ORDER NO. 91461

The 2024-2026 EmPOWER Maryland Program	* * * * * *	BEFORE THE PULIC SERVICE COMMISSINON OF MARYLAND Case No. 9705

Issue Date: December 27, 2024

ORDER ON REVISED 2024-2026 EMPOWER PLANS, SEMI-ANNUAL REPORTS, AND WORK GROUP REPORTS

On October 22, 23, and 24, 2024, the Commission held a legislative-style hearing[1] in the above-captioned case to review the revised 2024-2026 EmPOWER Maryland Plans and responses to additional information requests[2] filed by The Potomac Edison Company ("Potomac Edison"),[3] Southern Maryland Electric Cooperative, Inc. ("SMECO"),[4] Baltimore Gas and Electric Company ("BGE"),[5] Potomac Electric Power Company

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[1] Notice of the hearing date and comment period for this matter was provided on August 23, 2024 (Maillog No. 311882).

[2] In Order No. 91175 (June 4, 2024), the Commission directed the EmPOWER Utilities to file revised 2025-2026 program plans addressing revisions to the EmPOWER statute due to the passage of House Bill 864. The same order allowed parties to request additional information within 15 days of the revised plan filings. In Order No. 91252 (July 25, 2024), the Commission reviewed the additional information requested of the parties and directed the utilities to provide responses to certain specified requests.

[3] Maillog No. 311732: The Potomac Edison Company Revised Energy Efficiency and Conservation Plan for the Period January 1, 2024 through December 31, 2026, Revised for 2025 and 2026 ("Potomac Edison Revised Plan") (August 15, 2024); Maillog No. 312022: The Potomac Edison Company's Responses to Requests for Additional Information ("Potomac Edison Supplemental Filing") (August 30, 2024).

[4] Maillog No. 311740: Southern Maryland Electric Cooperative, Inc. Revised EmPOWER Maryland Program Plan for 2024-2026 ("SMECO Revised Plan") (August 15, 2024); Maillog No. 312049: Southern Maryland Electric Cooperative, Inc. 2024-2026 EmPOWER Maryland Program Additional Plan Information ("SMECO Supplemental Filing") (August 30, 2024); Maillog No. 312886: Errata to Revised 2024-2026 EmPOWER Maryland Program Plan ("SMECO Revised Plan Errata) (October 15, 2024).

[5] Maillog No. 311701: Baltimore Gas and Electric Company Revised 2024-2026 EmPOWER Maryland Program Plan ("BGE Revised Plan") (August 15, 2024); Maillog No. 312026: Baltimore Gas and Electric Company 2024-2026 EmPOWER Maryland Program Additional Plan Information Filing ("BGE Supplemental Filing") (August 30, 2024).

("Pepco"),[6] Delmarva Power & Light Company ("Delmarva"),[7] and Washington Gas Light Company ("Washington Gas")[8] (collectively, "the EmPOWER Utilities"), as well as the semi-annual EmPOWER Maryland reports for the first and second quarters of 2024 as filed by Potomac Edison,[9] SMECO,[10] BGE,[11] Pepco,[12] Delmarva,[13] Washington Gas,[14] and the Maryland Department of Housing and Community Development ("DHCD").[15]

The Commission also reviewed reports from the EmPOWER Reporting and Process Improvement ("ERPI") Work Group,[16] the Cost Recovery Work Group,[17] the Cost Recovery Disclosure Work Group,[18] the Conservation Voltage Reduction ("CVR") Work

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[6] Maillog No. 311703: Potomac Electric Power Company Revised 2024-2026 EmPOWER Maryland Program Plan ("Pepco Revised Plan") (August 15, 2024); Maillog No. 312020: Potomac Electric Power Company 2025-2026 EmPOWER MD Program Filing Additional Plan Information ("Pepco Supplemental Filing") (August 30, 2024).
[7] Maillog No. 311702: Delmarva Power & Light Company Revised 2024-2026 EmPOWER Maryland Program Plan ("Delmarva Revised Plan") (August 15, 2024); Maillog No. 312019: Delmarva Power & Light Company 2025-2026 EmPOWER MD Program Filing Additional Plan Information ("Delmarva Supplemental Filing") (August 30, 2024).
[8] Maillog No. 311729: Washington Gas Supplemental Filing ("Washington Gas Revised Plan") (August 15, 2024); Maillog No. 312035: Washington Gas Supplemental Filing ("Washington Gas Supplemental Filing") (August 30, 2024).
[9] Maillog No. 311694: The Potomac Edison Company 2024 Mid-Year EmPOWER Maryland Report for the period of January 1 - June 30, 2024 ("Potomac Edison Report") (August 15, 2024).
[10] Maillog No. 311742: Southern Maryland Electric Cooperative, Inc.'s Q1/Q2 2024 Semi-Annual EmPOWER Maryland Report ("SMECO Report") (August 15, 2024).
[11] Maillog No. 311731: Baltimore Gas and Electric Company 2024 Mid-Year EmPOWER Maryland Report ("BGE Report") (August 15, 2024).
[12] Maillog No. 311718: Potomac Electric Power Company's EmPOWER Maryland Report Year-to-Date YTD Q1 and Q2 2024 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs ("Pepco Report") (August 15, 2024).
[13] Maillog No. 311713: Delmarva Power & Light Company's EmPOWER Maryland Report Q1 and Q2 2024 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs ("Delmarva Report") (August 15, 2024).
[14] Maillog No. 311736: Washington Gas Light Company's Semi-Annual EmPOWER Maryland Report for the Period of January 1, 2024 - June 30, 2024 ("Washington Gas Report") (August 15, 2024).
[15] Maillog No. 311735: State of Maryland Department of Housing and Community Development EmPOWER Maryland Limited Income Programs Semi-Annual Report Q1/Q2 2024 ("DHCD Report") (August 15, 2024); Maillog No. 312834: DHCD EmPOWER Maryland Limited Income Programs ERRATA - Q1Q2 2024 Limited Income Semi-Annual Report ("DHCD Errata") (October 11, 2024).
[16] Maillog No. 310036: EmPOWER Reporting and Process Improvement Status Report ("ERPI Status Report") (June 3, 2024).
[17] Maillog No. 311102: Cost Recovery Work Group Report ("Cost Recovery Report") (July 24, 2024); Maillog No. 312910: Cost Recovery Work Group Report - Performance Incentive Mechanisms ("PIMs Report") (October 15, 2024).
[18] Maillog No. 310526: Cost Recovery Disclosure Work Group Status Report (June 28, 2024).

Group,[19] the Finance Work Group,[20] the Limited-Income Work Group,[21] the Moderate-Income Work Group,[22] the Midstream Work Group,[23] and the Evaluation, Measurement, and Verification ("EM&V") Work Group.[24] Additional filings from the utilities including Washington Gas's Final Report on its Gas Heat Pump Pilot Program[25] and SMECO's Request for Reconsideration of its Energy Perks Loyalty Program[26] were also considered.

The Commission reviewed comments pertaining to the revised plans, semi-annual reports, various work group reports, and other filings as filed by the Commission's Technical Staff ("Staff"),[27] the Maryland Office of People's Counsel ("OPC"),[28] the Maryland Energy Efficiency Advocates ("MEEA"),[29] Montgomery County, Maryland,[30]

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[19] Maillog No. 311369: Conservation Voltage Reduction Work Group Report ("CVR Work Group Report") (August 1, 2024).

[20] Maillog No. 312910: Finance Work Group Report (October 25, 2024).

[21] Maillog No. 312891: Limited Income Work Group Report - EmPOWER Maryland Limited-Income Programs ("Limited-Income Report") (October 15, 2024).

[22] Maillog No. 312910: Moderate-Income Work Group Status Report (October 25, 2024).

[23] Maillog No. 312910: Midstream Work Group Report (October 15, 2024).

[24] Maillog No. 311374 (August 1, 2024), referencing Maillog No. 310355: Evaluation Advisory Group ("EAG") Status Report (July 3, 2024); Maillog No. 312909: EM&V Working Group Behavioral Persistence Status Report (October 15, 2024).

[25] Maillog No. 312273: Washington Gas Light Company's Final Report on its Gas Heat Pump Pilot Program (September 12, 2024).

[26] Maillog No. 312414: Request for Reconsideration - SMECO Energy Perks Loyalty Program (September 18, 2024).

