ORDER NO. 90261

2021-2023 EMPOWER MARYLAND PROGRAM	* * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9648

Issue Date: June 15, 2022

ORDER ON SEMI-ANNUAL EMPOWER REPORTS

I. INTRODUCTION

1. On May 5, 2022, the Commission held a legislative-style hearing[1] in the above-captioned case to review, *inter alia*, the semi-annual EmPOWER Maryland reports for the third and fourth quarters of 2021 as filed by the Potomac Edison Company ("Potomac Edison"),[2] Southern Maryland Electric Cooperative, Inc. ("SMECO"),[3] Baltimore Gas and Electric Company ("BGE"),[4] Potomac Electric Power Company ("Pepco"),[5] Delmarva Power & Light Company

[1] Notice of the hearing date and comment period for this matter was provided on March 4, 2022 (Maillog No. 239436).
[2] Maillog No. 239081: Potomac Edison 2021 Second Semi-Annual EmPOWER Maryland Report for the Period of July 1 - December 31 ("Potomac Edison Report") (February 14, 2022).
[3] Maillog No. 239134: Southern Maryland Electric Cooperative, Inc.'s Q3/Q4 2021 Semi-Annual EmPOWER Maryland Report ("SMECO Report") (February 15, 2022).
[4] Maillog No. 239131: Baltimore Gas and Electric Company 2021 Year-End EmPOWER Maryland Report for July 1 through December 31, 2021 ("BGE Report") (February 15, 2022).
[5] Maillog No. 239126: Potomac Electric Power Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (August 16, 2021); Maillog No. 237289: Errata to Potomac Electric Power Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (March 4, 2022); and Maillog No. 240097: Second Errata to Potomac Electric Power Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 2021 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (April 7, 2022) (collectively, "Pepco Report").

("Delmarva"),[6] (collectively, "the Electric Utilities"), Washington Gas Light Company ("WGL"),[7] (collectively, with the Electric Utilities, "the Joint Utilities"), and the Maryland Department of Housing and Community Development ("DHCD").[8]

2. The Commission also reviewed filings from the Commission's Technical Staff ("Staff"), including the Interim[9] and Final[10] Midstream Reporting Metrics Status Reports on behalf of the EmPOWER Reporting and Process Improvement ("ERPI") Work Group, the Greenhouse Gas Abatement Reporting Metrics on behalf of the ERPI Work Group,[11] the Finance Work Group Report,[12] and the Cost Recovery Work Group Report,[13] the Limited-Income Work Group Multifamily Energy Efficiency and Housing Affordability Program ("MEEHA") Budget Analysis filed by DHCD,[14] the Future Programming Work Group Report filed by the Commission's Public Utility Law Judge ("PULJ") Division,[15] the Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures filed by the Maryland Energy Efficiency Advocates ("MEEA")[16]

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[6] Maillog No.239124: Delmarva Power & Light Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (February 15, 2022); Maillog No. 239444: Errata to Delmarva Power & Light Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (March 4, 2022); and Maillog No. 240096): Second Errata to Delmarva Power & Light Company's Year-End EmPOWER Maryland Report YTD Q3 and Q4 Energy Efficiency and Conservation (EE&C) and Demand Response (DR) Programs (April 7, 2022) (collectively, "Delmarva Report").

[7] Maillog No. 239129: Washington Gas Semi-Annual EmPOWER Maryland Report for the Period of July 1 – December 31, 2021 ("WGL Report") (February 15, 2022).

[8] Maillog No. 239112: Department of Housing and Community Development EmPOWER Maryland Limited Income Programs Semi-Annual Report Q3/Q4 2021 ("DHCD Report") (February 15, 2022).

[9] Maillog No. 239132: ERPI Work Group Status Report - Midstream Reporting Metrics ("ERPI Interim Midstream Status Report") (February 15, 2022).

[10] Maillog No. 240222: ERPI Work Group Status Report - Midstream Reporting Metrics ("ERPI Final Midstream Status Report") (April 15, 2022).

[11] Maillog No.240217: ERPI Work Group - Midstream Reporting Metrics - Greenhouse Gas Abatement ("ERPI GGR Metrics Report") (April 15, 2022).

[12] Maillog No. 239394: Finance Work Group Report (March 1, 2022).

[13] Maillog No. 240223: Cost Recovery Work Group Report (April 15, 2022).

[14] Maillog No. 240207: Limited-Income Work Group MEEHA Budget Analysis Prepared by the Department of Housing and Community Development ("Limited-Income Work Group Report") (April 15, 2022).

[15] Maillog No. 240203: Future Programming Work Group Report (April 15, 2022).

[16] Maillog No. 240349: Maryland Energy Efficiency Advocates Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures ("MEEA Motion") (April 25, 2022).

and responses thereto,[17] and the filing by Pepco on behalf of the Joint Utilities in response to Commissioner O'Donnell's bench request for options on addressing EmPOWER's unamortized balance,[18] as well as a response thereto from OPC.[19]

3. Finally, the Commission reviewed comments pertaining to the semi-annual reports as filed by Staff,[20] the Maryland Office of People's Counsel ("OPC"),[21] the Maryland Energy Administration ("MEA"),[22] Montgomery County, Maryland,[23] MEEA,[24] the Heating and Air Conditioning Contractors of Maryland, Inc. ("HACC") and the Association of Air Conditioning Professionals ("AACP") (together "HACC/AACP"),[25] and Virginia Towers, LLC,[26] comments filed by the Joint Utilities on the Future Programming Work Group Report,[27] comments filed by

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[17] Maillog No. 240554: Staff Response to Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures (May 4, 2022); Maillog No. 240629: OPC Response to Motion to End Gas Appliance Incentives (May 10, 2022); Maillog No. 240652: WGL Opposition to Motion (May 12, 2022).

[18] Maillog No. 240784: Joint Utilities' Response to Commissioner O'Donnell's Bench Request Regarding the Payback of Unamortized Balance ("Joint Utilities' Response to Bench Request") (May 20, 2022).

[19] Maillog No. 240896: OPC Response to EmPOWER Maryland Utilities Filing of May 20, 2020, Regarding the Unamortized Balance (May 31, 2022).

[20] Maillog No. 240347: Comments of the Public Service Commission Staff 2021 Semi-Annual EmPOWER Maryland Programmatic Reports for the Third and Fourth Quarters ("Staff Comments") (April 25, 2022).

[21] Maillog No. 240354: OPC Comments on the EmPOWER Utilities' and DHCD's Semi-Annual Reports for Q3-Q4 of the 2021 EmPOWER Maryland Program Cycle ("OPC Comments") (April 25, 2022).

[22] Maillog No. 240344: Maryland Energy Administration Comments - EmPOWER Maryland Semi-Annual Reports ("MEA Comments") (April 25, 2022).

[23] Maillog No. 240352: Montgomery County, Maryland Comments on Case No. 9648 – The 2021-2023 EmPOWER Maryland Program ("Montgomery County Comments") (April 25, 2022).

[24] Maillog No. 240350: The Maryland Energy Efficiency Advocates' Comments on the EmPOWER Maryland Q3-Q4 2021 Semi-Annual Reports filed by the Utilities and the Department of Housing and Community Development ("MEEA Comments") (April 25, 2022).

[25] Maillog No. 240353: Comments of the Heating and Air Conditioning Contractors of Maryland, Inc., and the Association of Air Conditioning Professionals ("HACC/AACP Comments") (April 25, 2022).

[26] Maillog No. 240563: Virginia Towers, LLC - Comments - 2021 Semi-Annual EmPOWER Maryland Programmatic Reports for the Third and Fourth Quarters ("Virginia Towers Comments") (May 4, 2022).

[27] Maillog No. 240355: Comments of the Joint EmPOWER Maryland Utilities on the Future Programming Work Group Report ("Joint Utilities Comments") (April 26, 2022).

OPC on the ERPI Work Group Midstream Reporting Metrics Status Reports,[28] and responses to the MEEA Motion as filed by Staff,[29] OPC,[30] and WGL.[31]

4. The filings analyzed the performance of the Joint Utilities' and DHCD's portfolios for the second half of the 2021 program year, offered recommendations for programmatic and reporting improvements to the 2021-2023 EmPOWER program cycle, and addressed considerations for the Commission regarding the next three-year EmPOWER Maryland program cycle set to begin in 2024, among other things. The May 5 Hearing allowed the parties to provide additional testimony to the Commission. Upon review of the filings, testimony, and requests presented, the Commission makes the determinations set forth below. Furthermore, a separate order addressing the cost recovery of unamortized balances and the use of performance incentive mechanisms to reduce these balances, if appropriate, will be issued at a later date.

