

Testimony of Jim Grevatt of Energy Futures Group, Inc. regarding Maryland General Assembly SB689/HB904

February 26, 2023

SB689/HB904 updates the important provisions of last year's Climate Solutions Now Act ("CSNA") to reflect recommendations that were developed in a nearly two year-long collaborative work group process sponsored by the Public Service Commission ("PSC"). The work group, known as the Future Programming Work Group ("FPWG"), was led by Chief Public Utility Law Judge McLean and addressed many fundamental, forward-looking questions about the purpose of EmPOWER and the value it can provide both in supporting energy affordability and the critical greenhouse gas ("GHG") emissions reductions called for in CSNA. I have participated in EmPOWER work groups and proceedings on behalf of the Maryland Energy Efficiency Advocates ("MEEA")¹ for nearly a decade, and in the FPWG throughout the process. I appreciate the opportunity to speak with you today and to reflect on the development of several of the key provisions of the bill in the FPWG process.

The FPWG report states that

28 virtual meetings were well attended with between 35 to 75 individuals participating at each meeting. All stakeholders had ample opportunities to express their views, both verbally and in writing, on each topic and to question/respond to all stakeholders' proposals. Additionally, throughout the process, various presentations were made for the Work Group's benefit, including (1) Chris Hoagland and Mark Stewart from the Maryland Department of Environment ("MDE") presenting on the Maryland Commission on Climate Change ("MCCC") and the 2030 Greenhouse Gas Reduction Act ("GGRA") Plan, and the expectations for EmPOWER; (2) Amanda Best, Senior Commission Advisor and Electric Vehicle ("EV") Work Group Leader, provided an update on the EV Pilot Program and how EVs could potentially fit within EmPOWER; (3) on behalf of the Department of Housing and Community Development ("DHCD"), CADMUS made several presentations and provided a Maryland Statewide Low-Income Top-Down Potential Analysis; (4) on behalf of the Building Performance Association ("BPA"), Ms. Leticia Colon de Mejias, owner of Energy Efficiencies Solutions (Connecticut), President of Green Eco Warriors and Policy Co-Chair of the BPA, presented on the importance of workforce development; (5) Joe Loper, Staff's EmPOWER Consultant, provided

¹ The Maryland Energy Efficiency Advocates have consistently participated in EmPOWER hearings and work groups since 2014, and consists of an unaffiliated coalition of like-minded organizations including Sierra Club, Natural Resources Defense Council, and Earthjustice, with additional participation by Green and Healthy Homes Initiative, National Consumer Law Center, and others.

an overview of the current methodologies used to determine a program's cost effectiveness; and (6) Steve Nadel from ACEEE presented on PIMs.²

A range of organizations and individuals participated throughout the FPWG process, including utilities, Office of People's Council ("OPC"), the Maryland Energy Administration ("MEA"), PSC staff, the Maryland Department of Environment ("MDE"), the American Council for an Energy Efficient Economy ("ACEEE"), Northeast Energy Efficiency Partnerships ("NEEP"), and representatives of municipalities, environmental organizations, and technical experts. The conversations were productive, and significant ideas were discussed. There were numerous areas of consensus, including that greenhouse gas abatement should replace electricity and gas savings as the primary metric, that direct customer benefits should be prioritized over grid enhancements, and that cost-effectiveness should continue to be assessed using the "Societal Cost Test."

However, not surprisingly given the diverse perspectives in the FPWG there were also areas where it was not possible to achieve consensus, and this is not different than the Commission process that preceded establishment of the current 2% savings goal. In fact it is normal in PSC-directed work groups that consensus is not reached. Rather, agreements, where possible, are articulated as well as the different opinions of work group participants. This legislation includes many of the consensus items, as well as items broadly supported by ratepayer and environmental advocates and the Office of People's Counsel.

1. *The primary purpose of EmPOWER is changed to greenhouse gas abatement (3)(I).*

Consistent with the recommendation of the FPWG³ and as proposed by the PSC in its report to the General Assembly⁴, the bill reframes the primary metric by which EmPOWER is measured from electricity and gas savings to GHG abatement. Both the PSC and the FPWG recommended that GHG abatement goals should be established and measured on a gross lifecycle basis. However, for clarity the draft bill calls for an annual reduction in GHG emissions of at least 1.8% of 2020 emissions from the direct consumption of electricity and natural gas and further specifies that the "Commission shall prioritize long-lived greenhouse gas abatement measures in the utilities' plans by establishing a minimum weighted average measure life for each utility's plan." (g)(4). The combination of an annual savings goal and a required minimum average measure life is equivalent to using lifecycle emission reductions but avoids complications related to calculating emissions into the future while the emissions from electricity are also decreasing due to cleaner generation. The 1.8% annual reduction in GHG emissions is similar to the amount of electricity savings achieved by the utilities in recent years.