[27] Maillog No. 312907: Comments of the Commission's Technical Staff 2024 Semi-Annual EmPOWER Maryland Programmatic Reports for the First and Second Quarters ("Staff Comments") (October 15, 2024); Maillog No. 312908: 2024-2026 Revised EmPOWER Maryland Program Cycle EmPOWER Utility Program Proposals Staff Report ("Staff Revised Program Comments") (October 15, 2024).

[28] Maillog No. 312902: Office of People's Counsel's Comments on EmPOWER Maryland Revised 2025-2026 Program Plans and Incentives for Gas Appliances Under EmPOWER ("OPC Revised Plan Comments") (October 15, 2024); Maillog No. 312904: OPC's Comments on EmPOWER Semi-Annual Reports for Q1-Q2 2024 ("OPC Semi-Annual Comments") (October 15, 2024).

[29] Maillog No. 312888: Maryland Energy Efficiency Advocates' Comments on the Revised EmPOWER Maryland 2024-2026 Program Plans ("MEEA Comments") (October 15, 2024).

[30] Maillog No. 312892: Comments of Montgomery County, Maryland on the Revised Utility 2024-2026 EmPOWER Maryland Plans ("Montgomery County Comments") (October 15, 2024).

the Maryland Department of the Environment ("MDE"),[31] and the Maryland Energy Administration ("MEA"),[32] as well as various businesses and members of the public.[33]

The filings analyzed, among other things, the performance of the EmPOWER Utilities' and DHCD's portfolios for the first half of the 2024 program year, which also served as the beginning of the 2024-2026 program cycle, as well as the progress made by several work groups on Commission directives. The October hearings allowed the parties to provide additional testimony to the Commission on various aspects of the 2024-2026 EmPOWER program cycle. Upon review of the filings, testimony, and requests presented, the Commission makes the determinations and directives stated herein.

Revised 2024-2026 Program Plans

In Order No. 91175, the Commission directed the EmPOWER Utilities to file revised 2025-2026 program plans to ensure compliance with the greenhouse gas ("GHG") reduction targets required of EmPOWER due to the enactment of House Bill 864 (2024), Energy Efficiency and Conservation Plans ("HB 864").[34] The Commission accepts and approves the EmPOWER Utilities' revised program plans, subject to the terms and directions of this Order.

Code-Plus Tier for Residential New Construction Programs

The utilities request the Commission's approval for the development of a new construction code tier, the "code-plus" tier, for their respective Residential New

[31] Maillog No. 312906: Maryland Department of the Environment Comments on 2024-2026 EmPOWER Maryland Program Filings ("MDE Comments") (October 15, 2024).
[32] Maillog No. 312895: Maryland Energy Administration Comments on the EmPOWER Maryland Semi-Annual Reports and the EmPOWER Maryland 2024-2026 Program Cycle Proposals ("MEA Comments") (October 15, 2024).
[33] https://webpscxb.psc.state.md.us/dms/search-public-comments.
[34] Maillog No. 310059 (June 4, 2024).

Construction Programs or, in the case of Potomac Edison, its Residential - ENERGY STAR for New Homes Program.[35] Maryland has amended the 2021 International Energy Conservation Code ("IECC"), updating ENERGY STAR Version 3.1 to Version 3.2, effective January 1, 2025, thereby creating a significant achievement gap between the two certifications. The utilities are concerned that builders may be unable, or not yet able, to meet the requirements of Version 3.2 by its start date, and would therefore be precluded from participating in the EmPOWER Program.

The proposed code-plus tier is intended to replicate the current minimum savings requirements and incentive levels of Version 3.1 by specifying an equivalent Home Energy Rating System ("HERS") Index Score for eligible homes. The utilities plan to provide higher incentives for homes that are compliant with ENERGY STAR Version 3.2, but are requesting the code-plus tier to help builders transition from Version 3.1 to Version 3.2.

OPC supports the utilities' request and recommends that the code-plus tier be available for the remainder of the 2024-2026 program cycle.[36] Staff initially recommended that the code-plus tier be available only for six months starting from January 1, 2025, but revised its position to support OPC's recommendation.[37]

The Commission finds that implementing the code-plus tier would allow new home builders to smoothly transition to the forthcoming higher efficiency ENERGY STAR certification while still remaining part of the EmPOWER Program. The Commission therefore approves the utilities' requests, thereby allowing homes permitted between January 1, 2025 and December 31, 2026 to be subject to the code-plus tier, and directs the

[35] Delmarva Report at 11-12; Pepco Report at 11-12; BGE Report at 17; SMECO Report at 48; Potomac Edison Revised Plan at 65-67; and WGL Report at 42-43.
[36] Maillog No. 312902 at 49.
[37] Staff Comments at 17; Hearing Transcript ("Tr."), 89:19-90:4 (October 24, 2024).

utilities to work alongside the code-plus builders to identify cost-effective solutions to achieve the ENERGY STAR Version 3.2 certification.

SMECO Energy Perks Loyalty Program

As part of its 2024-2026 program plan, SMECO proposed a full-scale implementation of its Energy Perks Loyalty Program that was first run as a pilot program during the 2021-2023 program cycle.[38] In Order No. 90957, the Commission approved SMECO's Energy Perks Loyalty Program for the 2024-2026 program cycle, but directed that loyalty rewards only be used by customers towards SMECO's energy efficiency program and not for bill credits or donations to its Members Helping Members ("MHM") program. The Commission reasoned that ratepayers should not fund cash rewards or donations for a program that does not directly measure energy reduction benefits.[39]

On February 15, 2024, SMECO filed a request for clarification and modification of Order No. 90957, specifically seeking the Commission's approval to afford customers more reward options when redeeming loyalty points.[40] Recognizing the need to ensure that the Energy Perks Loyalty Program operates in a manner that results in program uplift, and that SMECO had not proposed an EM&V method by which to do so, the Commission denied SMECO's request, without prejudice.[41] The Commission noted that, if SMECO wished to expand the incentive structure to bill credits and/or donations, it may renew its request, accompanied with an EM&V method to isolate the impact of the Energy Perks Program on the increased participation in SMECO's overall EmPOWER program.

[38] Maillog No. 304386: SMECO EmPOWER Maryland Program Plan for 2024-2026 (August 1, 2023).
[39] Order No. 90957 at 67 (December 29, 2023).
[40] Maillog No. 307656 (February 15, 2024).
[41] Order No. 91214 (July 2, 2024).

SMECO asserts that EM&V results for the program were provided in the Energy Perks Final Report, and that the results show that the Energy Perks Program creates increased participation in SMECO's other EmPOWER offerings.[42] As a result, SMECO requests approval to reintegrate bill credits and MHM donations into its Energy Perks Program.

The Commission finds that SMECO has demonstrated its ability to measure and increase the participation for its Energy Perks Loyalty Program. However, the Commission denies, without prejudice, SMECO's request to reinstate bill credits and MHM donations as SMECO has not provided cost-effectiveness and savings projections for the program.

BGE Residential Rewards Loyalty Program

BGE requests the Commission's approval to sunset its Residential Rewards Program for the remainder of the 2024-2026 program cycle.[43] The program is similar to SMECO's Energy Perks Loyalty Program, both of which the Commission approved in Order No. 90957, but limited the rewards to "be used by customers towards their respective utility's energy efficiency programs."[44] SMECO requested modification of the use restriction, which the Commission denied in Order No. 91214. In light of the Commission's decision in that order, BGE requests permission to sunset its loyalty program.

For the reasons stated by BGE, and in light of the fact that the Residential Rewards Loyalty Program had no participants or reported costs in the first half of 2024, the Commission approves BGE's request to sunset the program.

[42] SMECO Report at 49, *citing* Maillog No. 303835 (June 30, 2023).
[43] BGE Report at 61.
[44] Order No. 90957 (December 29, 2023).