II. ISSUES AND COMMISSION DECISIONS

A. BGE's Midstream Appliance Recycling Pilot Program

5. BGE requests approval to implement a new Midstream Appliance Recycling Pilot Program as part of its legacy Appliance Recycling Program. BGE intends to partner with Appliance Recycling Centers of America to intervene at the midstream level in order to prevent old, inefficient refrigerators from being resold in the second-hand appliance market and plugged into the grid.[32] BGE would work with national and independent new-appliance retailers, as well as

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[28] Maillog No. 239595: OPC Comments regarding EPRI Work Group - Midstream Reporting Metrics - Status ("OPC Midstream Reporting Comments") (March 16, 2022).
[29] Maillog No. 240554: Staff Response to the Maryland Energy Efficiency Advocates Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures ("Staff Response to MEEA Motion") (May 4, 2022).
[30] Maillog No. 240629: Office of People's Counsel's Response in Support of Maryland Energy Efficiency Advocates' Motion to End Gas Appliance Incentives ("OPC Response to MEEA Motion") (May 10, 2022).
[31] Maillog No. 240652: WGL Opposition to Motion (May 12, 2022).
[32] BGE Report, at 17.

local used appliance stores, to purchase and recycle any working refrigerators retailers collect from their customers.[33]

6. The Commission recognizes several potential benefits to the Pilot Program, including the reduction of greenhouse gas ("GHG") emissions given that fewer inefficient refrigerators would be kept in use, the offering of more efficient second-hand refrigerators to income-eligible customers, and low marketing costs for BGE given the Pilot Program's targeted audience. The Commission grants BGE's request for approval of a Midstream Appliance Recycling Pilot Program, as well as Staff's recommendation that the evaluation of the Midstream Appliance Recycling Pilot Program will need to be reviewed and agreed to by the utility evaluators and Maryland's independent evaluator.[34]

B. Finance Work Group Report

7. In Order No. 89855, the Commission approved the Clean Energy Advantage Residential Lending Pilot Program ("CEA Pilot Program") intended to provide financing options to customers.[35] The CEA Pilot Program was not a consensus proposal, with MEA and OPC both raising concerns that the Pilot was not designed to adequately reach the limited-income community given that the Program is equally available to all customers with a credit score of 640 or higher.[36] MEA and OPC proffered that directing the Pilot towards income-challenged or lower-credit customers would have a greater chance of increasing EmPOWER participation by reaching those who may not otherwise be able to participate.[37] The Commission directed the Work Group to

[33] *Id*. at 58.
[34] Staff Comments, at 18 and 19.
[35] Order No. 89855, at 14 (June 14, 2021).
[36] *Id*.
[37] *Id*. at 15.

reexamine the feasibility of offering financing to customers with credit scores in the 600-640 range and to file a status report with proposals to address this issue by March 1, 2022.

8. In Order No. 90035, the Commission further directed the Finance Work Group to include in its March 1, 2022 status report the reporting templates to be used for the CEA Pilot Program.[38]

9. The March 1, 2022 Finance Work Group Report contained the following information on the cost differential associated with lowering the CEA Pilot Program's credit score requirement to 600:

> 1. The minimum Loan Loss Reserve ("LLR") set aside would increase.
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> 2. The minimum LLR balance would be increased from $40,000 to $75,000.
>
> 3. Loss coverage would increase for those loans with less than a 640-credit score.
>
> Based on these parameters, the potential result for the program would be to increase the total cost of the LLR by approximately $268,000. The approved budget is $977,000. This does not include any incremental costs associated with the buy down of loans as that is dependent on the number and amount of loans, any additional funds to cover a deeper interest rate subsidy, or any incremental administrative costs on behalf of the CEA Pilot Parties. Finally, if there are more than 3 defaults due to providing loans to customers with credit scores between 600 and 640 under the program then there would be greater program cost due to less refunding of the LLR escrow accounts to the EmPOWER Utilities at the end of the program.[39]

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[38] In Order No. 90003, the Commission also directed the Finance Work Group to include in its status report the CEA Pilot Program launch date (anticipated or actual). Order No. 90003, at 5 and 6 (December 14, 2021). In its March 1, 2022 status report, the Finance Work Group stated that the anticipated launch date, pending the resolution of any unresolved issues, would be on or before March 31, 2022. Finance Work Group Report, at 2.

[39] Finance Work Group Report, at 2 and 3.

The Commission notes that the cost differential provided is from the sole CEA Pilot Program lender, and that competition among lenders could possibly reduce the costs.

10. The Commission has previously stated that it finds the goal of addressing customer socioeconomic equity to be of great importance for an EmPOWER financing program.[40] If the CEA Pilot Program proves to be successful and worthy of extension beyond the pilot phase, modifications should be made to the program so as to create opportunity for customers with credit scores between 600 and 640 to participate. The Finance Work Group is therefore directed to include in its July 15, 2023 final report cost proposals from additional lenders that are reflective of the 600 credit score requirement.[41]

11. The March 1, 2022 Finance Work Group Report also contained the reporting metrics to be used for the CEA Pilot Program. The Report noted that OPC provided the following list of additional metrics that they recommended be included in the reporting metrics:

1. Average Value of Loans Funded by Income Brackets
    a. Low Income (less than or equal to 250% of the Federal Poverty Level
    b. Middle/Upper Income (Greater than 250% of the Federal Poverty Level

2. Median Credit Score for Loans Funded

3. Number of Loan Applications Denied

4. Basis for loan denial (e.g., credit score too low, ineligible scope of work)

5. The number of accounts in default[42]

[40] Order No. 89855, at 15.

[41] The Finance Work Group is currently under direction from the Commission to file a final report on the CEA Pilot Program by July 15, 2023. Order No. 89855, at 16.

[42] Finance Work Group Report, at 3.

12. Staff agrees with and supports consideration of these additional metrics, and the Joint Utilities agree to continue to discuss and consider these additional reporting metrics.[43] The CEA Pilot Program's administrators[44] state that they cannot commit to reporting the requested metrics as they do not have direct access to confidential information such as income levels and loan denials because it resides with the lender, but that they are willing to make requests of the lender for the information.[45]

13. The Commission finds that the metrics requested by OPC would be helpful in assessing the equity and impact of the CEA Pilot Program and therefore directs that the data be included in the July 15, 2023 final report. Conversely, if the program administrators are unable to obtain any of the above-stated data, the July 15, 2023 report is to include an explanation as to attempts made to obtain the data and the basis for the absence of any data.

C. Midstream Work Group Report

14. Several utilities reported in their semi-annual reports for the first and second quarters of 2021 that their midstream program performance for heating, ventilation, and air conditioning ("HVAC") units and heat pump water heaters ("HPWH") was falling behind savings and participation forecasts. The Commission determined that the Utilities could benefit from a review of successful midstream program strategies, as well as from support in the development and deployment of improved midstream practices. In Order No. 90003, the Commission directed the Midstream Work Group to convene for this purpose, and to file a status report by April 15, 2022 detailing the substance and outcome of the Work Group meeting. The report was to include a

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[43] *Id*.
[44] The Maryland Clean Energy Center ("MCEC") and Montgomery County Green Bank ("MCGB").
[45] Finance Work Group Report, at 3 and 4.

review of industry best practices, a comparison of the Maryland programs to others nationally, and recommendations to improve the performance of any utility programs not meeting their targets.[46]

15. The Midstream Work Group filed its status report on April 15, 2022, referring to it as a "preliminary report" due to its inability to complete the review of industry best practices or comparisons to other states due to time constraints.[47] The Work Group stated its intention to continue meeting and gathering additional information on results and practices in other states, as well as the Joint Utilities' evaluator's plan to conduct a midstream program process evaluation in Fall 2022.[48]

16. Despite being preliminary in nature, the Midstream Work Group Report contained valuable information as to why the midstream programs continue to underperform, as well as plans for improvement, including the following:

- A substantial portion of water heaters are purchased by contractors through distributors to install for end-use customers. The contractors are only able to receive rebates through participating distributors, after paperwork has been submitted, and often with great delay in processing. The utilities have agreed to work with the distributors to reduce lag times for payment to contractors, ideally to an instant rebate at point of purchase.[49]

- Differences in the categorization of the midstream programs makes it difficult to accurately assess the utilities' programs. Some utilities report both midstream and downstream rebates while others report only one. It is possible that many rebates that could be reported as midstream are not being reported as such. Certain aspects of the program must be more clearly defined, such as midstream versus upstream versus downstream and retailers versus distributors. Once a common understanding has been reached, the utilities must implement more unified

[46] Order No. 90003, at 6 (December 14, 2021).
[47] The Midstream Work Group Report did contain comparative performance data from the Efficiency Vermont heat pump water heater ("HPWH") midstream program. Midstream Work Group Report, at 1 and 2.
[48] *Id*. at 2.
[49] *Id*. at 14.

> programs to improve consistency and efficient market engagement.[50]

- Further study is needed to estimate sales lift, including free ridership, spillover, and market transformation, and to benchmark Maryland's midstream programs to those of other states.[51]

17. The Commission finds that the Midstream Work Group Report shows progress towards identifying the improvements needed in the midstream programs. In order to capitalize on this momentum, the Commission directs the Midstream Work Group to meet monthly to follow-up on the above-noted recommendations, complete further study, and consider other improvements as necessary. The Commission directs the Midstream Work Group to submit a status report on its actions and findings to the Commission by October 17, 2022.[52]

D. EmPOWER Reporting and Process Improvement Work Group Report

18. In Order No. 90003, the Commission directed the EmPOWER Reporting and Process Improvement ("ERPI") Work Group to establish and communicate to the Joint Utilities the necessary reporting metrics for their respective midstream programs and to file a status report on the metrics with the Commission by February 15, 2022.[53]

19. In its February 15, 2022 status report, the ERPI Work Group explained that the Joint Utilities were reviewing the reporting metrics proposed within the Work Group, and that the final

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[50] *Id*. at 15.
[51] *Id*. at 14.
[52] The status report should, at a minimum, include updates on the recommendations listed on pages 14 and 15 of the April 15, 2022 Midstream Work Group Report.
[53] The ERPI Work Group was previously directed to establish the necessary reporting metrics in Order No. 89855, but the Commission found in Order No. 90003 that, "based upon the information contained in the Joint Utilities' semi-annual reports, it is unclear what, if any, reporting metrics were established and to what extent the Joint Utilities included those metrics in their semi-annual reports." The Commission therefore reiterated its directive. Order No. 90003, at 7.

