the OHEP Act to all applicants who are homebound, request accommodation, or are from a “vulnerable household.”⁵⁰ At the hearing, Director Natafagi noted OHEP’s expansion of the Act, stating that the measures provided are also available “for customers who are labeled as permanently disabled within [OHEP’s] database as well as customers who are participating in the Critical Medical Needs Program.”⁵¹

Lastly, OPC recommends that the Commission strongly encourage OHEP to file its annual report in a timely fashion, permitting the submission of comments in time to assist the Commission in submitting its annual EUSP report to the General Assembly.⁵² As an example, OPC noted that OHEP filed its most recent annual report, which was for FY 2022,

⁴⁸ Tr. 35:8-12.

⁴⁹ *Md. Ann. Code*, Human Servs. Art., § 5-5A-09.

⁵⁰ OHEP’s Vulnerable Population Waiver defines a “vulnerable household” as one with a household member who is over the age of 65, under the age of 2, or medically fragile. OPC Comments at 20 - 21.

⁵¹ Tr. 36:18-37:3.

⁵² OPC Comments at 23.

on December 15, 2022, which was too close to the Commission's January 1 deadline to allow for the parties of record to submit comments in response.⁵³

G. Commission Decision

The Commission approves OHEP's Proposed EUSP Operations Plan for FY 2024, including the proposed allocation of the \$36,865,908 from the ratepayer fund as follows: \$4,937,754 for administration, \$200,000 for outreach, \$1,046,931 for OHEP's data management system, and the remaining \$30,681,233 for bill assistance.

The Commission recognizes the recommendations made by interested parties both in filings, and at the hearing, and appreciates OHEP's willingness to accept several of the recommendations. Specifically, the Commission recognizes the benefit to receiving information pertaining to additional funding necessary for the EUSP and looks forward to having such information be included in OHEP's Proposed EUSP Operations Plan for FY 2025, if and as necessary.

The Commission encourages OHEP to engage with the network of local governments to conform to the new application process under the actions by the General Assembly. The information provided by OHEP as requested by People's Counsel regarding the funds required to meet the need for energy assistance will advise the Commission and other governmental bodies for further actions. The Commission looks forward to any proposals by OHEP to meet the increased need for funds.

To the extent that any of the party recommendations not addressed at the hearing by OHEP are within the Commission's authority to implement, the Commission will not be adopting them at this time.

⁵³ *Id.*

IT IS THEREFORE, this 18th day of September, in the year Two Thousand Twenty-Three, by the Public Service Commission of Maryland, **ORDERED**:

(A) that OHEP's Proposed Operations Plan for FY 2024 is accepted and the allocations for the ratepayer fund of \$4,937,754 for administration, \$200,000 for outreach, \$1,046,931 for OHEP's data management system, and the remaining \$30,681,233 for bill assistance are approved;

(B) that OHEP is directed to allocate a minimum of \$36,865,908.00 of the ratepayer fund to bill payment assistance, and to use all monies so allocated for bill payment assistance; and

(C) that Staff is directed to participate in the Limited-Income Mechanisms and Assistance Work Group as well as the OHEP Advisory Board.

/s/ Fredrick H. Hoover, Jr.

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Kumar P. Barve

/s/ Bonnie A. Suchman

Commissioners