DHCD Electrification and MEEHA Measures

On August 1, 2023, as part of its 2024-2026 Program Plan, DHCD proposed electrification measures on a case-by-case basis, if deemed necessary or appropriate and able to be performed under the existing incentive structure.[45] The Commission denied DHCD's proposal, without prejudice, finding it premature and in conflict with the energy savings goals in effect prior to HB 864, given that load increases would result from electrification measures.[46] The Commission allowed DHCD to re-submit its proposal, no earlier than August 1, 2024, to allow for expected filings from MDE and the Maryland Building Code Administration ("MBCA").[47]

On May 9, 2024, HB 864 became law and required, among other things, that the EmPOWER Program's 2025 and 2026 energy savings goals be translated to GHG reduction goals.[48] In response to HB 864, DHCD resubmitted its request for the Commission's approval to include electrification in its programs as proposed in the DHCD 2024-2026 Program Plan, and to increase the maximum funding amount for electrification measures in its Multifamily Energy Efficiency and Housing Affordability ("MEEHA") Measure Funding List from the amounts stated in its 2024-2026 Program Plan to be equal to like-kind replacements.[49] DHCD also proposed an additional incentive (an "adder") for

[45] Maillog No. 304379: Maryland Department of Housing and Community Development EmPOWER Maryland Limited-Income Program 2024-2026 Program Plan (August 1, 2023).
[46] Order No. 90957 at 85 and 69 (December 29, 2023).
[47] MDE was not required to file its state plan to reduce GHG emissions until December 31, 2023 and MBCA was not required to file its final report addressing timely and cost-efficient methods for decarbonizing buildings until December 1, 2023. *Id*. at 69.
[48] *Md. Ann. Code*, Pub. Util. Art. ("PUA"), §§ 7-224, and 7-225.
[49] "DHCD's 2024-2026 Program Plan requested, and the Commission approved, the program to determine project funding using a Measure Funding List with maximum funding amounts. That list includes incentives at a reduced funding amount, for electrification measures. The electrification measures were proposed to be at a reduced amount because DHCD's legislatively established savings target was for electric savings and electrification measures do not achieve as much electric savings as like-kind replacements." DHCD Report at 10.

electrification measures to encourage projects to install the electrification measures, with the adder being a maximum of 10 percent of the electrification measure's funding.[50] Finally, DHCD proposed the addition of 18,000 and 30,000 BTU HVAC measures that were not included in its 2024-2026 Program Plan MEEHA Measure Funding List.[51]

The Commission recognizes that, since its order denying DHCD the ability to include electrification measures in its program, EmPOWER has transitioned from an energy savings goal to a GHG reduction goal, and DHCD now finds itself with a legislatively mandated target. In order to increase DHCD's ability to reach its required goal, given that electrification measures provide significant GHG reductions, the Commission approves DHCD's request to include electrification as part of its programs. The Commission also approves DHCD's requests to increase the maximum funding amount for MEEHA electrification measures, to offer an adder for electrification measures, and to include the two additional HVAC measures as stated.

The Commission notes that, while no party opposed the requests, DHCD did not provide the Commission with specific information that would confirm granting the requests will allow DHCD to reach its required savings goal. As such, the Commission directs DHCD to make a detailed filing by February 18, 2025 that confirms that its program, as currently designed and with the Commission's electrification approval, complies with HB 864 and is expected to meet its GHG reduction target.

15-Minute Interval Data

In Order No. 90957, the Commission directed the utilities that have green button connect, i.e., BGE, Pepco, and Delmarva (collectively, "the Exelon Utilities"), to include

[50] *Id*.
[51] *Id*. at 11.

in their August 2024 semi-annual reports a detailed explanation of whether or not they are able to provide 15-minute interval peak demand data and, if so, the process for doing so.[52] The Commission's direction was given in response to a recommendation by Montgomery County that the utilities that have advanced meter infrastructure ("AMI") track and report the 15-minute interval data for a period of 12 months in order to assist with making electrification determinations.[53]

The Exelon Utilities generally oppose providing the 15-minute interval data, citing potential technical challenges and cost.[54] Montgomery County,[55] OPC, and MEEA[56] request that the Commission direct the Exelon Utilities to provide more fulsome responses to the Commission's initial directive.

The Commission continues to find that 15-minute interval data has the potential to be beneficial in several ways, including, but not limited to, increased visibility into real-time energy usage that would allow better peak forecasting and more targeted time-of-use and peak event management and assisting in the reduction of costs and barriers associated with residential electrification. The Commission also notes that such data can be beneficial to utilities, stakeholders, and ratepayers beyond the EmPOWER Program.

The Commission finds that the Exelon Utilities did not provide a detailed explanation of whether or not they are able to provide 15-minute interval peak demand data and, if so, the process for doing so, as directed in Order No. 90957. Therefore, the Commission directs the Exelon Utilities to file by February 18, 2025 a detailed explanation

[52] Maillog No. 306928 at 59-60 (December 29, 2023).
[53] Maillog No. 305651 at 13-14 (October 16, 2023).
[54] Montgomery County Comments at 14.
[55] *Id*. at 14-15.
[56] MEEA Comments at 3.

of their ability to provide 15-minute interval peak demand data, as well as an estimate of the cost and ratepayer impacts that would be incurred to implement such data reporting.

Central Air Incentives

While all utilities include incentives for central air conditioners ("CAC") in their revised 2025-2026 program plans, MEEA and OPC recommended that the Commission phase out CAC incentives, ending all incentives by April 1, 2025. In support of their positions, they suggest that ending CAC incentives will allow for more focus on the promotion of heat pumps to reduce carbon emissions in both heating and cooling applications,[57] and note that heat pumps are more energy efficient in providing cooling than CACs and, unlike CACs, they also provide lower-emission heating.[58] Staff recommended that the Commission continue to allow the CAC incentives at least through the rest of the current program cycle.[59]

The Commission recognizes that, for energy efficiency and GHG reduction purposes, high-efficiency heat pumps may be superior to CAC units; however, many ratepayers may not be in a position to replace their CAC, and heating mechanism, with a high-efficiency heat pump. Even with EmPOWER incentives and possible Inflation Reduction Act ("IRA") benefits, heat pumps are significantly more expensive than CACs. In most instances, the installation of a heat pump can be more disruptive, lengthy, and costly than simply replacing a CAC, creating understandable reluctance on the part of a customer to make the change. Furthermore, as noted in the filings and at the hearing, the utilities and the contractor community still face challenges in getting the public to

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[57] MEEA Comments at 4.
[58] OPC Semi-Annual Comments at 15-16.
[59] Tr. 91:1-5 (October 24, 2024).

understand the value of heat pumps, leaving customers either unaware or uncomfortable with the notion of engaging in such a large replacement project.[60]

While the current goal of the EmPOWER program is to pursue meaningful GHG reductions, the Commission remains mindful of ensuring that incentives remain available to all ratepayers, as all ratepayers contribute to the EmPOWER program. Finding that the elimination of CAC incentives would exclude many ratepayers for the reasons stated above, the Commission denies, without prejudice, the recommendation of MEEA and OPC to phase out CAC incentives, allowing any party to raise the recommendation in the next program cycle.

To be clear, the Commission recognizes the many positive aspects associated with high-efficiency heat pumps for meeting the State's climate goals, and expects to see an increase in the participation by distributors and contractors in the promotion, sale, and installation of heat pumps.[61] The current decision to allow the continuation of CAC incentives is intended to provide the utilities time to adjust to the new goal structure of the EmPOWER program without further modifications, distributors and contractors time to become more aware of and educated on heating and cooling options within the EmPOWER Program, and the Moderate-Income Work Group time to finalize its report to the Commission,[62] thereby assisting the Commission in making determinations as to whether or not to make certain incentives such as CACs available solely to moderate-income customers.

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[60] *See* Tr. 91:12-92:10 (October 24, 2024); OPC Semi-Annual Comments at 15.

[61] OPC Semi-Annual Comments at 15.

[62] In accordance with Order No. 91175 which established the Moderate-Income Work Group to be led by Staff, the work group is to provide the Commission with its final results and recommendations as required by HB 864 by April 1, 2025, with status reports due on October 15, 2024 and February 14, 2025.

HB 864 Regulations

HB 864 requires the Commission to adopt regulations to establish the following:

> Each electric company and each gas company shall promote the availability of federal and state rebates, tax credits, and incentives that can be used to support energy efficiency investments, energy efficient and non-fossil-fuel-powered appliances and cooking equipment, breaker box upgrades, and portable heating and cooling equipment.

In Order No. 91175, in accordance with the HB 864 requirement, the Commission directed Staff to file a project plan to develop and file the regulations by July 15, 2024, and to file the regulations by February 14, 2025.[63] Staff filed its project plan as part of its comments on the semi-annual reports.[64] The Commission notes Staff's filing.

Demand Response Goal

In Order No. 90957, the Commission directed Staff to work with parties in the appropriate work group to explore demand reduction goals and determine if a megawatt ("MW") savings goal should be established and, if so, what the goal should be for the 2027-2029 program cycle.[65] Staff was directed to provide a progress report on the matter as part of its October 2024 comments on the semi-annual EmPOWER reports.