recommendations for reporting metrics would be included in the Work Group's April 15, 2022 status report.[54]

20. The ERPI Work Group's April 15, 2022 status report indicated that the Joint Utilities agree to report on the following metrics for their midstream programs, beginning with the semi-annual reports for the first and second quarters of 2022:

- Number of participating distributors and branches
- Provide the number of non-participating distributors and branches the Joint Utilities have made contact with during the reporting period
- Provide the number of recruitment visits/calls the Joint Utilities made to non-participating branches during the reporting period
- Number of distributor personnel in training or promotional events
- Proportion of incentives that were provided through the midstream channel for each measure category (e.g., water heaters and air source heat pumps)[55]

21. OPC recommended that the Joint Utilities also track the fraction of new HVAC sales that are heat pumps and the new water heater sales that are HPWHs. The Joint Utilities expressed concern that it would not be easy to obtain the requested data, to which OPC suggested that it may be available through a third-party source.[56]

22. The Commission accepts the reporting metrics set forth in the ERPI Work Group Report. The Commission finds that the metric requested for inclusion by OPC could be an important asset to the evaluation of the midstream programs, and therefore directs the utilities to investigate and report back to the Work Group by October 3, 2022 on the feasibility of gaining the statewide sales

[54] ERPI Interim Midstream Status Report, at 2.
[55] ERPI Final Midstream Status Report, at 1.
[56] *Id*. at 2 and 3.

data. The Commission directs the ERPI Work Group to file a status report on the findings by October 17, 2022.

23. In Order No. 90003, the Commission also directed the ERPI Work Group to file updated reporting templates designed to include relevant GHG reduction data by April 15, 2022.[57]

24. The ERPI Work Group Report filed on April 15, 2022 stated that Staff's proposal for GHG abatement reporting was to perform calculations using the Environmental Protection Agency's ("EPA") GHG Equivalencies Calculator for the remainder of the 2021-2023 program cycle, and that the Work Group reassess GHG reporting needs for the next program cycle. Staff's rationale for using the EPA's GHG Equivalencies Calculator was that it "would allow for consistent reporting across the different Utilities' reports."[58]

25. OPC noted that the Future Programming Work Group spent a significant amount of time discussing the methods and assumptions for calculating GHG reductions for the EmPOWER program cycle set to begin in 2024.[59] The Work Group reached a consensus to utilize a gross-life cycle basis with a predefined GHG abatement trajectory (i.e., tons of GHG per kilowatt-hour [("kWh")] for each year over the lifetime) and measure lifetime to calculate GHG reductions in the next cycle of EmPOWER.[60] OPC recommends that GHG reductions be calculated in the same manner for the current cycle.[61] MEEA and Montgomery County, Maryland support OPC's recommendation.[62]

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[57] *Id.* at 5.
[58] ERPI GGR Metrics Report, at 3.
[59] *Id.* at 4.
[60] Future Programming Work Group Report, at 8.
[61] ERPI GGR Metrics Report, at 3.
[62] MEEA Comments, at 6; Montgomery County Comments, at 5.

26. Absent the Future Programming Work Group consensus, the EPA GHG Equivalencies Calculator may have proven an appropriate approach to measurement; however, the Commission finds no basis to implement one calculation method for the remainder of the 2021-2023 program cycle and then a different method for the program cycle beginning in 2024. Doing so would create unnecessary discontinuity and deprive the EmPOWER program of at least one year's worth of data that would otherwise be comparable to future reporting. For these reasons, the Commission approves OPC's proposal to utilize a gross-life cycle basis with a predefined GHG abatement trajectory for the purpose of GHG reduction measurement for the remainder of the 2021-2023 EmPOWER cycle.

E. Limited-Income Work Group Report

27. In Order No. 90003, the Commission directed DHCD, in conjunction with the Limited-Income Work Group, to conduct an analysis of whether the current MEEHA funding allocation for each service territory is reasonable. The Limited-Income Work Group was directed to file a status report on the analysis, as well as any requests for modified funding allocation, by April 15, 2022.[63] The direction was provided partly in response to a filing by Virginia Towers, LLC ("Virginia Towers") alleging a backlog of projects unfunded by DHCD within the BGE service territory.[64]

28. In its April 15, 2022 status report, the Limited-Income Work Group reported that, between applications that are in process and interested projects in the queue, DHCD has sufficient interest in the MEEHA program to commit the remainder of the current cycle budgets in the BGE,

[63] Order No. 90003, at 8.
[64] Maillog No. 237452, at 4 (October 18, 2021).

Delmarva, and Pepco territories, while funding remains in the current cycle budgets for the PE and SMECO territories.[65]

29. The Work Group explained that funds may become available for additional projects in the current cycle in the BGE, Delmarva, and Pepco territories if: (1) a project where funds were reserved did not commit at all; (2) a project did not commit all of the funds that were reserved; (3) a completed project didn't use all the funds that were committed; or (4) DHCD transfers funds from its single-family programs to its multifamily program.[66] The Work Group also stated that projects in the queue are aware of the funding status, and that projects that don't receive funds in the current program cycle would be "at the top of the list for new funding in the next cycle.[67]

30. The Work Group reported no consensus on whether the MEEHA budget should be modified and made no suggestions for a modified amount.[68] OPC, MEEA, contractors, and owners support an increase to the MEEHA budget, stating that limited-income and multi-family markets continue to be underserved, and that allowing projects to be performed without delay helps to ensure retained owner interest and prevent the pursuit of less-efficient equipment.[69] Staff believes a budget increase is warranted if it would allow for more projects to be completed, allowing DHCD to surpass their forecasted energy savings goals.[70] PE, BGE, Pepco, and Delmarva did not take a position on the matter. SMECO and DHCD opposed an increase to the MEEHA budget. DHCD

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[65] Limited-Income Work Group Report, at 2.

[66] *Id*. The May 4, 2022 comments filed by Virginia Towers note that funding became available for the intended upgrades to its residential units and commercial space through DHCD's MEEHA program. Virginia Towers Comments, at 2 and 3.

[67] Limited-Income Work Group Report, at 2.

[68] *Id*. at 4.

[69] *Id*.

[70] Staff Comments, at 6.

asserted that no new funds are required to achieve the forecasts of the approved budget, and that the program is performing as intended.[71]

31. DHCD's MEEHA program is on track to achieve the forecasted savings stated in its Commission-approved 2021-2023 budget. The program currently has a large number of projects in process; therefore, an increased budget will not necessarily translate to the commitment of additional projects.[72] Furthermore, DHCD has demonstrated its willingness and ability to request additional funds if and when it deems necessary.[73] For these reasons, the Commission will not direct an increase to DHCD's MEEHA budget for the remainder of the 2021-2023 program cycle.[74]

F. MEEA Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures

32. On April 25, 2022, MEEA filed a Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures. In its Motion, MEEA requests that the Commission "end the growing misalignment between Maryland's gas appliance efficiency programs and Maryland's climate objectives" by determining that EmPOWER funds may no longer be used for gas appliance incentive measures.[75]

33. MEEA's Motion was filed in response to two new factors added[76] to Public Utilities Article ("PUA"), *Annotated Code of Maryland*, § 2-113(a)(2) that the Commission is required to consider when supervising and regulating public service companies:

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[71] Limited-Income Work Group Report, at 4.

[72] "There are still 36 projects in process at various stages of review that need to be committed and the construction of those projects needs to be completed." *Id*. at 2.

[73] "On January 24, 2022, Staff approved an $803,000 fund transfer from DHCD EmPOWER Single Family programs to the EmPOWER MEEHA program… This transfer is anticipated to assist MEEHA with exceeding some of its cycle forecasts." *Id*.

[74] DHCD budget adjustments are also addressed elsewhere in this Order in the "Limited-Income" subsection.

[75] MEEA Motion, at 2.

[76] Senate Bill 83/House Bill 298 ("SB 83/HB 298"), enacted during the 2021 Session of the Maryland General Assembly, became effective on October 1, 2021 and applied to all pending cases.

> (v) [...] the preservation of environmental quality, including protection of the global climate from continued short-term and long-term warming based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change; and
>
> (vi) the achievement of the State's climate commitments for reducing statewide greenhouse gas emissions, including those specified in Title 2, Subtitle 12 of the Environment Article.[77]

34. MEEA also cites as a basis for its Motion the Maryland Department of the Environment's ("MDE") 2030 Greenhouse Gas Reduction Act ("GGRA"), which calls for reducing emissions from buildings through energy efficiency and by converting fossil fuel heating systems to electric heat pumps;[78] the Maryland Commission on Climate Change's ("MCCC") recommendation to, among other things, encourage fuel-switching within EmPOWER programs beginning in 2024;[79] and the United Nations' Intergovernmental Panel on Climate Change ("IPCC") Mitigation of Climate Change Report finding that ending fossil fuel subsidies could reduce emissions by up to 10% by 2030.[80]

35. MEEA asserts that, since new gas appliances have expected useful lives of 15-20 years or more, customers receiving new appliances will remain gas customers for decades, thereby continuing the burning of fossil fuels rather than producing a reduction in GHG emissions as required by Maryland policy.[81]

36. MEEA's Motion concludes that the continued use of EmPOWER funds to subsidize gas appliances is directly contrary to the recommendations of the 2030 GGRA, the MCCC, and the IPCC, not to mention what it considers a clear state directive to dramatically reduce GHG

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[77] *Md. Ann. Code*, Envir. § 2-1201 *et seq*. Greenhouse Gas Emissions Reductions.
[78] MEEA Motion, at 1.
[79] *Id*.
[80] *Id*. at 2.
[81] *Id*. at 7.

emissions,[82] and therefore requests that the Commission end the EmPOWER funding of gas appliance incentive programs.[83]

37. OPC filed a response in support of MEEA's Motion, stating that gas incentives are contrary to the long-term interests of the State's gas utility customers and state policy.[84] OPC further argues that ending EmPOWER incentives for natural gas appliances, and instead using the funding to incentivize electric heat pumps, will bring about several benefits, including protecting ratepayers from rising natural gas prices, prioritizing the adoption of electric heat pumps, and reducing GHG emissions statewide.[85]

38. Staff responded to MEEA's Motion,[86] asserting that the removal of gas incentives would still allow for the purchase of gas appliances, with purchases likely being made of the less expensive, less efficient models, which would actually use more fuel and cause more GHG emissions.[87] Staff also argues that the removal of gas incentives is contrary to PUA § 7-211(d), which states:

> Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

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[82] *Id*. at 2.