² Future Programming Work Group Report, April 15, 2022, pp. 2-3., available at psc.state.md.us, ML 240203.

³ Future Programming Work Group Report, April 15, 2022, p. 8, available at psc.state.md.us, ML 240203.

⁴ Recommendations on the Future of EmPOWER Maryland, Public Service Commission of Maryland Report, July 1, 2022, pp. 5-8.

2. *The bill establishes a statutory minimum annual greenhouse gas abatement goal for the utilities, consistent with previous statutes that established minimum electric energy efficiency goals.*

The Public Service Commission retains the authority to direct the utilities to achieve higher levels of emissions reductions if it finds that to be consistent with its assessment of the costs and benefits of doing so. The bill sets the floor at a level that is roughly consistent with the GHG abatement that would be achieved through the electricity savings required under the Climate Solutions Now Act of 2022 (“CSNA”), thus providing direction to the Commission regarding the General Assembly’s focus on climate preservation. The Commission’s mandate has been updated by lawmakers and now includes the preservation of the climate,⁵ but regulating GHG emissions is a departure from the historic responsibilities of the Commission and will require adapting to new approaches to assessing the public interest. Establishing a minimum savings requirement in statute that is consistent with law that is already enacted will ease the considerable burden the Commission would face in weighing the many competing factors it must consider in determining the amount of GHG emissions reductions that is in the public interest.

3. *The bill specifies that the primary focus of EmPOWER should be on reducing direct emissions from customers’ buildings rather than through distribution system changes or distributed generation.*

The FPWG reached consensus that a defined amount of savings should come from measures that directly benefit customers, which was reflected in the PSC report to the General Assembly.⁶ However, the FPWG could not reach agreement on specifically what the defined amount of savings should be. Generally, the utilities supported less guidance and MEEA and the OPC, along with Montgomery County and the American Council for an Energy Efficient Economy (“ACEEE”) supported higher prioritization of direct customer benefits. Specifically the OPC and MEEA recommended throughout the process that no less than 85% of the overall EmPOWER GHG abatement should come from measures that directly benefit customers. Commission Staff (80%) and the Maryland Energy Administration (“MEA”) (75%) recommended somewhat smaller, but still significant requirements for measures that directly benefit customers.

The bill, as drafted, aligns with the recommendation of MEEA and the OPC that at least 85% of the GHG emissions reductions should come from so-called behind-the-meter (“BTM”) savings. BTM savings come from the installation of GHG-reducing equipment at customers’ homes and businesses and are consistent with how EmPOWER has achieved most of its past results. High efficiency heat pumps and refrigerators installed at a customer’s home or business are examples of measure that produce BTM savings.

BTM measures are contrasted with front-of-the-meter (“FTM”) resources that are on the utility side of the meter. FTM resources would not be installed at a customer’s home or business but

⁵ 2021 Md. Laws at 75, 76 (chs. 614 and 615), <https://mgaleg.maryland.gov/Pubs/LegisLegal/2021-effective-dates-october.pdf>.

⁶ Recommendations on the Future of EmPOWER Maryland, Public Service Commission of Maryland Report, July 1, 2022, p. 7.

rather would contribute to GHG emissions reductions by managing aspects of the distribution grid or by providing local generation, such as through a community solar project. In the FPWG, the utilities advocated for greater flexibility to report savings from FTM resources but did not provide specific information on what such measures might be, what the magnitude of available savings are, or what such FTM measures might cost. In addition, the GHG Abatement Potential Study did not consider the savings that could be achieved from FTM resources, therefore there is little if any information available upon which to base a requirement for FTM resources.

4. *Switching from fossil fuel to electricity is a critical component of meeting climate goals and should be allowed in EmPOWER.*

The bill explicitly allows, but does not require, the use of EmPOWER funds to promote the replacement of fossil fuel-fired equipment with high efficiency electric alternatives, including in such areas as heating, water heating, and cooking equipment. For example, EmPOWER could be used to support customers in replacing inefficient gas furnaces with high efficiency heat pumps to heat their homes and businesses. This type of fuel-switching is commonly referred to as “beneficial electrification.”