In its comments, Staff requested guidance from the Commission on whether or not it should continue to explore demand reduction goals, given that HB 864 changed the EmPOWER goals from electricity savings to GHG reduction.[66] Staff stated that, if the Commission still requires a recommendation on a MW goal for the next program cycle, it

[63] Maillog No. 310059 (June 4, 2024).
[64] Staff Comments at 6-7.
[65] Maillog No. 306928: Order No. 90957 at 60 (December 29, 2023).
[66] Staff Comments at 7.

will incorporate the directive into an existing work group, which will provide the recommendation to the Commission.[67]

In Order No. 90957, the Commission stated its desire to see innovation within EmPOWER's demand response programs, not only to increase electricity savings, but also to find how load management strategies can help to avoid capital investments as well as decrease ratepayers' energy costs.[68] While the overall goal of the EmPOWER program may have changed with the passage of HB 864, exploring ways to reduce electricity consumption continues to be important, especially with the increase in electrification measures.

The Commission renews its direction regarding the exploration and establishment of a demand response goal. The Commission also directs the work group designated by Staff to incorporate into its considerations the recommendations of OPC, including exploration of ways to engage historically disadvantaged communities in load management opportunities, the development of HVAC demand flexibility pilot programs, and the creation of demand flexibility metrics, such as winter and summer reduction goals in addition to an overall MW savings goal.[69] Staff is directed to file a status report on its findings and recommendations by April 15, 2025.

<u>Gas Appliance Incentives</u>

Several parties have requested that the Commission eliminate incentives for gas appliances, contending that such incentives are inconsistent with the State's climate

[67] *Id*.
[68] Order No. 90957 at 59.
[69] OPC Revised Plan Comments at 59-60.

policy.[70] Washington Gas, the only EmPOWER utility that offers incentives for natural gas appliances, stated its opposition in its August 30, 2024 filing, noting that it does not foresee achieving its statutory target without promoting and incentivizing the installation of high efficiency gas appliances and equipment.[71] Staff supports the continuation of natural gas incentives as part of the EmPOWER program.[72]

The Commission has previously denied requests to end incentives for gas appliances. On June 15, 2022, the Commission issued Order No. 90261 in which it denied the request by MEEA to eliminate gas appliance incentives from the EmPOWER program.[73] MEEA's request was made in response to two factors that had been added to PUA § 2-113(a)(2) requiring the Commission to consider, in short, the preservation of environmental quality and the reduction of GHG emissions when supervising and regulating public service companies.[74] MEEA's request was supported by OPC and opposed by Staff.

The Commission denied MEEA's request for several reasons. Generally, the Commission acknowledged "the movement towards increased electrification and GHG emissions reduction," but also noted the "broad space between the requirement to address GHG emissions and the elimination of EmPOWER funding for an entire energy source."[75] Specifically, the Commission noted multiple methods to achieve GHG reductions aside from the elimination of gas incentives. The Commission further noted that removing gas appliance incentives had the potential to lead to higher energy usage and GHG emissions,

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[70] *See e.g.*, OPC Comments at 17, MEA Comments at 25, MDE Comments at 9, MEEA Comments at 23, and Montgomery County Comments at 6.
[71] Washington Gas Supplemental Filing at 3-4.
[72] Staff Revised Program Comments at 138.
[73] Maillog No. 241115: Case 9648: The 2021-2023 EmPOWER Maryland Program (June 15, 2022).
[74] *Id*. at 15-16, *citing*, PUA §2-113(a)(2)(v) and (vi).
[75] Order No. 90261 at 18-19.

as the removal of incentives could lead ratepayers to choose to repair and continue to operate their older, less efficient gas appliance rather than purchase a new, more efficient appliance accompanied by an incentive.[76]

The Commission also noted that, not only does no law require the elimination of natural gas as a fuel source or natural gas incentives, PUA § 7-211(f)(1) states that the Commission "shall require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy."[77] The Commission held that gas companies were still subject to EmPOWER, as was the requirement that the Commission review and authorize energy efficiency programs proposed by gas companies, including incentives to customers.[78]

In Order No 90957, issued December 29, 2023, the Commission again allowed the continuation of gas appliances incentives, stating, "[W]ith the Commission recently docketing its gas planning proceeding in Case No. 9707, the Commission understands that natural gas as a source is under consideration and discussion by State policy makers, and finds that this is not the appropriate time to make a modification that would be so impactful to ratepayers and the program." The Commission noted that it would re-evaluate the appropriateness of continuing to permit the incentives at the fall 2024 semi-annual hearing.[79]

[76] *Id*. at 20.
[77] *Id*.
[78] *Id*.
[79] Maillog No. 306928 at 70-71.

In response to the April 15, 2024 request by OPC to end gas appliance incentives,[80] in Order No. 91214, the Commission denied the request and noted that OPC could "re-raise the request for consideration in fall 2024 when program plan revisions are addressed."[81]

The legislature has modified certain aspects of the EmPOWER Program since the Commission's initial decision allowing the continuation of incentives for natural gas appliances. Proponents of eliminating the incentives point to the transition from an electricity savings goal to a GHG reduction goal and an introduction to the use of electrification measures as support for their position. The Commission notes, however, that the legislature could have banned the use of gas appliances, but did not. Furthermore, the legislature recently created a gas savings goal as part of the EmPOWER Program - something Washington Gas was not subject to in previous cycles.

The Commission continues to hold that the removal of natural gas incentives from the EmPOWER Program would go beyond current requirements. It also continues to find, in addition to the points previously made, that the removal of gas appliance incentives would create an imbalance in energy efficiency offerings for customers, and may have a disproportionate effect on limited-income customers who may be eligible for high-efficiency gas equipment through DHCD programs. Finally, the gas appliance incentive programs approved for the current EmPOWER cycle are reducing GHG emissions in keeping with the statute's goal. The current Commission proceeding on the future of natural gas is intended to create a roadmap to advise policymakers. The Commission seeks

[80] Maillog No. 308966 at 29-31.
[81] Maillog No. 310588 at 13 (July 2, 2024).

to use the findings of that proceeding to shape policies impacting natural gas usage in the State.

The Commission also finds, however, that there is some uncertainty as to the future of natural gas in Maryland's energy future, and that ratepayer-funded incentives to install gas burning appliances in new construction may not be aligned with State policy.

When approving, denying, or modifying program plans, the Commission must consider the plan's cost effectiveness, rate impacts, job impacts, environmental impacts, and impacts to meeting the State's emission targets. The Commission does not have before it the information needed to make a sound decision on this matter, and therefore denies the requests to eliminate gas appliance incentives, without prejudice, as well as Washington Gas's proposal regarding electrification measures with gas backup, also without prejudice.

Washington Gas is directed to file with the Commission as part of its next semi-annual report a detailed, alternative program proposal that does not include gas appliance incentives. The filing must provide adequate information on the cost and impacts of Washington Gas meeting its legislative goals without the inclusion of the incentives. The filing may include exceptions for the commercial and industrial ("C&I") sector, but Washington Gas must provide sufficient support to warrant approval. Washington Gas is also directed to file with its next semi-annual report cost and efficiency comparisons between all electric air source heat pumps and electric air source heat pumps with gas heating backup.

Work Groups and Reports

Cost Recovery Disclosure Work Group

HB 864 created disclosure requirements pertaining to an increase in the EmPOWER surcharge due to paying down the unamortized balance. PUA § 7-222(e) states that the Commission shall require the EmPOWER utilities to disclose, in a format readily understandable to the average customer,

> 1. that the surcharge imposed in accordance with PUA § 7-222(d) includes the cost of paying down the unpaid costs and unamortized costs that were accrued over time by programs and services required by the Commission dating back to 2008; and
>
> 2. the period of time that the surcharge will include excess charges to pay down the unpaid costs and unamortized costs.

