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June 5, 2020

By Electronic Filing

Andrew S. Johnston, Executive Secretary
Maryland Public Service Commission
William Donald Schaefer Tower
6 Saint Paul Street, 16th Floor
Baltimore, MD 21202-6806

**Re: *In the Matter of the Complaint of the Staff of the Public Service Commission v. SmartEnergy Holdings, LLC d/b/a SmartEnergy*
Case No. 9613**

***In the Matter of the Complaint of the Staff of the Public Service Commission v. Direct Energy Services, LLC*
Case No. 9614**

***In the Matter of the Complaint of the Staff of the Public Service Commission v. U.S. Gas & Electric D/B/A Maryland Gas & Electric and Energy Services Providers, Inc. D/B/A Maryland Gas & Electric*
Case No. 9615**

Dear Mr. Johnston:

On behalf of SmartEnergy Holdings, LLC d/b/a SmartEnergy; Direct Energy Services, LLC; and U.S. Gas & Electric D/B/A Maryland Gas & Electric and Energy Services Providers, Inc. D/B/A Maryland Gas & Electric, together with the Staff of the Commission and the Office of People's Counsel, I have attached for filing in the above-referenced proceedings a *Joint Agreed Status Report*.

Please feel free to contact me if you have any questions.

Sincerely,

/s/ Brian R. Greene

Brian R. Greene

Enclosure

C: Service Lists for Case Nos. 9613, 9614, and 9615 (by e-mail only)

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

In the Matter of:	*	
	*	
The Complaint of the Staff of the Public	*	
Service Commission	*	
	*	CASE NO. 9613
v.	*	
	*	
SmartEnergy Holdings, LLC d/b/a	*	
SmartEnergy	*	

In the Matter of:	*	
	*	
The Complaint of the Staff of the Public	*	
Service Commission	*	
	*	CASE NO. 9614
v.	*	
	*	
Direct Energy Services, LLC	*	

In the Matter of:	*	
	*	
The Complaint of the Staff of the Public	*	
Service Commission	*	
	*	CASE NO. 9615
v.	*	
	*	
U.S. Gas & Electric, Inc. d/b/a	*	
Maryland Gas & Electric	*	
and	*	
Energy Services Providers, Inc. d/b/a	*	
Maryland Gas & Electric	*	

JOINT AGREED STATUS REPORT

JOINT AGREED STATUS REPORT

SmartEnergy Holdings, LLC d/b/a SmartEnergy (“SmartEnergy”), U.S. Gas & Electric, Inc. d/b/a Maryland Gas & Electric and Energy Services Providers, Inc. d/b/a Maryland Gas & Electric (together, “MDG&E”), and Direct Energy Services, LLC (“Direct Energy”), (the “Responding Parties”)¹, the Office of People’s Counsel (“OPC”), and the Staff of the Commission (“Staff”), (collectively, “the parties”) jointly provide the following status report as required by the Public Utility Law Judges (“PULJs”) orders granting the parties’ Joint Motion to Stay in this matter. As discussed below, the parties support continuation of the current stay and propose filing a further status update for each case on or before July 10, 2020.

STATUS REPORT

1. The PULJs for each of the above-captioned cases issued rulings on preliminary motions and notices of procedural schedules (the “Orders”).²

2. The Responding Parties and OPC, with the support of Staff, filed a Joint Agreed Motion to Stay (“Motion to Stay”) the above-captioned cases on April 1, 2020, which was granted on April 7, 2020.

3. Concerning SmartEnergy, Judge Lawrence entered an order on April 7, 2020 granting the parties’ Motion to Stay and suspending the procedural schedule for 75 days, up to and including June 21, 2020. The order also requires the parties to reconvene via teleconference on or

¹ The Responding Parties in these three separate dockets, in the interest of efficiency and consistency, provide this Status Report in a singular pleading. However, for the avoidance of doubt, each Responding Party fully reserve their right to independently pursue their respective claims, defenses, and interests in each unrelated docket as the cases present different issues with different underlying factual and legal considerations in each case.

² Case No. 9613: September 12, 2019, Ruling on Preliminary Motions and Notice of Procedural Schedule (ML 226736). Case No. 9614: January 6, 2020, Notice of Procedural Schedule (ML 228059). Case No. 9615: September 16, 2019, Public Utility Law Judge’s Ruling on Preliminary Motions and Scheduling Order (ML 226844).

before June 5, 2020 to discuss the current status of Coronavirus (“COVID-19”) and whether it is appropriate to lift the stay and resume the case by establishing procedural dates that comply, to the extent reasonably possible, with the timelines remaining in the current procedural schedule; and requesting that the parties provide a joint status report on June 10, 2020.

4. As to Direct Energy and MDG&E, Judge Grace entered separate orders on April 7, 2020 granting the Motion to Stay in each case, suspending the procedural schedules, canceling the scheduled hearings, and requesting that the parties provide status updates on or before June 7, 2020.