The Maryland Department of the Environment’s (“MDE”) Maryland’s 2030 Greenhouse Gas Reduction Act (“GGRA”) Plan calls for reducing emissions from buildings through energy efficiency and by converting fossil fuel heating systems to electric heat pumps.⁷ Similarly, the Maryland Commission on Climate Change (“MDCC”) recommends retrofitting 100 % of low-income households by 2030; encouraging fuel-switching through EmPOWER beginning in 2024; targeting 50% of residential heating, ventilation, and air conditioning and water heater sales to heat pumps by 2025, with 95% by 2030.⁸ Continuing to use EmPOWER funds to subsidize gas appliances is directly contrary to the recommendations of the MDCC and the 2030 GGRA Plan.

It was widely recognized in the FPWG that beneficial electrification should be allowed as a GHG emissions reducing measure in EmPOWER, though there was not agreement regarding the extent to which it should be prioritized – thus the bill leaves it up to the Commission to determine the level of emphasis to place on beneficial electrification in order to meet the required GHG emissions reductions.

5. *The focus of natural gas emissions reductions is changed from efficient equipment incentives to beneficial electrification and building efficiency (3)(II).*

The bill requires gas companies to end incentives for new natural gas-fired equipment such as furnaces, boilers, and hot water heaters. High efficiency electric heat pumps and heat pump water heaters are far more effective at reducing GHG emissions than the continued use of gas-

⁷ MDE, Greenhouse Gas Reduction Act: 2019 GGRA Draft Plan (Oct. 2019) (“GGRA Plan”), [https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2019GGRAPlan/2019%20GRA%20Draft%20Plan%20\(10-15-2019\)%20POSTED.pdf](https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2019GGRAPlan/2019%20GRA%20Draft%20Plan%20(10-15-2019)%20POSTED.pdf).

⁸ MDCC, 2021 Annual Report on Building Energy Transition Plan, at 8 (2021), [https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2021%20Annual%20Report%20FINAL%20\(2\).pdf](https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2021%20Annual%20Report%20FINAL%20(2).pdf).

fired equipment even when it is efficient, and as such the MEEA and OPC agree that these incentives should no longer be allowed. This position has been discussed at the Commission for several years, including with respect to a motion filed by MEEA⁹ that detailed the Commission’s obligation under the statutory mandate to protect the climate as enacted in the 2021 Session of the Maryland General Assembly Senate Bill 83 and House Bill 298.¹⁰

The utilities maintain that continued use of gas will be consistent with achieving the required GHG emissions reductions, but a GHG Abatement Potential Study that was prepared by Applied Energy Group at the direction of the PSC found nearly three times the amount of GHG abatement potential from electrification as it found for natural gas efficiency.¹¹ Given utility staff’s responsibilities to shareholders it is understandable that they would advocate for continued reliance on natural gas, but this position is not consistent with MDE’s analysis or the CSNA goals.

6. *The bill maintains the status quo regarding cost-effectiveness of EmPOWER.*

The “societal cost test” remains the primary cost-effectiveness test. This is consistent with the consensus recommendation of the FPWG, which further suggested that the societal test as defined in Maryland could be renamed the Primary Maryland Jurisdiction-Specific Test (“MJST”).¹²

7. *Grid system improvements that reduce emissions, as well as distributed clean generation can provide important benefits but should not supplant direct customer benefits in EmPOWER.*

FTM resources are important, and utilities should be encouraged to pursue them through general rate cases where they would provide cost-effective benefits to ratepayers – but they should not be used in place of BTM measures to meet EmPOWER savings requirements. The bill proposes limits on FTM contributions to the EmPOWER goal to prevent the use of FTM resources to supplant the efficiency and electrification measures that provide direct benefits to customers.

⁹ ML 240349

¹⁰ 2021 Md. Laws at 75, 76 (chs. 614 and 615),

<https://mgaleg.maryland.gov/Pubs/LegisLegal/2021-effective-dates-october.pdf>.

¹¹ EmPOWER GHG Abatement Study Results_FINAL_UPDATE_12152022.xlsx, provided by Applied Energy Group, tab “GHG Abatement Summary”, Cumulative Achievable Potential – Maximum. Also available at psc.state.md.us, ML 300751.

¹² Future Programming Work Group Report, April 15, 2022, p. 59.