In Order No. 91175, the Commission directed Staff to convene stakeholders to develop website language and bill insert language that address the requirements of PUA § 7-222(e), and allowed the parties to propose additional or alternative media channels on which to make the disclosures.[82]

On June 28, 2024, Staff filed a status report on behalf of the Cost Recovery Disclosure Work Group, noting that the work group reached a consensus on the cost recovery disclosure ("CRD") message being utilized in addition to existing surcharge language and information currently presented to customers, the utilities presenting the CRD message on their respective websites for a near indefinite period, the utilities providing the CRD message through bill inserts twice each year, once during winter and once during summer, and that CRD messages will not appear on customer bills due to

[82] Order No. 91175 at 4-5.

character limitations for bill messaging. The work group did not reach a consensus on the actual CRD message to be utilized or on whether or not the CRD message should be displayed on social media platforms.[83]

The status report noted that, but for OPC, the work group agreed on the following message for utility websites and bill inserts:

> The EmPOWER Maryland charge funds programs that can help you reduce your energy consumption and greenhouse gas emissions and save you money. Since the inception of the EmPOWER Maryland program in 2008, the programs have saved $14.5 billion on installed measures at a cost of $4.1 billion. In addition to new program costs, this charge includes paying off the uncollected costs that were accrued over time by programs required by the EmPOWER statute and authorized by the Commission. In accordance with House Bill 864 the uncollected amounts will be fully paid by the end of 2032. For more information, including how to participate in these valuable programs, go to ____________.[84]

OPC did not agree with the language from the majority, claiming that it was ambiguous in that it did not inform customers of an increase to the surcharge. Instead, OPC proposed the following language:

> The EmPOWER MD surcharge funds programs that can help you reduce your energy consumption, reduce greenhouse gas emissions, and save you money. Legislation enacted in 2024 requires the elimination of a large unpaid balance for EmPOWER programs and services that developed as a result of a 2008 Maryland Public Service Commission order. Since that time, aside from program costs and services, customers have had to pay the utilities for maintaining the unpaid balance. The unpaid balance will be eliminated gradually over a period of _____ years through an increase in the EmPOWER surcharge, ultimately saving customers millions of dollars each year. For more

[83] Cost Recovery Disclosure Work Group Status Report at 3-4.
[84] *Id*. at 3.

> information, including how to participate in these valuable programs, go to ____________.[85]

Staff expressed concern with OPC's proposed language, primarily the sentence that reads, "The unpaid balance will be eliminated gradually over a period of _____ years through an increase in the EmPOWER surcharge, ultimately saving customers millions of dollars each year." Staff contends that the sentence implies that paying off the balance through an increase in the surcharge will save ratepayers money, when in actuality, extending the payoff period will lower monthly surcharge payments, but increase total costs.[86] BGE, Pepco, Delmarva, and Washington Gas also did not support OPC's proposed language, claiming that it contained several inaccuracies, including the phrase, "saving customers millions of dollars each year."[87]

OPC responded to the concerns of Staff and the utilities by proposing the following modified language:

> The EmPOWER MD surcharge funds programs that can help you reduce your energy consumption, reduce greenhouse gas emissions, and save you money. Legislation enacted in 2024 requires the elimination of a large unpaid balance for EmPOWER programs and services that developed as a result of a 2008 Maryland Public Service Commission order. Since that time, aside from program costs and services, customers have had to pay the utilities for the unpaid balance. The unpaid balance will be eliminated gradually over a period of _____ years through an increase in the EmPOWER surcharge as the program moves toward recovering all program costs in the same year that they are incurred, ultimately saving customers millions of dollars each year. For more information, including how to participate in these valuable programs, go to ____________.[88]

[85] *Id*. at 4-5.
[86] *Id*. at 5.
[87] *Id*.
[88] *Id*. at 5-6.

The work group did not respond to OPC's revised language, commenting it did not have time to do so prior to filing its status report.[89]

The Commission approves all consensus items noted in the status report. Regarding the language to be used for utility websites and bill inserts, the Commission approves Staff's proposal. Not only was it largely supported by the work group, it also is explanatory, clear, and simplified, without placing unnecessary or unwarranted blame. Regarding the matter of whether or not utilities should present the CRD message on their social media platforms, the Commission directs the work group to continue and conclude its investigation as stated in the status report, and to report its findings in a final report to the Commission by April 15, 2025.

Cost Recovery Work Group

In Order No. 90957, the Commission directed the Cost Recovery Work Group to investigate methods for minimizing surcharge bill impacts reflective of the cost recovery transition from amortization to expensing.[90] In its report, the work group noted that it was not able to reach a consensus recommendation, and that OPC, MEA, the Exelon Utilities, and SMECO recommend maintaining the currently approved amortization schedule, while Staff recommends adding another year to the currently approved amortization model in order to lower the surcharge in 2025 through 2027.[91]

The calculations provided by the work group show that extending the amortization by one year would have a modest impact on short-term affordability, while resulting in

[89] *Id*. at 6.
[90] Maillog No. 306928 (December 29, 2023).
[91] Staff's recommendation is to change the 33%, 67%, and 100% expensed from 2024 through 2026 to 33%, 55%, 80%, and 100% expensed from 2024 through 2027. Cost Recovery Report at 7-8.

higher costs in future years as well as higher costs overall. Therefore, the Commission directs that, for cost recovery purposes, the current approved amortization schedule shall remain in effect.

In Order No. 90957 the Commission also directed the work group to research and analyze a stated performance incentive mechanism ("PIM") structure as well as the development of a permanent PIM, how net benefits will be determined, and how the PIM reward structure might tie in to surcharge reductions.[92] In its report, the work group noted that it has discussed a proposal presented by BGE and has scheduled bi-weekly meetings to continue the PIM discussion.[93]

The Cost Recovery Work Group is directed to file a status report with the Commission by April 15, 2025.

Conservation Voltage Reduction Work Group

In Order No. 90957, the Commission established the CVR Work Group to research and analyze the appropriateness of counting CVR toward EmPOWER goals.[94] The Order directed the work group to address three specific questions:

1. Is the continuation of counting CVR toward EmPOWER goals appropriate;

2. What would replace CVR if it were disallowed from EmPOWER goals; and

3. What are the merits of BGE's request that the 20% cap on front-of-the-meter ("FTM") sources be lifted, so that they can count all their CVR savings, potentially representing 30% of their MWh reduction goals?

[92] Maillog No. 306928 (December 29, 2023).
[93] PIMs Report at 1.
[94] Maillog No. 306928 (December 29, 2023).

In its filing, the work group argued that eliminating CVR during the current program year would increase EmPOWER surcharges and disrupt the planning and execution of the program cycle.[95] The work group therefore recommends that CVR impacts be counted toward the 2024-2026 program cycle's GHG reduction goals in accordance with the structure created for the translation of energy efficiency savings to GHG reduction.[96]

The work group also recommends that CVR be excluded from goal setting after the current program cycle to allow evaluation resources to focus solely on GHG metrics. Conversely, if CVR is included beyond the current program cycle, the work group recommends it be evaluated by an independent evaluator, the goal-setting process should be explicit about the amount of CVR in goals and surcharges, and only new CVR deployments should count towards goals.[97]

Regarding the split of 80 percent behind the meter ("BTM") sources/20 percent FTM, the work group majority recommends that the matter be revisited for the next program cycle, as the Commission may wish to accommodate a higher percentage of BTM programs. The majority also recommends that future BTM minimums or FTM limits should reflect the exclusion of CVR savings and be based on specific non-CVR activities proposed by the utilities or other stakeholders, accepted by the Commission, and modeled as part of the goal-setting process. BGE believes that the 80/20 split is clear in HB 864 and should not be modified to allow higher BTM percentages. BGE did not join the majority,

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[95] CVR Work Group Report at 4.
[96] *Id*.
[97] *Id*. at 5.

contending that the 80/20 split requirement is clear in HB 864 and should not be modified to allow for higher BTM percentages.[98]

The Commission approves the consensus recommendations of the work group. With regard to the 80/20 split, the Commission finds that HB 864 does allow for program plans to incorporate an 80/20 split and will not, at this time, adjust the percentages.

Evaluation Advisory Work Group

In Order No. 91214, the Commission directed the Evaluation Advisory Work Group to review and report on how lifecycle savings of behavior-based programs are calculated in other states, as well as the existence of and amount of research supporting the use of a different measure life than the one-year measure life which is currently used.[99] The direction was given in response to an OPC claim that several studies have corroborated the multi-year persistence of behavioral savings, something that OPC suggests would make behavioral programs more cost-effective.[100]

In its filing, the work group stated that transitioning from a one-year measure life to a multi-year measure life would "create a situation where the incremental lifecycle impacts from the current year's treatment are greatly diminished," thereby diminishing the ability of the behavior programs to contribute to sector level cost-effectiveness, and to support other programs that are not cost effective.[101] The work group recommends the continuation of the one-year measure life for behavioral programs.[102]

The Commission accepts the work group's recommendation.

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[98] *Id.*
[99] Maillog No. 310588 (July 2, 2024).
[100] *Id*. at 11-12.
[101] Maillog No. 312909 at 6-7.
[102] *Id*. at 7.