[83] MEEA's Motion also included specific requests, including that the Commission require that the highest performance tiers for new construction programs should only be available for all-electric homes, that the Commission direct the Utilities to increase marketing and education efforts to prioritize promotion of high efficiency air source heat pumps when customers are choosing new equipment, and that the Commission direct the Electric Utilities to work with DHCD to create a fuel switching program using federal weatherization funds. *Id.* at 18-21.

[84] OPC Response to MEEA Motion, at 1.

[85] *Id*. at 2.

[86] Staff's response recommended that, if the Commission were to approve MEEA's request to end natural gas incentives, that it set a date no earlier than December 31, 2022 to end the funding of all EmPOWER Maryland gas appliance measures. In the alternative, Staff suggested that the Commission defer its decision to the consideration and approval of the programs of the next EmPOWER Maryland cycle. Staff recommended that, in any case, the Commission should deny all other requests made by MEEA in its Motion.

[87] Staff Response to MEEA Motion, at 4.

39. WGL filed an opposition to MEEA's Motion, also citing PUA § 7-211(d) as support for its position as well as PUA § 7-211(f)(1) and (2), which state:

> The Commission shall:
>
> (1) 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;
>
> (2) adopt rate-making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy

40. MEEA's Motion asks the Commission to eliminate EmPOWER Maryland funding for gas appliances. Even with the recent legislative enactments, this is a serious, impactful request that the Commission finds is not required at this time.

41. The recently enacted Climate Solutions Now Act of 2022 revised the EmPOWER Maryland statute to increase the targeted annual incremental gross energy savings for electric companies, as well as adding the following provision modifying the objective of setting these targeted reductions:

> For 2025 and thereafter, the core objective of the targeted reductions under this section shall include development and implementation of a portfolio of mutually reinforcing goals, including greenhouse gas emissions reduction, energy savings, net customer benefits, and reaching underserved customers.[88]

It follows that, in addition to the sources cited by MEEA in its Motion (the 2030 GGRA, the MDCC, and the IPCC), the Climate Solutions Now Act also is part of the movement towards increased electrification and GHG emissions reduction. The Commission does not deny this

[88] *Md. Ann. Code*, PUA § 7-211(g)(2)(v), as amended by the Climate Solutions Now Act of 2022 (Ch. 38, Acts 2022).

movement but finds a broad space between the requirement to address GHG emissions and the elimination of EmPOWER funding for an entire energy source.

42. The 2030 GGRA calls for the abatement of GHG emissions, which can be accomplished through electrification, as well as the improvement of vehicle efficiency, increased availability of electric vehicles, the deployment of more clean and renewable energy, and investments into energy efficiency, among other things. The GGRA does not require that natural gas no longer be used as a fuel source; therefore, the Commission's removal of natural gas incentives from the EmPOWER program would go beyond the GGRA's requirements.

43. The MCCC's recommendation to encourage fuel-switching within EmPOWER programs beginning in 2024 is a recommendation, not a requirement, and applies to the Joint Utilities' plan development for the upcoming EmPOWER program cycle. The MCCC does not require that natural gas no longer be used as a fuel source; therefore, the Commission's removal of natural gas incentives from the EmPOWER program would constitute an act beyond the MCCC's recommendation.

44. The IPCC's finding that ending fossil fuel subsidies could reduce emissions by up to 10% by 2030 is not a direction or requirement, but rather guidance on means to contribute towards the satisfaction of State climate goals. The IPCC does not require that natural gas no longer be used as a fuel source; therefore, the Commission's removal of natural gas incentives from the EmPOWER program would go beyond the IPCC's finding.

45. Finally, the Climate Solutions Now Act calls for EmPOWER in 2025 and beyond to have the core objective of a portfolio of mutually reinforcing goals to include GHG emissions reduction, energy savings, and reaching underserved customers. It does not require that natural gas be banned and no longer be used as a fuel source; therefore, the Commission's removal of natural gas

incentives from the EmPOWER program would go beyond the Climate Solutions Now Act requirements.

46. Conversely, PUA § 7-211 states that the Commission shall require each gas company to establish programs and services to encourage and promote the efficient use and conservation of energy, and that each gas company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy. Gas companies are still subject to EmPOWER, as is the requirement that the Commission review and authorize energy efficiency programs proposed by gas companies, including incentives to customers.

47. In addition to there being no legal requirement to eliminate natural gas incentives, the Commission cannot ignore the possibility that the elimination of such incentives could produce results contrary to State climate and EmPOWER goals. Removing gas appliance incentives may not necessarily lead customers to retrofit their home's system to fully convert to electric, which can be a lengthy, involved, and expensive undertaking. Rather, customers may be more likely to purchase less expensive gas appliances with lower efficiency than had an EmPOWER measure or incentive been applied. Alternatively, customers may choose to repair and continue to operate their older, less efficient gas appliance. In either scenario, the low-efficiency appliance would result in higher energy usage and GHG emissions, which is contrary to State climate and EmPOWER goals.

48. Without incentives for efficient gas appliances, there will be an imbalance in energy efficiency offerings for customers. Customers with electric appliances will have access to incentives for efficient appliances while customers with gas appliances will not. As discussed previously, this lack of incentives alone will unlikely be enough to convince customers to purchase electric alternatives; instead, customers will likely purchase less efficient gas appliances or repair

existing units. Without additional incentives to encourage those same customers to convert to electric appliances, the status quo will remain, doing more harm to the environment.

49. The currently approved gas appliance incentive programs for the existing EmPOWER program cycle are reducing GHG emissions. ENERGY STAR certified products meet strict energy-efficiency standards set by the U.S. Environmental Protection Agency which helps customers to save energy while protecting the climate.[89] To date, WGL's suite of programs, including the gas appliance rebate programs, has reduced 38,350 metric tons of carbon dioxide equivalent.[90] These programs are also cost-effective. WGL's total portfolio of programs achieved a benefit-cost ratio of 1.6 under the Total Resource Cost test in 2020, providing direct benefits to participants and in-direct benefits to all ratepayers.[91]

50. The Commission previously approved gas appliance incentives for the 2021-2023 program cycle based on evidence that these programs would reduce usage and provide benefits to customers. Ending these incentives mid-cycle, with no notice, may prevent the Utilities from meeting their targets and jeopardize the opportunities to achieve the savings and benefits outlined in their plans.

51. Finally, MEEA acknowledged that if its request for the elimination of gas incentives were to be granted, it could have a disproportionate effect on limited-income customers who may have been eligible for high-efficiency gas equipment through DHCD programs. To avoid this issue, MEEA recommends a "more robust incentive structure" for limited-income households.[92] The Commission agrees that the point raised by MEEA is a very real possibility, and one not likely

[89] https://www.energystar.gov/products.
[90] Maillog No. 240652, para. 18, at 5.
[91] *Id*. at para. 23, at 6.
[92] Future Programming Work Group Report, at 10 and 11.

rectified simply by increasing incentives. While that may address some of the customers' financial needs associated with fuel switching, it would not cover all the costs of a retrofitting, nor would it minimize what could potentially be a very lengthy and labor-intensive process. For this reason, as well as those stated above, the Commission denies MEEA's motion to eliminate EmPOWER funding to gas appliance incentives.[93]

G. Future Programming Work Group

52. In Order No. 89679, the Commission authorized the transition to the 2021-2023 EmPOWER Maryland Program and created the Future Programming Work Group[94] to consider proposals made in the 2021-2023 Plans and offer comments to assist with the development of the next EmPOWER cycle beginning in 2024.[95] The Work Group was directed to consider, among other things, a new goal structure, general energy reduction, customer bill impacts, greenhouse gas reduction, promoting electrification, and state climate action plan coordination and was directed to file its final recommendations with the Commission by April 15, 2022, which it accomplished.[96]

53. The Work Group held consistent, well-attended meetings over the course of 13 months and arrived at several consensus and partial-consensus recommendations.[97] Select recommendations, as well as some of the non-consensus matters, are addressed below.

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[93] Commissioner Linton concurs with the majority decision that ending the gas appliance program is not appropriate as a mid-cycle modification without further exploration and planning, but also notes that he finds the reasoning of the Dissent strongly persuasive on this issue, as well as the direction of State climate policy and how the energy industry will need to respond.

[94] The Order delegated the leadership of the Future Programming Work Group to the Commission's Public Utility Law Judge ("PULJ") Division.

[95] Order No. 89679 (December 18, 2020).

[96] *Id*. at 12.

