

February 15, 2022

Senator Dolores G. Kelley, Chair
Senate Finance Committee
Miller Senate Office Building, 3 East
11 Bladen St., Annapolis, Maryland 21401

RE: Senate Bill 0524

Thank you, Chair Kelley and Vice Chair Feldman, for holding this important hearing. My name is Jamal Lewis and I am testifying in support of SB 524. While EmPOWER has provided significant benefits to the state of Maryland, the program has struggled to benefit low-income Marylanders since its conception.

Fourteen years ago, in 2008, the Maryland General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which required each electric and gas utility to reduce per capita electricity consumption 15% of the 2007 baseline by 2015.¹ In 2011, after just 3 years of EmPOWER implementation, the Maryland Public Service Commission (PSC) found that the utilities were underperforming in the low-income housing market – achieving just 21% of the expected participation rates.²

In response, in 2012, the PSC transferred implementation of the EmPOWER's low-income portfolio away from the electric utilities to Maryland's Department of Housing and Community Development (DHCD).³ This decision was significant. The utilities were no longer on the hook for delivering energy efficiency services to low-income Marylanders but were still required to achieve the 15% savings target established by the 2008 law. On the other hand, since DHCD is not a utility, the agency was not required to contribute to the 15% target. When the initial phase of EmPOWER ended in 2015, the analysis showed that the utilities exceeded the 15% target largely from serving non-low-income Marylanders.

The inequity continued into the next phase of the program. The original 2008 legislation only set targets through 2015. So, in 2015, the PSC issued an order continuing the program and setting an annual goal of 2% energy consumption reduction. It wasn't until 2017 when the General Assembly passed new legislation that officially extended EmPOWER through 2023 and codified the 2% goal.⁴ Similar to the 2008, the 2017 law only required Maryland's utilities to contribute to the energy consumption savings, not DHCD. Once again, DHCD was left out. DHCD's exclusion from the requirement established by the law created a perverse incentive for

¹ <https://energy.maryland.gov/Pages/Facts/empowerPlanning.aspx>

² <https://energy.maryland.gov/Pages/Facts/empowerPlanning.aspx>

³ https://www.epa.gov/sites/default/files/2017-07/documents/empower_maryland_case_study_7-19-17.pdf

⁴ <https://mgaleg.maryland.gov/2017RS/bills/sb/sb0184T.pdf>

the PSC to prioritize funding the utilities to ensure that their annual targets are met. As you can see from the charts below, the EmPOWER budgets in the 2019 and 2020 program cycles for Maryland's utilities were six times the budget for DHCD. You can also see from the charts below, that the utilities' actual spending was much less than the budgets, while DHCD's spending was higher than its budget.

Separately, there's another reason why EmPOWER has struggled to serve low-income Marylanders. In 2012, when the PSC transferred the implementation of the low-income EmPOWER programs to DHCD, the Commission cited DHCD's experience in implementing the Weatherization Assistance Program since the 1970s and in successfully deploying \$114 million in funding from the American Recovery and Reinvestment Act (ARRA) stimulus in 2009.⁵ Unfortunately, there are many U.S. households that are unable to benefit from WAP as well. These households often occupy old, deteriorated housing with health and safety hazards that must be addressed prior to weatherization. As a result, these households would get deferred until they could find the resources to address the issues. Though WAP has been around since the 1970s, it was only recently when the federal government took actions to help these often-low-income households address the health and safety issues so they could benefit from WAP. In 2020, DOE partnered with HUD to leverage HUD's lead hazard control and healthy homes program to address the health and safety issues prior to DOE performing weatherization.⁶ Also in 2020, Congress authorized DOE to create a weatherization readiness fund to help low-income households address the health and safety issues that prevented weatherization in the past.⁷ These solutions will be helpful in increasing the number of U.S. households that can benefit from WAP.