MDE recommends that the Commission consider updates to the Maryland Jurisdiction-Specific Test ("MJST"), a societal cost test that includes a low-income adder of 20 percent, a 10 percent health and safety benefits adder to encourage weatherization and fuel switching, and a GHG emission metric to align with State climate policy.[103] MDE contends that HB 864 "changed the state landscape drastically and triggers the need to reconsider the societal cost of carbon used for the test."[104] MDE asks the Commission to open a new proceeding to update the MJST to ensure the metrics used for emissions and other non-energy impacts align with the policy of the State.[105]

MDE may work with the Evaluation Advisory Work Group to determine if revisions to the MJST are necessary. If the work group determines that additional guidance is needed, they may re-submit the request in their April 15, 2025 filing.

Midstream Work Group

Prior to transitioning to the current program cycle, the Commission considered modifying the utilities' under-performing midstream programs to a single implementer model in an attempt to, among other things, provide a consistent, uniform source of information and data tracking. While some stakeholders supported this, noting that other jurisdictions managed their more successful midstream programs in such a manner, others advocated transitioning the program to a downstream model, while still others argued that the midstream model needed more uniform operations in order to increase participation.[106]

In Order No. 90957, issued December 29, 2023, the Commission acknowledged

[103] MDE Comments at 13.
[104] *Id*.
[105] *Id*. at 4.
[106] Maillog No. 306928, Order No. 90957 at 63.

agreement among the parties that the midstream program must be modified in order to see improvements, but that there was no agreement as to what modifications should be made.[107] Findings from researching the single implementer model were not helpful, as most states operating such programming were doing so under circumstances that were not comparable to the EmPOWER program.[108] As such, the Commission directed the Midstream Work Group to pursue both the need for uniformity and information on a downstream model.

The Commission directed the Midstream Work Group to develop a Uniform Program Manual ("UPM") to be filed with the Commission by January 1, 2025.[109] The Commission also stated the following with regard to required filings pertaining to the UPM:

> In order for the Commission to monitor the process and progress of the UPM, and to address any concerns as they are raised, the utilities are directed to include in their semi-annual reports between now and January 1, 2025, the status of the UPM development, as well as their proposed implementation plans, as implementation of the UPM will be expected immediately upon the Commission's acceptance of the Manual.[110]

The Commission also directed the Midstream Work Group to provide a status report by April 15, 2024 containing its findings and recommendation on the feasibility of operating both a downstream and midstream program for applicable midstream appliances.[111]

The Midstream Work Group did not mention development or implementation of the UPM in its May 3, 2024 status report. The Commission noted, "it appears that the Midstream Work Group has convened only once since Order No. 90957 was issued,

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[107] *Id*. at 64.
[108] *Id*. at 63-64.
[109] *Id*. at 64.
[110] *Id*. at 64-65.
[111] *Id*. at 65.

thereby preventing the robust discussions necessary to produce the feedback requested by the Commission from taking place."[112] The May 3, 2024 status report also failed to provide a recommendation as to whether there should or should not be downstream and midstream offerings for certain appliances, though it did note the positions taken by several parties.[113]

In Order No. 91214, issued July 2, 2024, the Commission directed the Midstream Work Group to file a status report by October 15, 2024 containing the status of the development of the UPM and its plan for implementation, a recommendation as to whether there should or should not be both downstream and midstream offerings for certain appliances, a discussion on what is meant by market transformation in the context of the midstream programs, a firm definition and delineation of midstream and downstream by appliance type, and recommendations as to the appropriateness of establishing HVAC and heat pump water heater ("HPWH") market share goals for both distributor and retail sales.[114]

In its October 15, 2024 status report, the Midstream Work Group stated the following with regard to the UPM:

> The EmPOWER Utilities are developing a draft of the UPM report and plans to share the document with the Work Group in mid October. The utilities plan to use the statewide program manual from New York as a starting reference point. Additional meetings have been scheduled to discuss this draft UPM report, with the goal of filing a consensus UPM report with the Commission by January 1, 2025.[115]

The work group noted that the utilities plan to offer only midstream incentives for their HVAC programs, but that there was a general consensus among stakeholders that it is

[112] Maillog No. 310588: Order No. 91214 at 10 (July 2, 2024).
[113] *Id*. at 9-10.
[114] *Id*. at 10.
[115] Midstream Work Group Status Report at 1.

appropriate to offer HPWH in both a midstream and downstream channel, as long as incentives and other program features are coordinated to promote the measures consistently. OPC noted its concern, however, that at least 80 percent of HPWH incentives are delivered downstream.[116] The work group was not able to reach a consensus on the scale or pace of market transformation for the midstream programs, the definitions of midstream and downstream, or market share goals.[117]

The Commission directs the Midstream Work Group to file a status report by April 15, 2025 providing an update on the non-consensus matters noted above, as well as a recommendation as to whether there should or should not be downstream and midstream offerings for certain appliances. The Commission notes that it does want to see the Midstream Programs become market transformative but that, while the April 2024 increases in HPWH incentives may bring about a rise in sales, increasing incentives should not be the primary strategy to achieve market transformation. The Commission looks forward to the work group's discussion on the issue as directed.

The Commission notes that the UPM is due to be filed mere days from the issuance of this Order. Given the language used in the October 15 status report ("EmPOWER Utilities <u>*are*</u> developing a draft…," with "<u>*plans to share*</u> the document with the Work Group in <u>*mid October*</u>…," "utilities <u>*plan to use*</u> the statewide program manual from New York <u>*as a starting reference point…*"</u>) (emphasis added), it is clear that no draft UPM has been generated, let alone shared, reviewed, modified, or approved. This is not surprising, given that the first and only work group meeting on the UPM was held on September 25, 2024 - nine months after the Commission issued its directive for the UPM and three months

[116] *Id*. at 2.
[117] *Id*. at 3-4.

before the final UPM was to be filed.[118] This significant delay has not been authorized, or even requested. Not only has the Midstream Work Group seemingly made no progress on the UPM in an entire year, they have also been less than forthcoming about it by failing to admit the lack of meetings and progress and by failing to request an extension. The Commission looks forward to receiving a well-drafted, clear, detailed, and timely consensus UPM.

MDE suggests the creation of a statewide contractor network, containing contractors who have been trained on heat pump and HPWH installation, to allow ratepayers to find certified contractors with ease and assist the contractors and utilities with creating uniform standards and training expectations across the State.[119] As part of the network, MDE would like to see the utilities identify or establish training for heat pumps and HPWH, as well as to determine what types of certifications and training would be best for a statewide contractor network.[120]

MDE also requests that the Commission explore the creation of an official statewide portal where all customers can see what incentives are offered, access an approved contractor list, and be directed to their proper utility. MDE suggests that this effort be designed similarly to the Commission's website for retail energy shopping.[121] Montgomery County made a similar request for the development of a list of certified contractors and training programs to assist contractors with obtaining their certification.[122]

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[118] OPC Semi-Annual Comments at 16.
[119] MDE Comments at 11.
[120] *Id.*
[121] *Id*. at 8.
[122] Montgomery County Comments at 13.

The Commission acknowledges that uniform training and certification for contractors could be beneficial to customers and the EmPOWER Program as a whole; however, such training would need to be developed and managed at the state agency level rather than at the utility level as it is not within the Commission's purview. MDE may work with the utilities to best determine what deficiencies, if any, exist with current contractor training and certification. MDE and Montgomery County may also work with the Midstream Work Group to develop a statewide contractor network, notifying the Commission if and when challenges in its development arise.

Limited-Income Work Group

In Order No. 91214, the Commission directed the Limited-Income Work Group to look into targeted methods to be used for coordination between the behavioral programs and DHCD programs, as well as the appropriate means for measuring program uplift resulting from the coordination.[123] The direction was given in response to an OPC recommendation that the utilities and DHCD use targeted methods rather than generalized campaigns like bill inserts to identify applications for behavioral programs to coordinate with DHCD programs.

In its filing, the work group noted that the utilities currently provide monthly and/or quarterly reports with targeted marketing containing information about DHCD programs to limited-income households.[124] The work group also noted that DHCD and the utilities have regularly scheduled monthly or quarterly meetings during which coordination on all programs is discussed, as well as marketing campaigns, content, and specific messaging.[125]

[123] Maillog No. 310588 (July 2, 2024).
[124] Limited-Income Report at 5.
[125] *Id*. at 6.

The work group concluded by stating that the utilities and DHCD will further determine the feasibility of cross-referencing shared data to track any correlations between marketing and program participation.[126]

The Commission directs the Limited-Income Work Group to file a status report providing an update on the utility and DHCD coordination on cross referencing data for behavioral programs and DHCD program combinations by June 2, 2025.