[97] Future Programming Work Group Report, at 2 and 3.

i. Goal Structure

54. The Future Programming Work Group reached a partial consensus on the goal structure for the EmPOWER cycle beginning in 2024. The Work Group agreed that the program should transition from the current measurement of targeted electrical or gas savings to the measurement of targeted GHG reductions to be evaluated on a gross-lifecycle basis with a predefined GHG abatement trajectory (i.e., tons of GHG per kilowatt-hour [("kWh")] for each year over the lifetime) and measure lifetime.[98] It was also agreed that the abatement trajectory and measure lifetimes would be refreshed for each planning cycle, but that programs and measures would be evaluated for purposes of determining goal attainment with the measurements in place at the time the program is approved.[99]

55. The Work Group also agreed that the goals can be achieved through various behind-the-meter ("BTM") and front-of-the-meter ("FTM") programs as well as non-energy sources, but no agreement was reached on the specific percentages that should be allocated to BTM resources, FTM community and utility resources, and non-energy resources.[100] The Work Group reached a partial consensus that included the following four "straw" goals for the utilities to achieve the targeted GHG reductions:

> 1. At least X% of a utility's total GHG abatement goal be achieved through BTM and FTM community programs funded by EmPOWER based upon a utility-specific study, and that a minimum of X% of EmPOWER-funded BTM energy efficiency programs also based upon the referenced study.
>
> 2. A maximum of X% of a utility's total GHG abatement goal would be met with either non-energy resources or FTM Utility Resources, subject to the Commission's approval of the specific program(s) or initiative(s).

[98] *Id*. at 1.
[99] *Id*. at 8.
[100] *Id*. at 1.

> 3. Contributions to the GHG abatement goal through other initiatives, such as those that align with Public Conference ("PC") 44, could be included in each utility's specific plan. However, those initiatives must be BTM and FTM Community Resources that are not EmPOWER-funded and are subject to the Commission's approval.
>
> 4. A minimum of X% be focused on the Utilities' respective low-income customers and communities.[101]

The Work Group agreed that the percentages within the four utility goals should be determined by the Commission at a later date when more information becomes available.[102] The Joint Utilities request that the Commission not determine specific percentages, but rather provide guidance on minimum and maximum percentages.[103] Staff further noted that a range of percentages would provide flexibility to meet the GHG goal.[104]

56. On October 20, 2021, the Commission approved the Future Programming Work Group's Request to Issue a Request for Proposal for the Potential Study to Assist the Development of Future EmPOWER Maryland Goals ("Potential Study").[105] The Potential Study is intended to provide the Commission with key data to assist with setting the GHG abatement goals, should the Commission adopt the consensus goal structure reflected in the Work Group Report.[106] Specifically, the Future Programming Work Group recommends that the Commission set individual goals for each utility service territory based upon the Potential Study, as well as other

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101 *Id*., Attachment B, at 3.
102 *Id*. at 7. OPC and MEEA propose a division of 85%/15% BTM/other categories. *Id*. at 10.
103 Joint Utilities' Comments, at 4.
104 Future Programming Work Group Report, at 8.
105 Maillog No. 237494.
106 Joint Utilities' Comments, at 4.

relevant factors including State policies, historic performance, and balancing the ratepayers' interest in lower rates and bills.[107]

57. There was broad agreement in the Future Programming Work Group that, upon completion of the Potential Study, a goal-setting proceeding would be beneficial to the Commission in that the Joint Utilities and other stakeholders could provide feedback in response to the Potential Study findings and any perceived limitations therein.[108] Staff further proposed that a Work Group be convened in an effort to reach a consensus on potential goals and to discuss what other factors and evidence should be provided to the Commission.[109]

58. The Commission is being asked to approve the transition from the current measurement of targeted electrical or gas savings to the measurement of targeted GHG reductions for the EmPOWER cycle beginning in 2024, the consensus general goal framework involving BTM and FTM resources for the utilities to achieve the targeted GHG reductions, and a goal-setting proceeding in order to establish the specific goal requirements for the upcoming EmPOWER cycle.

59. The Commission notes that the recently enacted Climate Solutions Now Act sets a statewide GHG reduction goal of 60% by 2031 and raises the bar for electric efficiency savings the Utilities must achieve, calling for the current 2.0% annual incremental savings targets to continue through 2024, and then increase to 2.25% in 2025 and 2026 and to 2.5% in 2027 and in every year thereafter.[110] The Climate Solutions Now Act also states, in pertinent part, that in 2025

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[107] Future Programming Work Group Report, at 9 and 14.

[108] MEEA noted its concern that, since the Potential Study would address only BTM savings opportunities, the Commission might not give due attention to FTM resources when establishing goals. *Id*. at 9. MEEA also noted its disagreement with portions of the RFP and RFP process, leading to concerns that the vendor and the Utilities would make decisions in the development of the Potential Study that would lead to artificially low savings estimates. *Id*. at 14 and 15. The Joint Utilities responded by noting that the Commission approved the RFP over MEEA's stated concerns, and that any goal-setting proceeding should not revisit the topic. Joint Utilities' Comments, at 7.

[109] Future Programming Work Group Report, at 15. Montgomery County supported this proposal. Montgomery County Comments, at 2.

[110] *Md. Ann. Code*, PUA § 7-211(g)(2)(v), as amended by the Climate Solutions Now Act of 2022 (Ch. 38, Acts 2022).

the core objective of EmPOWER's targeted reductions shall include the development and implementation of a portfolio of mutually reinforcing goals, including GHG emissions reduction, energy savings, net customer benefits, and reaching underserved customers.

60. The Commission finds that the Future Programming Work Group's proposed transition from targeted electrical and gas savings to targeted GHG reductions is in keeping with the Climate Solutions Now Act and represents a new opportunity for EmPOWER to continue its alignment with the State's energy efficiency and climate change goals. The Commission therefore approves the transition for the EmPOWER cycle beginning in 2024.

61. The Commission approves points 1, 2, and 3 of the consensus goal framework,[111] which make GHG reductions the single overarching goal for the Joint Utilities. The Commission notes, however, that the Climate Solutions Now Act also prioritizes energy savings, net customer benefits, and reaching underserved customers in addition to GHG abatement. As such, the Commission will look to reinforce the additional directives in the Climate Solutions Now Act when considering and establishing the percentages that should be allocated to BTM resources, FTM community and utility resources, and non-energy resources.

62. The Commission recognizes that, at the present time, it has no basis upon which to establish BTM and FTM percentage allocations, and that any specific percentages put forth by others throughout this proceeding were conjecture. The Commission is, however, optimistic that the Potential Study will provide data that will assist in determining BTM and FTM program percentages, and looks forward to receiving the final report for the Potential Study in November 2022.

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[111] Point 4 of the goal framework if addressed in the "Limited-Income" subsection of this Order.

63. The Commission agrees with Staff that convening a Work Group in an effort to reach a consensus on potential goals and to discuss what other factors and evidence should be provided to the Commission would be helpful. The Work Group should convene prior to December 30, 2022 to allow as much time as possible for the Commission to digest the Work Group's feedback and recommendations prior to its issuance of directives to the Joint Utilities for the development of their plans for the next EmPOWER cycle. In the interest of efficiency, and because it is an established group that undisputedly worked cooperatively and productively, the Commission delegates this matter to the Future Programming Work Group.

64. The Future Programming Work Group is directed to file with the Commission its recommendations for goal percentages for the Joint Utilities by January 13, 2023.

65. The Commission will allow interested parties to file by December 30, 2022 any response to the Potential Study for the Commission to consider prior to determining what amount of GHG reductions, and in what allocation, the Joint Utilities should design programs to achieve.

66. Finally, the Commission finds a goal-setting proceeding essential to the establishment of ambitious but achievable goals heading into the 2024 EmPOWER cycle. The Commission recognizes the tight timetable from receipt of the Potential Study to the Joint Utilities' start of next cycle planning, but finds that an early 2023 legislative-style proceeding will not significantly delay planning and instead will ensure that the Commission is fully informed prior to establishing the best goal structure moving forward.

67. The Commission notes that there was extensive discussion in the Future Programming Work Group Report on ways to improve the transparency and inclusivity of the EmPOWER planning process prior to the three-year plans being filed with the Commission. Enhanced transparency into the utility administrators' program development and management decisions

would serve to provide insights to stakeholders throughout the planning process and opportunities for stakeholders to offer valuable feedback. The EmPOWER Reporting and Process Improvement Work Group is therefore directed to consider changes to the program development process to ensure transparency and greater opportunities for stakeholder and third-party participation, including the Technical Conference hosted by Staff and the overall utility planning process, while preserving the utility administrators' statutory authority over their suite of programs. The Work Group shall file a report with its findings and recommendations by October 17, 2022.

ii. Limited-Income Goal

68. In point 4 of the consensus goal framework, the Future Programming Work Group proposed as a limited-income goal that no less than X% of an amount to be determined of the Statewide EmPOWER goal shall be focused on the Joint Utilities' limited-income customers and communities.[112] This goal would then be allocated by utility service territory such that no less than X% of the Statewide equity goal shall be achieved through program targets to the respective utility's limited-income eligible customers and communities.[113]

69. The Work Group's recommendation for the Joint Utilities' limited-income goal came prior to the passage of the Low-Income Savings Act,[114] which would have required DHCD to provide energy efficiency and conservation services to limited-income customers, target annual incremental gross energy savings of at least 0.4% of the total electric usage of income-eligible customers per year starting in 2023, with target annual incremental gross energy savings increasing to 0.53% in 2024, 0.72% in 2025, and 1% in 2026. The legislation was vetoed by Governor Larry Hogan in May 2022 and will not go into effect.

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[112] Future Programming Work Group Report, at 17.
[113] *Id*.
[114] Senate Bill 524/House Bill 108 of 2022 was passed by the Maryland General Assembly after the Future Programming Work Group's final meeting but before the filing of its Report.

