Dear Ms. Romine,

Natural Resources Defense Council ("NRDC") appreciates the opportunity to provide these comments in response to the EmPOWER Cost Recovery Work Group Report dated April 15, 2019 and filed in Case No. 9494. During the time that the work group was developing its report NRDC was focused on the important work of the Low-Income Work Group, and thus did not have the resources to allow it to participate in the Cost Recovery Work Group process.

NRDC appreciates the efforts of the parties that participated in the Cost Recovery Work Group and does not at this time endorse a specific recommended approach for the Maryland Public Service Commission ("Commission") regarding cost recovery of EmPOWER investments. It goes without saying that keeping electric rates affordable for Maryland’s ratepayers is critically important, especially for low- and moderate-income households, yet the implications of making changes to the current cost-recovery mechanism could have negative consequences that would harm the ratepayers that those changes are intended to help—either by creating disincentives for continued utility investments in energy efficiency, or by creating short-term rate spikes. NRDC offers the following points for the Commission’s consideration:

1. The current five-year amortization of EmPOWER costs does mean that ratepayers pay more than they would if the costs were expensed and reflected in rates as they are incurred. However, the amortization effectively mitigated the volatility in rates that would have occurred had costs been expensed in the start-up period of steadily increasing EmPOWER investments. There is reason to think that the potential exists for investments to increase again in the 2021-2023 program cycle as the availability of residential lighting savings to meet the statutory savings requirement declines, and this should be given thoughtful consideration as changes in cost-recovery are contemplated;

2. In the absence of performance incentives for successful implementation of EmPOWER programs, amortization has allowed the utilities to earn a return on their EmPOWER investments that has supported a utility focus on achieving results. The American Council for an Energy-Efficient Economy ("ACEEE") has noted the importance of addressing utility earnings in energy efficiency...
funding mechanisms, so that cost-effective efficiency investments that are lower-cost to ratepayers than infrastructure upgrades are not viewed as being disadvantageous to utility earning.\textsuperscript{1} Amortization is not tied directly to performance in Maryland, yet the utilities have by and large achieved high levels of success under the current structure;

3. A transition away from amortization to expensing could result in increased rates in the near term, which could harm ratepayers—especially those of limited means. This is illustrated in the report, which shows, for example, that the monthly surcharge for a BGE customer could change from $4.38 with 5-year amortization to $9.26 under declining amortization.\textsuperscript{2}

4. The potential for rate spikes calls for a redoubled effort to establish a low-income energy savings goal for EmPOWER, as directed by the Commission, yet such an energy savings goal will necessarily require increased investments, which could increase rates—especially if those investments are not amortized. Careful consideration of the interplay between increased energy efficiency savings for low-income ratepayers and the potential for rate impacts that are not moderated through amortization will be critical;

5. In the report, Staff introduces a discussion of performance-based incentives. The Advocates previously discussed principles for consideration when establishing performance incentives in comments filed in 2015 EmPOWER proceedings. In those comments they discussed the importance of rewarding utilities not only for achieving annual savings targets, but also for lifecycle savings because “lifecycle savings are much more relevant in measuring the economic benefits that accrue to ratepayers based on utility efficiency investments, and maximizing the net benefits to ratepayers is a foundational premise behind the development of utility energy efficiency programs.”\textsuperscript{3} The Advocates further referred the Commission to a 2013 report to the Michigan Public Service Commission that was prepared by Optimal Energy Inc. and Energy Futures Group. The report was created to “assess alternatives to traditional first year savings goals” and “describe a set of policy options . . . to consider in order to reduce the bias to pursue savings that may be the most inexpensive from a first-year perspective, but not necessarily optimal in the longer term.”\textsuperscript{4} NRDC re-affirms its position here that while EmPOWER results are premised on an annual savings goal, any consideration of performance incentives should reflect the thoughtful consideration of how achievement of those goals should be measured to assure the greatest benefit to ratepayers.

6. Lastly, while it is not alone a reason to maintain the current amortization mechanism, there are always risks that could result from significant changes


\textsuperscript{2} ML #224774, EmPOWER Cost Recovery Work Group Report at 22 (Apr. 15, 2019).

\textsuperscript{3} ML #163616, Comments of the Maryland Energy Efficiency Advocates (Jan. 30, 2015).

such as those contemplated in the report. The positions put forward by Staff and OPC primarily address the upside of alternate approaches—lower rate impacts for ratepayers—without enough consideration of potential perverse consequences. Therefore, NRDC urges the Commission to require the work group to identify and assess the risks that could result from implementing any of the alternate cost recovery mechanisms that are outlined in the report.

NRDC thanks the Commission for the opportunity to comment in this proceeding and is available to discuss any of these considerations at the convenience of the Commission.

Best regards,

Deron Lovaas