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PUBLIC SERVICE COMMISSION

September 17, 2020

Supplier Diversity Program * Administrative Docket
* PC52
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PUBLIC DETERMINATION: 2019 ANNUAL REPORTS

To: The Public Service Companies that have fully executed the Supplier Diversity Memorandum of Understanding and Interested Persons

- 1. Pursuant to the Code of Maryland Regulations (“COMAR”) Section 20.08.01.05,¹ the Commission issues this Public Determination² regarding the 2019 performance of its Supplier Diversity Program (“Program”), as reviewed at the annual conference, held virtually on July 28, 2020.
- 2. The conference included a presentation by the Commission’s Technical Staff (“Staff”) on the diverse supplier procurements by companies participating in the Program,³ a review of recent

¹ COMAR 20.08.01.05B. “Public Conference.” (1) The Commission shall hold a public conference each year for the purpose of reviewing the annual reports and annual plans received from participating companies. (2) Within 60 days of the public conference, the Commission shall issue a public report with any findings from the public conference.

² COMAR 20.08.01.04 defines “public determination” as a “publicly available report prepared by the Commission on the status of the Supplier Diversity Program.”

³ The companies that have a fully executed Supplier Diversity Memorandum of Understanding (“MOU”) and participate in the Program are: Association of Maryland Pilots, AT&T Corp. and Teleport Communications America, LLC (TCAL) (“AT&T”), Baltimore Gas and Electric Company (“BGE”), CenturyLink, Chesapeake Utilities, Choptank Electric Cooperative, Columbia Gas of Maryland, Inc., Comcast Phone of Northern Maryland, Inc. and Comcast Business Communications, LLC, Delmarva Power and Light Company (“Delmarva”), Easton Utilities, Pivotal Utility Holdings, Inc. d/b/a Elkton Gas, The Potomac Edison Company (“Potomac Edison”), Potomac Electric Power Company (“Pepco”), Southern Maryland Electric Cooperative, Inc. (“SMECO”), Verizon Maryland, LLC, and Washington Gas Light Company (“Washington Gas”) (collectively, “Companies”).

modifications to the Program, a discussion on the impact of COVID-19⁴ on the Program, and the sharing by the Companies, elected officials, advocates, and contractors of best practices, lessons learned, and innovative ways to reach diversity goals. The Companies and individuals who participated in the July 28 conference are listed in Appendix A.

Staff Report

3. On July 14, 2020 Staff filed a Summary of the 2019 Maryland Supplier Diversity Program Annual Reporting (“Report”)⁵ noting that the 16 Companies in the Program⁶ spent a record \$1.07 billion on the procurement of goods and services from diverse suppliers, while reporting \$3.6 billion in total utility procurement.⁷ Thus, while the total diverse spend decreased by \$125.39 million from the previous reporting year,⁸ the diverse spend ratio (“DSR”)⁹ for 2019 is 29.69 percent – the highest recorded DSR in the history of the Program.¹⁰ The 2019 reporting period marked the second time since the inception of the Supplier Diversity MOU that the Companies have met and exceeded the 25 percent goal to procure goods and services from diverse suppliers throughout the State of Maryland.¹¹ Notably, five companies met or exceeded the goal of 25 percent of total procurement spent with qualified diverse suppliers, including

⁴ The COVID-19 virus, or coronavirus disease 2019, is a new coronavirus not previously identified. Its outbreak has led to a worldwide pandemic impacting the United States from the latter part of 2019 through to and including the issuance of this Order.

⁵ Maillog No. 231111.

⁶ 16 of the 19 Companies that signed on to the Program continue to maintain an active status. First Transit BWI Airport and Veolia Transit were removed from the Program in 2019 for failure to file annual reports, and XO Communications voluntarily withdrew from the Program (*see*, Public Determination, PC 16, September 5, 2019).

⁷ Report at 3.

⁸ *Id.* at 39.

⁹ The DSR is the key metric that the Program seeks to track and is derived by dividing total diverse supplier procurement by total utility procurement.

¹⁰ Report at 2.

¹¹ *Id.* at 3.

Association of Maryland Pilots, AT&T Corporation, BGE, Potomac Edison, and Pepco. The Commission accepts Staff's Report and incorporates it into this Public Determination.

COVID-19

4. The theme of the 2020 supplier diversity conference focused on COVID-19 and its impact on the Companies and diverse suppliers. Participants cited the high rate of closures among businesses owned by diverse suppliers, the difficulty of completing current contracts and obtaining new ones, the lack of available emergency funding, and the inability to attend in-person networking events as examples of the extreme challenges faced due to COVID-19.

5. Despite the struggles brought on by these unparalleled times, participants also spoke with optimism of moving forward in an even more supportive community, of the opportunity to develop an increasingly inclusive economy, and of ways to counteract some of the detrimental impacts that so many have felt. For example, participants spoke of engaging diverse suppliers to supply personal protective equipment ("PPE") and high-quality sanitizing and cleaning services in response to COVID-19. Companies also acknowledged a willingness to modify payment terms and expedite payments for certain diverse suppliers. Other participants noted the opportunities presented through the availability of virtual networking events.