70. The Commission finds that a GHG abatement goal for DHCD, complementary to that imposed upon the Joint Utilities for the next program cycle, would be beneficial in addressing customers that have so far been underserved by the EmPOWER program. Recognizing the efforts that DHCD has undertaken to meet its own targets and improve participation in its programs, the Commission will not, at this time, impose upon DHCD an additional goal beyond GHG abatement (for example, budgetary, spending, GHG abatement, or a combination thereof).

71. The Future Programming Work Group is to include the matter of DHCD's specific GHG abatement goal in its considerations, as well as in its recommendations made to the Commission in the previously ordered January 15, 2023 filing. Furthermore, DHCD's specific GHG abatement goal is also to be addressed at the aforementioned goal-setting proceeding.

72. The Commission is concerned that imposing a limited-income goal on the Joint Utilities in addition to DHCD carries the potential for duplication of efforts, the creation of competition, the unintentional poaching of customers, and the effect that savings garnered by the Utilities would take away potential savings for DHCD. For these reasons, the Commission will not, at this time, impose a limited-income goal on the Joint Utilities. The Joint Utilities are directed, however, to increase collaboration and coordination with DHCD to maximize limited-income customers' participation in the collective EmPOWER programs.[115]

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[115] Commissioners Linton and Richard write separately to note that, while they would not impose a limited-income goal on the Joint Utilities at this time, they do not accept the Joint Utilities' reasons for why a limited-income goal imposed upon them is infeasible. The CADMUS study shows that the Joint Utilities' mass market programs reach a diminutive number of known limited-income customers in Maryland. *See*, at 71, *infra*. Further, the Joint Utilities are already serving the "unknown" limited-income customers, i.e. the approximately 75% of the eligible population that does not receive financial energy assistance through the Office of Home Energy Programs ("OHEP"); therefore, they disagree that a limited-income program for the Joint Utilities would duplicate the efforts of DHCD's existing program. Commissioners Linton and Richard also find the Joint Utilities' argument that they cannot identify the non-OHEP limited-income population wholly unconvincing. In today's information age, readily available data can and should be relied upon to identify this population of customers. The Joint Utilities should be required to begin identifying the broader limited-income population, those who income-qualify but do not receive OHEP benefits, and those ratepayers' participation in EmPOWER mass market programs, especially given that the Commission will need this information to determine how to achieve the Climate Solutions Now Act's requirement that EmPOWER begin "reaching underserved communities" in 2025.

73. DHCD stated that its eligibility criteria is 250% of the Federal Poverty Level ("FPL") or 80% of the Area Median Income ("AMI"), whichever is higher. DHCD noted that AMI-based income-eligibility generally applies for multi-family properties, and that adopting only the 250% of the FPL criteria would likely exclude some of DHCD's multi-family clients that qualify at 80% of AMI.[116] The Commission therefore authorizes DHCD to utilize both 250% of the FPL or 80% of the AMI, whichever is higher, for determining limited-income eligibility for purposes of participation in its EmPOWER programs.

74. CADMUS, a contractor for DHCD, noted that there are approximately 550,000 households in Maryland at or below 250% of the FPL, but only 5,000 to 10,000 of those households receive assistance through DHCD's EmPOWER programs in any given year. CADMUS asserts that this means each year more than 98% of limited-income customers contribute to EmPOWER without receiving DHCD's comprehensive EmPOWER program services, which significantly and negatively impacts their energy burden.[117]

75. MEEA proposes that the Commission order an Energy Affordability Study to be performed by an independent party to examine the geographical distribution of limited-income customers and the services received versus surcharges paid by limited-income customers in each of the Joint Utilities' service territories.[118]

76. To better serve the limited-income population and assist in meeting its GHG reduction target for the upcoming program cycle, DHCD may need to implement radical changes to its current approach of identifying and engaging limited-income customers for participation in its EmPOWER programs. A better understanding of these geographical equity issues noted by

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[116] Future Programming Work Group Report, at 18.
[117] *Id*. at 25.
[118] *Id*.

MEEA could assist DHCD with formulating that modified approach to reach more participants. The Commission therefore directs the Limited-Income Work Group to conduct a comprehensive review of energy affordability ("Energy Affordability Study") to address, at a minimum, the following issues:

- The presence of limited-income households as a percentage of all residential customers, by utility
- The identification of concentrated areas of limited-income households within utility service territories
- A historical breakdown of the percentage of DHCD's EmPOWER program participants, by utility
- A historical breakdown of the geographical distribution of DHCD's EmPOWER program participants, by utility
- Recommendations for mitigating potentially higher surcharges for limited-income customers in utility service territories with higher percentages of limited-income households
- Analysis of the potential impact of a Statewide EmPOWER charge for limited-income households, percent-of-income payment plan options, and income-based rate structures
- Best practices (used in other jurisdictions) for reaching and engaging limited-income customers

The results of the Energy Affordability Study are to be filed with the Commission by December 15, 2022, with any comments to be filed by December 30, 2022.

77. The Future Programming Work Group reached a partial consensus on the reporting metrics to be used by the Joint Utilities and DHCD for their respective limited-income programs.[119] The partial consensus was reduced to writing and included with the Future Programming Work Group Report as Attachment C. Only one item remained without consensus: OPC's request to track the

[119] *Id*. at 27.

impact of participation in EmPOWER on arrearages and disconnects.[120] The Joint Utilities opposed the proposal, claiming that the metric would not provide a complete picture as their billing systems can only identify limited-income customers who are on energy assistance, EmPOWER does not identify customers who purchase EmPOWER measures through point of service, and numerous non-EmPOWER related factors can impact a customer's ability to pay their utility bill.

78. The Commission agrees with the Joint Utilities in that OPC's requested metric would not provide a clear picture of the impact EmPOWER participation has on arrearages and discounts. Further, the Joint Utilities did agree to use information from their existing Termination and Arrearage Reports, in which some utilities separate limited-income data, to target future EmPOWER programming.[121] For these reasons, the Commission approves the agreed upon limited-income reporting metrics contained in the Future Programming Work Group Report's Attachment C and denies OPC's request to require the tracking of the impact that EmPOWER participation has on arrearages and discounts.

iii. Evaluation Process and Cost-Effectiveness

79. The Future Programming Work Group agreed that the current evaluation, measurement, and verification ("EM&V") process is thorough, rigorous, and transparent with regard to BTM programs, and should be continued into the 2024 EmPOWER cycle.[122] The Work Group also agreed that any programs or savings claimed from FTM programs should be subject to the same

[120] *Id*. at 28 and 29.
[121] *Id*.
[122] The current EM&V process is based on the EM&V Consensus Report and involves two separate EM&V contractors - a state-wide contractor for the Joint Utilities and DHCD and an independent evaluator for the Commission. The independent evaluator coordinates periodic meetings of the Evaluation Advisory Group ("EAG") at which the Joint Utilities, Staff, EM&V contractors, and other interested parties discuss evaluation issues. Joint Utilities' Comments, at 10 and 11.

rigorous EM&V process as EmPOWER-funded programs and savings.[123] Finally, the Work Group agreed to certain modifications to EmPOWER's current cost-effectiveness test as set forth in the Future Programming Work Group Report as Attachment D.

80. The Commission agrees with the Work Group's consensus position regarding the assessment of FTM programs. Because the spending for non-EmPOWER initiatives is approved through non-EmPOWER proceedings, there is a risk that the associated costs and benefits are not effectively reviewed for EmPOWER purposes. Holding FTM programs to the same evaluation process will not only increase transparency but will also provide more reliable data to better inform the Commission.

81. The Commission therefore adopts the consensus positions of the Future Programming Work Group regarding the EM&V processes for BTM and FTM programs, as well as the modified cost-effectiveness test as set forth in Attachment D to the Future Programming Work Group Report.[124]

iv. Fuel Switching

82. The Future Programming Work Group did not reach a consensus on the continuation of offering gas equipment incentives. OPC[125] and MEEA[126] argue that, in light of the recent legislation identified earlier in this Order, EmPOWER incentives should prioritize the conversion of natural gas heating systems to efficient electric heat pumps.[127] MEEA contends that the objectives of the 2030 GGRA and the Climate Solutions Now Act cannot be met with the

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[123] "All savings that count towards the EmPOWER GHG abatement goal would be evaluated, measured, and verified ("EM&V") in the same manner as EmPOWER-funded programs and such evaluations would be paid for through EmPOWER funding, regardless of whether the program or initiative itself is EmPOWER-funded." Future Programming Work Group, Attachment B, at 3.

[124] *Id*. at 47-53 and Attachment D. *See also* ERPI GGR Metrics Report, Appendix A, at 5 and 6.

[125] OPC Comments, at 15.

[126] MEEA Comments, at 4.