Nationwide, we're starting to see more state and utility programs recognize the embedded inequities that have existed and incorporate solutions to overcome them. In Illinois, the 2017 *Future Energy Jobs Act* mandated that investor-owned electric utilities realize yearly energy savings goals, while meeting a minimum spending level specifically for low income households.⁸ In Minnesota, the ECO Act increased the amount of amount that electric and gas utilities must contribute to low-income energy efficiency and allowed 15% of program funds to be used for pre-weatherization (health and safety) measures.⁹ In New York, the Climate Leadership and Community Protection Act (CLCPA) required that a minimum of 40% of the benefits of energy and climate programs must accrue to disadvantaged communities.¹⁰ Finally, the Biden administration's Justice40 initiative, which was inspired by New York's law, requires 40% of funding to benefit disadvantaged communities nationwide.¹¹

⁵ https://www.epa.gov/sites/default/files/2017-07/documents/empower_maryland_case_study_7-19-17.pdf

⁶ https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps/fy20_healthyhomes_weatherization

⁷ <https://www.energy.gov/articles/doe-announces-186-million-expand-weatherization-assistance-program> ill

⁸ <https://www.mwalliance.org/blog/illinois-passes-climate-and-equitable-jobs-act-sb-2408>

⁹ <https://www.mwalliance.org/blog/minnesota-passes-eco-act-modern-and-expansive-update-its-ee-framework>

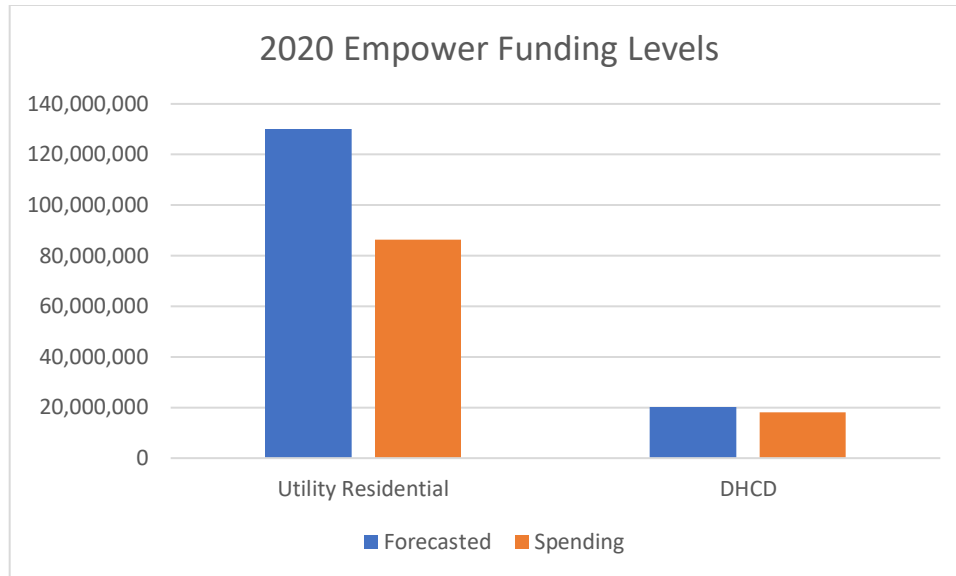
¹⁰ <https://climate.ny.gov/Our-Climate-Act>

¹¹ <https://www.whitehouse.gov/omb/briefing-room/2021/07/20/the-path-to-achieving-justice40/>

SB 524, if passed, will increase the number of low-income Marylanders that benefit from EmPOWER. This is a tremendous opportunity for our state to prioritize our most vulnerable neighbors. I urge a favorable report from this committee. Thank you for your consideration.