Also in Order No. 91214, the Commission directed the Limited-Income Work Group to report findings and proposals regarding ways to increase awareness and opportunities within the EmPOWER Program for limited-income customers who need to replace their appliances.[127] In its October 15, 2024 status report, the work group noted that it reached a consensus on making the following recommendations to the Commission:

> 1. DHCD will implement targeted outreach and marketing to promote appliance replacements. The appliance replacements will lead and attract customers interested in those upgrades. However, the primary goal of the programs remains comprehensive retrofits, therefore customers will still be qualified for all services, and comprehensive upgrades will be proposed in the work scope.
>
> 2. DHCD will determine alternative ways to qualify non-functioning appliance replacements, specifically for heating, refrigerators, and stoves.
>
> 3. That legislation be introduced/enacted to bar HOAs from prohibiting the installation of electric HVAC equipment on the outside of the property.[128]

The Commission approves the consensus recommendations made by the work group.

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[126] *Id*.
[127] Maillog No. 310588 at 3 (July 2, 2024).
[128] Limited-Income Report at 5.

DHCD noted concerns regarding the performance of its MEET Program, which was intended to provide maintenance service, including HVAC tune-ups, but has not met performance expectations over the past two years. DHCD identified one of the biggest contributors to the program's low performance as the lack of available workforce. The Limited-Income Work Group discussed possible solutions, with DHCD ultimately proposing to sunset the MEET Program.[129] DHCD states that any unspent funds remaining in the program will be rolled into its Whole Home Efficiency and MEEHA Programs based on program demand.

The Commission approves DHCD's proposal to sunset the program and to use unspent funds towards the Whole Home Efficiency and MEEHA Programs.

DHCD's MEEHA Program is currently structured with a five-year affordability requirement as part of its grant agreement, and provides a maximum funding limit that caps project costs for all covered measures, with the limit equating to approximately 80% of the actual cost of installing the measure. In considering ways to modify the structure to better align it with State goals and direct more funds to projects that commit to longer affordability terms, create longer lasting affordable housing units, increase low-income housing units in the market, and ensure funds go to mostly affordable housing, DHCD proposes implementing a two-tiered structure. The higher tier would have an affordability term of 15 years or more and an incentive amount up to 90 percent of the cost of the approved scope of work, and the lower tier would have an affordability term of 5 to 14 years and an incentive amount of up to 70 percent of the approved scope of work.[130]

[129] *Id*. at 7-8.
[130] *Id*. at 6-7.

The work group report noted that, while many stakeholders abstained from participating in discussing DHCD's proposal, some shared concerns that the modification might create barriers to participation by making energy efficiency measures cost prohibitive to those receiving a reduced funding amount in the lower tier. DHCD stated that it considered the feedback of the work group, but is proposing to implement the tiered incentive structure in order to provide the opportunity for funding to reach more affordable housing units across the State.[131]

The Commission directs DHCD to re-file its proposal for the two-tier MEEHA structure by February 18, 2025, including in the refiling more detailed reasoning and support for its request, such as why DHCD doesn't find the current structure acceptable, illustrative examples of financing agreements under each tier, DHCD's plan for implementing and marketing a new tier structure, and forecasts on program uptake under the proposed two-tier structure. Interested parties may file responsive comments by April 15, 2025.

MDE recommends the prioritization of ensuring that low- and moderate-income customers are able to access the benefits of the EmPOWER Program, and contends that better coordination and tracking by the utilities and DHCD will help assess what customers are being served and any gaps in service that might exist.[132] The Commission has long recognized the need to reach limited- and moderate-income customers, as well as the need to eliminate confusion and competition between the utilities' and DHCD's programs. The Commission encourages MDE to work with the Limited-Income Work Group and the ERPI Work Group to determine if there is additional information to be tracked and reported

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[131] *Id*. at 7.
[132] MDE Comments at 7.

that would assist with the goals stated above. If it is found that additional metrics and steps could help benefits from the EmPOWER Program to further reach limited- and moderate-income households, MDE and/or the work groups may propose as much in a future filing.

BGE proposes the inclusion of an energy justice ("EJ") incentive for HPWHs in its Appliance Rebates Program. Customers in census tracts at or above the 75th percentile on MDE's Environmental Justice Screening Tool would be eligible for an increased incentive for the stated appliances installed in either energy efficiency or electrification applications.[133] Both Pepco[134] and Delmarva[135] proposed similar additions to their Appliance Rebates Program under their respective revised 2024-2026 plans.

MEA expressed concern that the proposed additional incentive could create competition between the noted utilities and DHCD, possibly impacting DHCD's ability to meet its mandated goals.[136] MEEA recommended that the Commission deny the proposals without prejudice and direct the utilities to work with DHCD to allow the additional incentives to be provided through participation in DHCD programs.[137] Staff recommended that the utilities be directed to provide additional information supporting their proposal.[138]

The Commission denies, without prejudice, the proposal by the utilities to include an additional incentive for customers in EJ communities that install certain HPWHs for energy efficiency or electrification purposes. While the Commission is pleased to see initiative taken in an attempt to reach underserved communities, the Commission shares the stated concerns regarding overlap by the utilities with DHCD. The Commission also

[133] BGE Revised Plan at 15.
[134] Pepco Revised Plan at 4 and 7.
[135] Delmarva Revised Plan at 4 and 7.
[136] MEA Comments at 12.
[137] MEEA Comments at 21-22.
[138] Staff Revised Program Comments at 22.

notes that no evidence has been put forth to show that the proposed incentives would actually increase participation. The utilities may refile their requests to include additional information that specifies what protocols would be put in place to ensure that the utilities will not inappropriately overlap with DHCD, as well as that demonstrates that the increased incentives will not lead to excessive free ridership.

Moderate-Income Work Group

In Order No. 91175, in accordance with HB 864, the Commission established the Moderate-Income Work Group to study and make recommendations to the Commission and the Maryland General Assembly on coordination of activities between utilities and DHCD, such that moderate-income households may obtain efficient and cost-effective assistance.[139] The Commission directed the work group to file a status report by October 15, 2024. In its filing, the work group noted that preliminary discussions were held on the six topics required by HB 864, and that the discussions were useful for identifying questions and comments that will be addressed by the work group at its scheduled bi-weekly meetings.[140]

The Commission notes the filing and looks forward to receiving the work group's February 14, 2025 status report.

Finance Work Group

In Order No. 91214, the Commission directed the Finance Work Group to provide recommendations on data points and reporting metrics requested by OPC for the Clean Energy Advantage ("CEA") Pilot Program, including average value of loans funded by

[139] Maillog No. 310059 (June 4, 2024).
[140] Moderate Income Work Group Status Report at 3.

income brackets, median credit score for loans funded, number of loan applications denied, the basis for loan denial, and the number of accounts in default.[141] In its filing, the work group noted that it reached a consensus and recommends that all requested data points and reporting metrics would be included in semi-annual reports beginning in February 2025.[142]

The Commission approves the work group's recommendation.

EmPOWER Reporting Process Improvement Work Group

In Order No. 90663, the Commission directed the ERPI Work Group to file a status report on the development of reporting templates for the 2024-2026 program cycle.[143] In its filing, the work group noted that it reached a consensus on 95 percent of the changes to be made to the program's reporting templates, but still needed to finalize the Demand Response Program tables.[144] The work group explained that the Evaluation Advisory Work Group is developing an evaluation protocol for the programs to ensure consistent reporting across the utilities, and that once the protocol development is completed, the ERPI Work Group will incorporate the reporting tables developed by the Evaluation Advisory Work Group.[145]

The work group also noted that additional changes to reporting templates may be necessary as programs evolve based on the implementation of HB 864, including, but not limited to, the fact that HB 864 requires the utilities to include electrification in its plans. As such, Staff, on behalf of the work group, requests that the Commission allow the ERPI Work Group to revise the reporting templates as needed.[146] The Commission grants Staff's

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[141] Maillog No. 310588 (July 2, 2024).
[142] Finance Work Group Report at 1.
[143] Maillog No. 303445: Case No. 9648: The 2021-2023 EmPOWER Maryland Program (June 9, 2023).
[144] ERPI Status Report at 1.
[145] *Id.*
[146] *Id.*

request, and directs the ERPI Work Group to reflect as part of the semi-annual reports and comments any changes to reporting templates that have been implemented. The ERPI Work Group is further directed to develop templates to separately report energy efficiency and electrification participation, costs, and savings in all future filings to allow for thorough evaluation of the cost-effectiveness and benefits of electrification investments.