[127] Montgomery County supports OPC and MEEA's position. Montgomery County Comments, at 3.

continuation of gas equipment incentives and that, instead, increased incentives should be provided for electric heating and hot water equipment.[128]

83. The Joint Utilities disagree with OPC and MEEA and argue that reducing incentive offerings for natural gas limits their ability to reduce emissions. The Joint Utilities further assert that, as long as natural gas remains as a viable fuel source for Maryland residents and businesses, there should be opportunities to reduce emissions through the promotion and incentivizing of high efficiency gas equipment and other fuel-saving measures.[129]

84. As explained elsewhere in this Order, while transitioning from gas to electric may successfully help to meet GHG abatement goals, it is not required. Accordingly, the EmPOWER program should incentivize both electric and gas customers to choose the most efficient appliances and technologies that meet their needs, satisfy applicable energy savings goals, and contribute to GHG abatement goals.

v. Third-Party Participation

85. As part of the Future Programming Work Group, OPC proposed that EmPOWER's current third-party framework be modified in order to formally allow for the third-party administration of programs.[130] The Future Programming Work Group did not reach consensus on the matter;[131] rather, Montgomery County supported the proposal[132] while Staff, the Joint Utilities, and DHCD opposed it.[133]

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[128] Future Programming Work Group Report, at 10.
[129] *Id*. at 12.
[130] Joint Utilities Comments, at 11.
[131] Future Programming Work Group Report, at 2.
[132] Montgomery County Comments, at 4.
[133] Joint Utilities Comments, at 11.

86. Proponents of increasing third-party involvement to include program administration contend that third-party program administration could be an effective and valuable complement to utility-administered programs and could better serve traditionally hard-to-reach and underserved customers.[134] Conversely, those opposed argue that such an increase is unnecessary and carries the potential for duplication of utility programs as well as questions surrounding program funding, goal and surcharge impacts, and limitations on the Commission's jurisdiction.[135]

87. The Joint Utilities and DHCD are already able to collaborate with counties, municipalities, and other third-parties in order to create and implement programs intended to meet EmPOWER goals. Furthermore, the Commission is able to consider and approve third-party administration, as it recently did with the CEA Pilot Program, thereby making any express authorization, let alone legislative changes, unnecessary.

88. The Commission also notes the many unanswered questions surrounding the third-party administration of EmPOWER programs, including those identified above, as well as how to manage the Commission's reduced oversight on matters such as third parties' compliance, EmPOWER brand usage, cost recovery, and reporting. While the Commission is hopeful that some answers will come from the careful monitoring and reporting on the CEA Pilot Program, it finds no basis upon which to approve OPC's proposal at this time. The Commission therefore declines the proposal to alter the current third-party framework to increase third-party involvement to specifically allow for the administration of EmPOWER programs.

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[134] Montgomery County Comments, at 4.

[135] Future Programming Work Group Report, at 56 and 60.

89. In the context of the third-party discussions within the Future Programming Work Group, the Joint Utilities prepared the following definitions for the various types of entities that could be considered a third party for purposes of EmPOWER Maryland programs.

> a. **Third-Party Utility Program Implementer/Administrator**
> An entity that implements energy efficiency program(s) under the EmPOWER framework on behalf of a specific utility and operates within a specific utility's service territory. *The Utilities viewed this as the most prevalent Third-Party operation in Maryland.*
>
> b. **Third-Party Statewide Program Implementer/Administrator**
> An entity that implements energy efficiency program(s) under the EmPOWER framework and operates beyond specific utility service territories/across the entire State. *The Utilities indicated that DHCD currently filled this role and met this definition.*
>
> c. **Third-Party Independent Program Implementer/Administrator**
> An entity that implements energy efficiency programs under the EmPOWER framework but operates independently from current utility funding and management structure. *This type of third-party is not present in Maryland and the Utilities questioned whether such a construct could effectively deploy programs.*[136]

The Future Programming Work Group reached a consensus on the definitions and requests that the Commission adopt one or more of the referenced definitions.[137]

90. The Commission finds that the definitions put forth by the Joint Utilities and agreed to by the Future Programming Work Group are accurate representations of the established EmPOWER framework and may help to provide clarity in discussions involving third-party involvement in the EmPOWER Maryland program. The Commission therefore adopts the definitions referenced above.

[136] *Id*. at 56.
[137] *Id*. at 57.

vii. Workforce Development

91. As part of the Future Programming Work Group, the Building Performance Association ("BPA") asserted that workforce development is essential to EmPOWER's continued success as there is a shortage of skilled workers trained in energy efficiency.[138] BPA proposed that EmPOWER funds be provided to training organizations to expand training and reformulate programs and to small businesses to train new employees, among other things.[139]

92. Similarly, BPA, Northeast Energy Efficiency Partnerships ("NEEP"), and MEEA proposed the creation of a Workforce Development Coordinating Committee which would provide a forum to coordinate different needs and opportunities related to the EmPOWER workforce.[140] The Committee would be comprised of representatives from the Utilities, DHCD, Staff, the Maryland Department of Labor ("DOL"), MEA, and other relevant State agencies, contractors, training providers, apprenticeship programs, community colleges and technical schools, equity stakeholders, community representatives, and other workforce development entities, and would be responsible for developing recommendations on improving workforce development initiatives and supporting job training pipelines with a focus on under-represented and disadvantaged workers.[141]

93. The Joint Utilities agreed on the importance of the EmPOWER workforce but noted that elements of workforce development are already incorporated in their EmPOWER programs through implementation contractors.[142] The Joint Utilities further opposed the proposal for a Workforce Development Coordinating Committee, stating that it does not fully reflect the State's numerous existing workforce development programs, and carries the potential to undermine or

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[138] *Id*. at 39.
[139] *Id*.
[140] *Id*. at 40.
[141] *Id*.
[142] *Id*.

duplicate the current offerings in the State as well as impose additional costs on ratepayers, which may be unnecessary and not directly attributable to or benefit EmPOWER.[143]

94. The Commission finds that the proposals made by BPA, NEEP, and MEEA regarding workforce development extend beyond the parameters and purpose of EmPOWER, and that EmPOWER's ratepayer dollars should not be spent on funding initiatives that may not be attributable to or benefit EmPOWER. The Commission also finds that granting the proposals would duplicate opportunities already available. As noted by the Joint Utilities, several State agencies offer workforce development programs, including the Department of Labor's EARN Maryland Program, which is described as a "competitive workforce development grant program that is industry-led, regional in focus, and a proven strategy for helping businesses cultivate the skilled workforce they need to compete."[144] In addition, the Climate Solutions Now Act calls for the creation of a Just Transition Employment and Retraining Working Group intended to address issues and opportunities for workforce development and training related to energy efficiency measures, renewable energy, and other clean energy technologies.[145] For these reasons, the Commission denies the proposals made by BPA, NEEP, and MEEA regarding workforce development.

IT IS THEREFORE, this 15th day of June, in the year Two Thousand Twenty-Two, by the Public Service Commission of Maryland, **ORDERED**:

(1) That BGE's request to implement the Midstream Appliance Recycling Pilot Program is approved, subject to the condition stated herein;

143 *Id*. at 42.
144 https://www.dllr.state.md.us/earn/.
145 *Md. Ann. Code*, Envir. § 2-1303.1.

(2) That the Finance Work Group is to include in its July 15, 2023 CEA Pilot Program final report cost proposals from additional lenders that are reflective of the 600 credit score requirement as stated herein;

(3) That the Finance Work Group is to include in its July 15, 2023 CEA Pilot Program final report the reporting metrics identified herein as requested by OPC or, in the alternative, an explanation as to attempts made to obtain the data and the basis for the absence of any data;

(4) That the Midstream Work Group is to meet monthly to follow-up on the recommendations noted herein, complete further study, and consider other improvements as necessary;

(5) That the Midstream Work Group is to file a status report with the Commission on the above actions and findings by October 17, 2022;

(6) That the reporting metrics set forth in the ERPI Work Group Report are accepted;

(7) That the Joint Utilities are directed to investigate and report back to the ERPI Work Group by October 3, 2022 on the feasibility of gaining the statewide sales data requested by OPC for inclusion in the midstream program reporting;

(8) That the ERPI Work Group is to file a status report with the Commission on the above findings by October 17, 2022;

(9) That OPC's proposal to utilize a gross-life cycle basis with a predefined GHG abatement trajectory for the purpose of GHG reduction measurement for the remainder of the 2021-2023 EmPOWER cycle is granted;

(10) That MEEA's Motion to End Energy Efficiency Funding of Gas Appliance Incentive Measures is denied;

(11) That the Future Programming Work Group's recommendation that the EmPOWER program cycle beginning in 2024 should transition from the current measurement of targeted electrical or gas savings to the measurement of targeted GHG reductions as stated herein is approved;

(12) That the Future Programming Work Group's first, second, and third proposed "straw" goals for the Joint Utilities to achieve the targeted GHG reductions are approved;

(13) That the Future Programming Work Group's fourth proposed "straw" goal for the Joint Utilities to achieve the targeted GHG reductions is denied;

(14) That the Future Programming Work Group is to convene prior to December 30, 2022 to discuss the final report of the Potential Study, develop potential GHG abatement goal percentages for the Joint Utilities and DHCD, and discuss what factors and evidence should be provided to the Commission;

(15) That the Future Programming Work Group is to file with the Commission its recommendations for goal percentages for the Joint Utilities and DHCD by January 15, 2023;

(16) That interested parties are to file by December 30, 2022 any response to the Potential Study that they wish for the Commission to consider prior to determining what amount of GHG reductions, and in what allocation, the Joint Utilities and DHCD should design programs to achieve;

(17) That the ERPI Work Group is directed to file a report with its findings and recommendations regarding the considerations stated herein by October 17, 2022;

(18) That the Limited-Income Work Group is to perform an Energy Affordability Study as stated herein, with a final report on the Study to be filed with the Commission by December 15, 2022, and any comments thereon to be filed by December 30, 2022;

(19) That the consensus limited-income reporting metrics contained in the Future Programming Work Group Report's Attachment C are approved;

(20) That the consensus positions of the Future Programming Work Group regarding the EM&V processes for BTM and FTM programs, as well as the modified cost-effectiveness test as set forth in Attachments B and D to the Future Programming Work Group Report, are approved;

(21) That OPC's proposal to alter EmPOWER's current framework to extend an allowance for third-party administration of programs is denied;

(22) That the consensus proposal to adopt the third-party definitions contained in the Future Programming Work Group is approved;

(23) That the BPA, NEEP, and MEEA proposals regarding workforce development are denied;

(24) That all requests not otherwise identified above are denied.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton

Commissioners[146]

[146] Commissioner Richard filed a dissenting opinion in this matter.