5. Counsel for the parties convened via teleconference on May 29, 2020 and again on June 2, 2020 to discuss the status of the stay and the parties’ positions in light of the ongoing COVID-19 pandemic and difficulties attendant to the continuing mandatory restrictions on movement in many cities and states in which the above-referenced parties are headquartered and/or operating, varying levels of difficulty in continuing to operate their businesses and performing tasks necessary to prepare each of their respective cases for hearings in these dockets.

6. Governor Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency on March 5, 2020, renewed on March 17, 2020, to control and prevent the spread of COVID-19 within Maryland. Since then, Gov. Hogan has issued orders, among other things, prohibiting gatherings of 10 persons or larger, closing non-essential businesses and certain other businesses, and closing schools. In addition, on March 30, 2020, Governor Hogan issued a general directive for all Maryland citizens to “stay at home” except for “Essential Activities.”³ Most recently, on May 29, 2020, Governor Hogan issued another order relating to COVID-19 and

³ Order Of The Governor Of The State Of Maryland, Number 20-03-30-01, March 30, 2020. All of Governor Hogan’s Orders, Proclamations, and Interpretive Guidance relating to COVID-19 are available at: <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>.

declaring that ‘the state of emergency and catastrophic health emergency still exists’⁴ and, on June 3, 2020, issued a Proclamation renewing the state of emergency initially proclaimed on March 5, 2020.⁵ While Maryland is cautiously entering “Phase 2” of its reopening,⁶ several jurisdictions, including Baltimore City which extended the stay-at-home order,⁷ have maintained COVID related health restrictions despite the Governor’s relaxation of such restrictions at the State level.

7. Other states issued similar states of emergencies and implemented similar restrictions to control and prevent the spread of COVID-19.⁸ Many of these restrictions remain in place, as states evaluate phased re-openings and the continued rise in COVID-19 cases as we enter the summer months.

8. The Responding Parties represent that: (1) the challenges noted by the parties in the Motion to Stay remain unchanged, if not worse, given that cases of COVID-19 continue to increase and restrictions on movement and access to offices is in most cases prohibited; (2) they continue to experience resource-strain due to unique issues raised by operating their respective retail energy supply businesses across multiple states during a worldwide health crisis, and now some states have different restrictions in different areas of the state to which Responding Parties must adhere; and (3) the same concerns that existed two months ago exist today due to continuing challenges presented by remote work, furloughed employees, children out of school for the summer months with cancelled camps and closed daycare facilities, travel restrictions, and more.

⁴ Order Of The Governor Of The State Of Maryland, Number 20-05-29-02, May 29, 2020.

⁵ Proclamation Of The Governor Of The State Of Maryland, June 3, 2020.

⁶ Order Of The Governor Of The State Of Maryland, Number 20-06-03-01, June 3, 2020.

⁷ See <https://mayor.baltimorecity.gov/news/press-releases/2020-05-15-mayor-bernard-c-%E2%80%9Cjack%E2%80%9D-young-extends-stay-home-order-baltimore-city>.

⁸ The Kaiser Family Foundation, a non-profit organization focusing on national health issues, maintains a website dedicated to COVID-19, including data related to actions taken by states to control the spread of the virus. The website is available at: <https://www.kff.org/health-costs/issue-brief/state-data-and-policy-actions-to-address-coronavirus/>.

9. The Responding Parties' current difficulties in preparing their respective cases, responding to written testimony and discovery, as well as meeting various procedural deadlines in light of the current health pandemic are identical to the issues faced at the time of the original filing of the Motion to Stay in April 2020.

10. Also as explained in the Motion to Stay, evidentiary hearings in these matters will involve extensive cross-examination of numerous witnesses, and the introduction of numerous written and audio exhibits including confidential materials, over the course of a number of days. Virtual hearings will present technological challenges and will include additional challenges with respect to preparation. The Responding Parties, OPC, and Staff continue to believe that in-person hearings would be far superior for these complex matters than remote hearings.

11. Given the PULJ's wide discretion, the Responding Parties, OPC, and Staff respectfully jointly request the following:

- a. All deadlines in the above-captioned matters continue to be stayed indefinitely for the reasons set forth above and all parties are prohibited from issuing discovery during the continued period of the stay and relieved of the obligation to object to, answer, and supplement any discovery issued before the stay became effective.
- b. The parties will reconvene via teleconference prior to filing an updated joint status report concerning these matters on or before July 10, 2020.

12. The parties reiterate their commitment to exercise good faith efforts to accommodate the rescheduling of the hearings and compliance with the Orders once the stay is lifted.

Respectfully submitted,

**SMARTENERGY HOLDINGS, LLC
D/B/A/ SMARTENERGY**

/s/ Brian R. Greene

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**U.S. GAS & ELECTRIC, INC.
D/B/A MARYLAND GAS & ELECTRIC
AND
ENERGY SERVICES PROVIDERS, INC.
D/B/A MARYLAND GAS & ELECTRIC**

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Date: June 5, 2020

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