6. While the Commission recognizes the effect that COVID-19 has had on diverse suppliers and the challenges that it has presented for Companies, the Commission also understands that the full impact of COVID-19 has not been assessed. As such, the Commission anticipates addressing COVID-19 in greater detail at the Program's next annual conference, at which time the Companies and diverse suppliers will be better able to provide, among other information, data regarding the impact on them from COVID-19, changes that they were able to make in

response to the pandemic, and any recommendations for the Program moving forward. Furthermore, given the significant and ongoing impact of COVID-19 on the Program, the Commission also intends to address its previously stated plans to revisit the short-term and long-term goal-setting design and the Program's overall 25% diverse spend goal at the Program's next annual conference.¹² In the interim, the Commission encourages the Maryland Utility Forum to explore options that could assist financially challenged suppliers, using the Washington Gas Light Company's Strive for 35 Fund as one possible example.

Data Collection

7. The Companies reported the following diverse spend in 2019 (by ownership-class): Minority-owned enterprises ("MOE") received \$554.88 million (a 51.86% share of the Program's overall DSR), women-owned enterprises ("WOE") received \$425.92 million (39.81% of the DSR), service-disabled veteran-owned enterprises ("SDVOE") received \$40.35 million (3.77% of the DSR), veteran-owned enterprises ("VOE") received \$48.49 million (4.53% of the DSR), lesbian, gay, bisexual, and transgender ("LGBT")-owned enterprises ("LGBT OE") received \$63,998 (0.006% of the DSR), and not-for-profit workshops ("NFPW") received \$18,216 (0.002% of the DSR).

8. Most of the Companies reported their 2019 MOE spend using the following subcategories: African American-owned businesses, American Indian/Native American-owned businesses, Asian-owned businesses, and Hispanic-owned businesses. The Commission recognizes the benefit of uniform reporting to the Program, as well as the subcategory data assisting in achieving the Program's goal to expand opportunities for all businesses to participate

¹² Public Determination, PC16, (September 5, 2019) at 5.

in supplier diversity initiatives. The Commission therefore requests that all Companies include data for these subcategories in their next annual report.

9. The total diverse spend and DSR percentage for NFPW, while low in comparison to the other categories, constitutes a 500% increase from the previous reporting year. The Maryland Utility Forum attributed the increase to the inclusion of advocacy organizations and stated an intention on behalf of the Companies to continue to include the organizations in future reporting. The Commission requests that all Companies report their NFPW accurately and uniformly to allow for the most correct assessment of the category and its role in the Program.

10. The diverse spend for SDVOE represented an approximate \$7 million decrease from the previous reporting year. While participants were unable to attribute the decrease to any one factor, the concern was raised that the recent inclusion of the VOE category may have taken away business from the SDVOE category. The Commission notes that the addition of VOE as a diverse spend category was not intended to take away from other categories, and requests that Companies monitor their reporting to ensure that there is no double-counting between the VOE and SDVOE categories.

Program Participation

11. The Commission has noted in previous conferences the potential that exists to increase participation in the Maryland Supplier Diversity Program and has requested that the Maryland Utility Forum be expanded to include additional utilities and other interested parties, largely to increase signatories to the MOU.¹³ The Commission considers increased participation in the

¹³ *Id.*

Program to be a priority and therefore renews its request for expansion of the Maryland Utility Forum as stated.

Conclusion

12. The Commission commends the Companies that have chosen to voluntarily commit to the Program and continue to work towards the achievement of goals set forth in the MOU. The Commission also thanks the representatives of the business community, supplier diversity advocates, and interested stakeholders for their interest in, and support of, this important initiative. With 2019 having been the Program's most successful year to-date, the Commission encourages Program participants to continue their progress towards attaining and exceeding the MOU's goals and the continued improvement of the Program.

By Direction of the Commission,

/s/ Andrew S. Johnston

Andrew Johnston
Executive Secretary

APPENDIX A

Participants at the July 28, 2020 Annual Hearing

The Commission wishes to recognize the following individuals for their participation in the annual hearing:

- Jimmy Rhee, Special Secretary for the Governor's Office of Small, Minority, and Women Business Affairs
- Dereck Davis, Maryland House of Delegates and Chairman of the House Economic Matters Committee
- Sharon Pinder, President and CEO, Capital Region Minority Supplier Development Council
- Matthew Segers, Assistant General Counsel for Pepco and Delmarva
- Vernice Lewis, Senior Manager, Diverse Business Empowerment for Pepco and Delmarva
- Christia Ravenell, Assistant General Counsel for BGE
- Victor Davis, Senior Supplier Diversity Specialist for Washington Gas
- Tiffany Troutman, Choptank Electric Cooperative
- Derrick Hamilton, Columbia Gas of Maryland
- Kathy Nutter, SMECO and Secretary of the Utility Forum
- M.Q. Riding, Manager of Marketing and Communications for Chesapeake Utilities and Vice President of the Utility Forum
- Beth Klaus, Elkton Gas
- John Hines, Easton Utilities
- Douglas Smith, Verizon
- James McGee, Association of Maryland Pilots
- LaTara Harris, AT&T
- John Conwell, Comcast
- Jay Wesley, CenturyLink
- Valerie Shearer, President of the Utility Forum
- Laurie Dowling, Executive Director of the National Utility Diversity Council
- Dionne Joyner-Weems, Founder and CEO of The Audacity Group
- Tom Dvorak, President of Dvorak, LLC
- Tony Hill, Managing Partner of Edwards & Hill Office Furniture