Dissenting Statement of Commissioner Michael T. Richard

1. I write separately to respectfully dissent from my colleagues on the issue of continuing gas appliance rebates. The Commission's mandate to consider climate change and State climate policy in its decisions is well-defined by the General Assembly. Climate science and the State's climate policy related to residential (and commercial) gas consumption are equally clear. I believe that the Maryland Department of the Environment (MDE) stated unequivocally at the May hearing that the Maryland Energy Efficiency Advocates (MEEA) motion is consistent with our state's policies.[147] In my view continuing to provide gas incentives is counter-productive to the State's long term goals and is not a good use of the limited ratepayer funds available for energy efficiency.[148] I would grant MEEA's Motion, supported by both Montgomery County and the Office of People's Counsel ("OPC"), and would vote to cease providing gas appliance incentives immediately.

2. The Commission's role in considering energy efficiency programs must account for impacts on the global climate and State climate policies. PUA § 2-113(a)(2)(v) and (vi) require the Commission to consider "protection of the global climate from continued short-term and long-term warming based on the best available scientific information recognized by the Intergovernmental Panel on Climate Change [IPCC]; and the achievement of the State's climate commitments for reducing statewide greenhouse gas [GHG] emissions …." The State's climate commitments are well set – a 60% reduction in GHG emissions by 2031.[149] There should be no debate about whether GHG reductions are a State policy; the debate is in how we achieve these

[147] Tr. at 50:22-23 (Idrisu).
[148] While concurring with the majority that ending the gas appliance program is not appropriate at this time ("as a mid-cycle modification"), Commissioner Linton notes that for the long run, he finds the arguments advanced here–supporting the ending of gas appliance rebates–to be "strongly persuasive." *See* Majority Opinion at 21 n.93.
[149] Tr. at 131:2-3 (Miller).

reductions. In fulfilling its statutory duties to consider the public interest, environment, and climate change, the Commission must rely on the expertise of other State agencies, as well as the scientific community.

3. MDE is the primary agency responsible for crafting a plan of action to achieve the State's GHG reductions. MDE has prepared its Greenhouse Gas Reduction Act Plan (GGRA) to deliver on the State's GHG reduction goals. Similarly, the Maryland Commission on Climate Change (MCCC) and the IPCC each prepare reports and recommendations to support State and international policies on GHG reduction actions and goals. The Commission must consider the input of these technical and scientific experts in crafting its decisions and policies – particularly in regard to the development of energy efficiency programs which currently have the largest impact on GHG reductions of any Commission program.

4. The science and policy input from the relevant experts in this area is compelling. MDE's GHG inventory reported that 80% of residential sector GHG emissions are the result of in-home combustion appliances.[150] The 2019 GGRA Plan specifically calls for fuel switching from all alternative fuel sources (such as natural gas and other fossil fuels) to electric heat pumps.[151] The MCCC also recommends policies that encourage fuel switching.[152] Finally, the IPCC found that ending fossil fuel subsidies could reduce emissions by up to 10% by 2030.[153] The conclusion I draw from the work of these experts is that reduction of in-home combustion appliances in favor of electrification is necessary to reduce GHG emissions and combat climate change.

[150] *See*, MEEA Comments at 5, n.16 (Maryland homes burned 79,376 billion Btu of gas in 2017 resulting in 4.2 MMtCO2e, which is nearly 80% of Maryland's residential GHG emissions.)
[151] MEEA Motion at 6, *citing* the GGRA Plan at VI.
[152] I note that both of these recommendations would begin in 2024 with the next program cycle, but I do not believe that this decision should wait until a future program cycle because current state policy is clear on the need for immediate action.
[153] Majority Opinion at 15, para. 34.

5. I believe that the legislature was explicitly clear in directing the Commission to heed these experts and listen to the results of the rigorous research and analysis they have performed. In addition, MDE was equally clear when it stated, "the state's current climate policy embodied in the GGRA plan is to replace fossil fuel heating systems with electric heat pumps rapidly through this decade"[154] While the majority acknowledges the experts' work as "recommendations" or "guidance," they stop short of taking action stating that they are not "requirements" for the Commission. In my view, we are "required"[155] to act on clear evidence of the best practices for combating climate change. When expert State agencies and the scientific community clearly identify a role for this Commission in addressing climate change then PUA § 7-211 makes it incumbent on us to act. As recommended in the guidance and advice of state agencies tasked with developing climate change policy, terminating gas appliance incentives is the correct course of action, regardless of whether it is a "requirement".

6. In the record before us we have facts showing that continued incentives for long-lived fossil fuel appliances are counter-productive to long-term climate progress.[156] Payday loans and instant check cashing are, perhaps, the best analogy for continued gas incentives. Gas incentives may lead some individuals to achieve short term GHG reductions by purchasing higher efficiency gas appliances or switching away from other, even higher emission, fossil fuels. However, that short-term gain will come at a much higher long-term cost. As OPC noted, even if electrification only influences one in five potential gas appliance rebate recipients, the program would still achieve

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[154] Tr. at 41:22-42:2 (Stewart); MEEA Motion at 1, *citing* MDE–Greenhouse Gas Reduction Act–2019 GGRA Draft Plan (Oct. 2019) at 209.

[155] The Majority notes the lack of a requirement to act more than 10 times in seven paragraphs, at 41-47.

[156] IPPC Report noting that ending these incentives could reduce emissions by up to 10% by 2030. Ms. Miller noted that these are 15 to 20 year appliances and will remain on the system "well beyond when we're supposed to be at net zero[.]" Tr. at 137:16-18 (Miller).

higher GHG reductions.[157] Further, continuing the gas appliance incentives would devote ratepayer funds to measures that will likely require retrofitting to meet State climate goals in the near future.[158] As policy makers, it is incumbent on us to make the best possible use of ratepayer dollars.[159] I believe that prioritizing short-term gains over long-term solutions is not a good use of ratepayer resources, and–from a policy perspective–unsound.

7. The majority cites PUA § 7-211(f)(1) under which the Commission must require gas companies to establish energy efficiency programs. I disagree that ending gas appliance incentives is contrary to this statute. Gas efficiency measures can take many shapes and appliance rebates are only one option. Gas utilities could continue to offer measures that reduce heating demand such as air sealing and insulation, reduce water heating demand through water conservation, and encourage general efficiency through behavioral and school programs. None of these programs would be affected by electrification incentives, and all of them have a net benefit for GHG reductions without locking customers into additional decades of fossil fuel consumption.

8. Lastly, I would also note that there are many barriers to electrification and many potential solutions that could be explored within the EmPOWER programs. New York State, for instance, recently announced goals for electrification and "electrification readiness" to ensure that when a system needs replacement the infrastructure is available to electrify.[160] This could be particularly impactful for low-income retrofits so that these homes will be prepared to electrify should the

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[157] OPC Response in Support at 2, *citing* Appendix I: *Net GHG Reduction Benefit is Obtained if Only 20% of customers Choose Electric Heat Pumps*.

[158] It is important to note that customers will continue to have the option of purchasing high efficiency gas appliances; they will simply no longer have the benefit of ratepayer dollars to subsidize that purchase.

[159] I would also note that the Commission has previously prioritized short-term impacts which created longer term problems – specifically its decision to amortize the early years of the program. In minimizing the ratepayer impact of the early years of the program the Commission created a long-term burden for future ratepayers which we are still struggling to unravel.

[160] We heard at the hearing that it sometimes takes up to a week to upgrade a home's utility service to allow for heat pump installation. Tr. at 149:1-2 (Duhan). Pairing readiness offerings with comprehensive retrofits could begin to alleviate this problem.

economics support that decision. Electrification readiness may be an excellent use of the federal funds that can support fuel switching which MEEA noted at the hearing.[161] In addition, based on the record before us I would support OPC's request to phase out WGL's gas new homes program as inconsistent with state climate policy. Finally, I would also require the electric utilities to begin (or at a minimum explore) programs to incentivize electrification by propane and fuel oil customers. Historically, these customers were not eligible for rebates because electrification would increase consumption contrary to program goals. In moving towards a GHG emissions reduction paradigm I would encourage the electrification of all fossil fuel end uses. Much like the potential benefits of electric vehicle charging to "improve electric distribution system utilization and create downward pressure on rates," properly managed electrification can provide benefits for all customers.[162] It is not too soon to start making the permanent changes necessary to achieve deep, economy-wide decarbonization.

9. In summary, I would find that fossil fuel incentives are counter-productive to long-term climate solutions. I would also find that the Commission is, by statute, required to consider the consensus of the MCCC, the GGRA Plan and the IPCC. With compelling scientific evidence and in the absence of evidence to the contrary, the Commission should take the steps recommended by MEEA, OPC and other parties, to discontinue gas efficiency rebates that are counter to the State's efforts to curb climate change. Therefore, I respectfully disagree with my colleagues that we can choose to disregard this expert guidance. Based on this evidence, I would find that gas appliance rebates are no longer appropriate and would support electrification rebates going forward.

/s/ Michael T. Richard
Commissioner

[161] Tr. at 133:2-4 (Miller).
[162] Order No. 88997 at 43 discussing managed EV charging programs.