Future Planning

Several recommendations were made to the Commission that are of value, but either are not yet thoroughly fleshed out or are better suited for implementation in the next EmPOWER Program cycle. The Commission directs Staff to reconvene the Future Programming Work Group to research and make recommendations on program improvements for the 2027-2029 cycle, including on the matters discussed below.

MEEA recommended that the utilities and stakeholders engage in an independently facilitated process to design detailed building electrification programs that provide equivalent benefits and opportunities at consistent costs across the five EmPOWER electric utilities.[147] Similarly, Montgomery County recommended that the utilities develop and establish performance expectations, standards, and quality assurance protocols for their electrification programs.[148] The Commission recognizes the benefit to program uniformity, as well as to the need for detailed plans regarding program cost and participation, among other things. The Commission would like to see the electric utilities maximize their efforts to promote customer participation in their electrification initiatives, and therefore finds that the current electrification measures and/or programs can and should serve as valuable

[147] MEEA Comments at 12-15.
[148] Montgomery County Comments at 10-15.

learning opportunities to develop even better electrification programs for the 2027-2029 program cycle.

MEEA recommended that the utilities be directed to assess the risks of increased demand and winter energy bills that could result from promoting heat pumps that are reliant on electric resistance backup.[149] The Commission recognizes that increased incentives and promotion for this type of heat pump may put customers at risk to receive unexpectedly higher electricity bills. The Commission is interested in MEEA's assertion that such risks can be mitigated through the adoption of specifications for lockout temperature settings and other installation requirements.[150]

MEEA contends that, while using the measure life assumptions from the previously approved 2024-2026 plans was a reasonable choice for the immediate purpose of translating the former kWh savings goals to the current GHG goals for 2025-2026, it has resulted in revised plans that rely too heavily on short-lived savings from the CVR and Behavioral Programs.[151] MEEA recommends that goals for the next program cycle be developed based on an estimated useful life ("EUL") that will drive the outcomes the Commission believes are consistent with the EmPOWER statute and that favor long-lived savings, such as those produced by electrification and comprehensive energy efficiency.[152]

MEEA also recommended that a more comprehensive cost review be performed than that reported in the July 3, 2024 Lifecycle Costs Review Status Report,[153] suggesting several questions to be asked in a follow-up on cost review, including, if BGE ratepayers

[149] MEEA Comments at 18-19.
[150] *Id*. at 18.
[151] *Id*. at 6-7.
[152] *Id*. at 9-10.
[153] Maillog No. 310655.

should be required to pay more towards custom program costs than other utility ratepayers, if higher incentives are required to move custom projects forward, if there are other programs that could contribute to achieving the GHG goals at a lower cost, such as electrification programs, and how the proposed costs compare with other utility costs in other jurisdictions, and to what extent is such benchmarking applicable.[154] The Commission recognizes the importance of ensuring consistency among the utilities with incentives offered, as well as that the incentives offered are those necessary to bring about participation and consequent goals.

Moving forward into the next program cycle, the Commission would like to see a more robust stakeholder process for developing new and innovative programs, reaching customer segments that have not traditionally participated in the EmPOWER Program, coordinating with other utility programs, and providing clarity to ratepayers with regard to the measures, incentives, prices, and contractors that are available to them.

The Commission directs the EmPOWER Utilities to participate in the Future Programming Work Group and encourages MEEA and other interested stakeholders to participate. The Staff work group leader may, at the work group leader's discretion, apply for technical assistance from the United States Department of Energy to independently facilitate the work group's efforts. The work group is directed to convene and file a work plan by April 15, 2025, and thereafter file a final report of its findings and recommendations by April 15, 2026.

IT IS THEREFORE, this 27th day of December, in the year Two Thousand Twenty-Four, by the Public Service Commission of Maryland, **ORDERED**:

[154] MEEA Comments at 33-35.

(1) that the EmPOWER Utilities' revised program plans are accepted, subject to the terms and directions stated herein;

(2) that the utilities' requests to implement a code-plus tier for their respective residential new construction programs are approved as stated herein;

(3) that the utilities are directed to work alongside the code-plus builders to identify cost-effective solutions to achieve the ENERGY STAR Version 3.2 certification;

(4) that SMECO's request to reinstate bill credits and Members Helping Members donations as part of its Energy Perks Loyalty Program is denied without prejudice;

(5) that BGE's request to sunset its Residential Rewards Program for the remainder of the 2024-2026 program cycle is approved;

(6) that DHCD's request to include electrification as part of its programs is approved as stated herein;

(7) that the Commission approves DHCD's request to increase the maximum funding amount for MEEHA electrification measures;

(8) that the Commission approves DHCD's request to offer an adder for electrification measures;

(9) that the Commission approves DHCD's request to include two additional HVAC measures as stated herein;

(10) that DHCD is directed to file by February 18, 2025 confirmation that its program, as currently designed and with the Commission's electrification approval, complies with HB 864 and is expected to meet its GHG reduction target;

(11) that the Exelon Utilities are directed to file by February 18, 2025 a detailed explanation of their ability to provide 15-minute interval peak demand data, as well as an estimate of the cost and ratepayer impacts that would be incurred to implement such data reporting;

(12) that the MEEA and OPC request to phase out or eliminate incentives for central air conditioners is denied, without prejudice;

(13) that Staff is to designate a work group to explore and establish a demand response goal, with the work group including as considerations the factors noted herein, and with Staff filing by April 15, 2025 a status report reflecting the work group's findings and recommendations;

(14) that requests to eliminate gas appliance incentives are denied, without prejudice;

(15) that Washington Gas's proposal to implement electric air source heat pumps with gas backup is denied, without prejudice;

(16) that Washington Gas is directed to file with its semi-annual report for the third and fourth quarters of 2024 a detailed, alternative program proposal that does not include gas appliance incentives as stated herein;

(17) that Washington Gas is directed to file with its semi-annual report, for the third and fourth quarters of 2024, cost and efficiency comparisons between all electric air source heat pumps and electric air source heat pumps with gas heating backup;

(18) that the consensus items noted in the Cost Recovery Disclosure Work Group Report are approved;

(19) that the language proposed by Staff in the Cost Recovery Disclosure Work Group Report for use on utility websites and bill inserts is approved;

(20) that the Cost Recovery Disclosure Work Group is directed to continue and conclude its investigation into whether or not utilities should present the CRD message on their social media platforms, and to report its findings in a final report to be filed by April 15, 2025;

(21) that the Cost Recovery Work Group is directed to continue its research and analysis of the PIM structure as well as the development of a permanent PIM, and to file a status report on its findings by April 15, 2025;

(22) that the consensus items noted in the Conservation Voltage Reduction Work Group Report are approved;

(23) that the Midstream Work Group is directed to file a status report by April 15, 2025 on the non-consensus matters noted herein, as well as a recommendation as to whether there should or should not be downstream and midstream offerings for certain appliances;

(24) that the consensus items noted in the Limited-Income Work Group Report are approved;

(25) that the Limited-Income Work Group is directed to file a status report by June 2, 2025 providing an update on the utility and DHCD coordination on cross referencing data for behavioral programs and DHCD program combinations;

(26) that DHCD's proposal to sunset its MEET program and to use unspent funds towards the Whole Home Efficiency and MEEHA Programs is approved;

(27) that DHCD is directed to re-file by February 18, 2025 its proposal for the two-tier MEEHA structure, including the information stated herein;

(28) that interested parties intending to file responsive comments to DHCD's two-tier MEEHA structure filing are directed to do so by April 15, 2025;

(29) that the proposal to include an additional incentive for customers in environmental justice communities that install certain HPWHs for energy efficiency or electrification purposes is denied, without prejudice;

(30) that the consensus items noted in the Finance Work Group Report are approved;

(31) that the ERPI Work Group request to revise reporting templates as needed to comply with HB 864 implementation is approved, subject to the terms stated herein;

(32) that the ERPI Work Group is directed to develop templates to separately report energy efficiency and electrification participation, costs, and savings in all future filings;

(33) that the Future Programming Work Group is directed to reconvene to research and make recommendations on program improvements for the 2027-2029 cycle as discussed herein, to file a work plan by April 15, 2025, and thereafter file a final report of its findings and recommendations by April 15, 2026; and

(34) that all other requests and recommendations are denied without prejudice.

/s/ Frederick H. Hoover, Jr.

/s/ Michael T. Richard

/s/ Kumar P. Barve

/s/ Bonnie A. Suchman
Commissioners