Sincerely,

Jamal Lewis



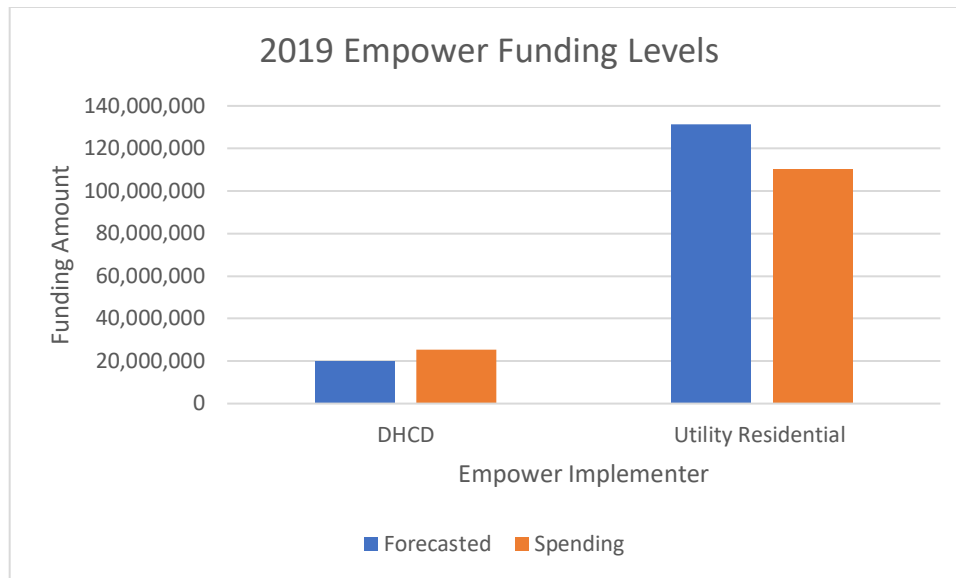
Source: <https://www.psc.state.md.us/wp-content/uploads/2021-EmPOWER-Maryland-Energy-Efficiency-Act-Standard-Report.pdf>

Table 18 Forecasted 2020 EE&C Budgets

Utility	Residential	C&I	DHCD Limited-Income Program	Total
BGE	\$71,996,225	\$55,720,010	\$15,967,824	\$143,684,059
DPL	\$8,608,200	\$22,447,251	\$0	\$31,055,451
PE	\$16,221,721	\$19,800,699	\$4,231,223	\$40,253,644
Pepco	\$22,158,040	\$67,939,894	\$0	\$90,097,934
SMECO	\$11,091,204	\$10,419,821	\$0	\$21,511,025
Total	\$130,075,390	\$176,327,676	\$20,199,047	\$326,602,113

Table 19 Reported 2020 EE&C Spending

Utility	Residential	C&I	DHCD Limited-Income Program	Total
BGE	\$42,459,727	\$57,665,578	\$8,649,526	\$108,774,831
DPL	\$6,090,134	\$18,376,468	\$3,726,181	\$28,192,783
PE	\$9,917,856	\$15,867,043	\$2,683,983	\$28,468,881
Pepco	\$17,714,838	\$46,711,423	\$2,912,267	\$67,338,528
SMECO	\$10,171,728	\$4,635,515	\$10,906	\$14,818,149
Total	\$86,354,283	\$153,173,883	\$17,982,862	\$257,511,029



Source: <https://www.psc.state.md.us/wp-content/uploads/2020-EmPOWER-Maryland-Energy-Efficiency-Act-Standard-Report.pdf>

Table 18 Forecasted 2019 EE&C Budgets

Utility	Residential	C&I	DHCD Limited-Income Program	Total
BGE	\$71,853,705	\$55,568,398	\$15,967,824	\$143,389,927
DPL	\$7,803,565	\$17,628,208	\$0	\$25,431,774
PE	\$17,885,523	\$17,258,428	\$4,141,043	\$39,284,994
Pepco	\$22,398,531	\$51,629,482	\$0	\$74,028,013
SMECO	\$11,384,760	\$6,039,412	\$0	\$17,424,172
Total	\$131,326,084	\$148,123,928	\$20,108,867	\$299,558,879

Table 19 Reported 2019 EE&C Spending

Utility	Residential	C&I	DHCD Limited-Income Program	Total
BGE	\$57,978,980	\$57,283,384	\$14,117,353	\$129,379,717
DPL	\$7,632,874	\$13,886,761	\$4,967,888	\$26,487,523
PE	\$13,838,225	\$13,822,840	\$2,140,657	\$29,801,722
Pepco	\$20,987,505	\$49,520,165	\$4,194,954	\$74,702,624
SMECO	\$10,040,803	\$5,090,347	\$10,505	\$15,141,655
Total	\$110,478,387	\$139,603,497	\$25,431,357	\$275,513,241