

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1325 G STREET, N.W., SUITE 800
WASHINGTON, D.C. 20005**

ORDER

October 30, 2020

**FORMAL CASE NO. 1160 IN THE MATTER OF THE DEVELOPMENT OF METRICS
FOR ELECTRIC COMPANY AND GAS COMPANY ENERGY EFFICIENCY AND
DEMAND RESPONSE PROGRAMS PURSUANT TO SECTION 201(B) OF THE CLEAN
ENERGY DC OMNIBUS AMENDMENT ACT, Order No. 20654**

Before the Commission:

Willie L. Phillips, Chairman
Richard Beverly, Commissioner

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I. PREAMBLE

1. As the Commission conducts its review of various pending cases, there is a nexus between the Energy Efficiency and Demand Response (“EEDR”) Metrics to be established in this case, and issues in *Formal Case Nos. 1130* and *1156*, and *General Docket 2019-04-M*. In each of these cases, the Commission is addressing various aspects of EEDR.¹ Among other things, the Commission’s grid modernization docket involves the utilization of distributed energy resources (“DERs”), which can include energy efficiency and demand response programs, and alternative rate-making methods such as performance incentive mechanisms (“PIMs”).² In *Formal Case No. 1156*, the Commission will be reviewing specific PIMs as put forward by the Parties in the Pepco multi-year rate case.³ Furthermore, in *GD-2019-04-M*, the Commission established a working group (“GD Working Group”) to help develop an analytical approach in which to review the effects of a utility proposal on global climate change and the District’s clean energy commitments by analyzing climate mitigation underlying measurements/metrics, benefit-cost analysis framework (“BCA”), and utility reporting requirements for all the programs including all the DERs.⁴ More specifically, the GD Working Group is discussing carbon pricing, the role of reliability and resilience, and detailed benefit items and cost items to be included in the BCA framework. Thus, given the fact that the EEDR Working Group is only focusing on EEDR programs, the GD Working Group’s detailed BCA framework will apply to all programs and proposals, including DERs, for the future.

II. INTRODUCTION

2. By this Order, the Public Service Commission of the District of Columbia (“Commission”) accepts the EEDR Metrics Working Group (“Working Group”) report as filed.⁵ The Potomac Electric Power Company (“Pepco”) is directed to adhere to the principles and metrics set forth in this Order for developing EEDR programs. Pepco and Washington Gas Light Company (“WGL” or “Company”) are directed to each develop a scope of work and RFP to share with the Commission and Working Group for approval by the Commission, to issue the RFP, to hire consultant(s) that will be evaluated and selected by the Commission, and to pay for an EEDR Potential Study to inform the Commission about the development of future electricity and natural gas EEDR programs. In addition, the Commission will monitor the contract(s) for the EEDR

¹ *GD-2019-04-M, In the Matter of the Implementation of the 2019 Clean Energy DC Omnibus Act Compliance Requirements*, Notice of Inquiry, issued September 26, 2019 (“*GD-2019-04-M*”); *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability* (“*Formal Case No. 1130*”); *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia* (“*Formal Case No. 1156*”).

² *Formal Case No. 1130*, Order Nos. 20286 and 20364, rel. January 24 and June 5, 2020.

³ Generally, *Formal Case No. 1156*.

⁴ Generally, *GD-2019-04-M*.

⁵ *Formal Case No. 1160, In the Matter of the Development of the Metrics for Electric Company and Gas Company Energy Efficiency and Demand Response Programs Pursuant to Section 201(B) of the Clean Energy DC Omnibus Amendment Act of 2018* (“*Formal Case No. 1160*”), Energy Efficiency and Demand Response (“EEDR”) Metrics Working Group Report, filed January 30, 2020 (“*Report*”).

Potential Study. Such EEDR Potential Study should be completed within 180 days from the date the contract with the consultant is signed. The cost recovery of the study will be included in a regulatory asset initially and a surcharge will be established to cover the amortization and carrying costs for the study. Lastly, consistent with paragraphs 83 and 92 of this Order, Commission Staff is directed to reconvene the EEDR Metrics Working Group, to consider a limited number of unresolved issues such as the governance structure to coordinate the planning, delivery, reporting, and evaluation of EEDR programs administered by the utilities, and the design and a recommended list of EEDR PIMs. The Working Group shall file a report with the Commission within 180 days from the date of this Order addressing these issues.

III. BACKGROUND

3. The CleanEnergy DC Omnibus Amendment Act of 2018 (“CEDC” or “CEDC Act”) requires that the Commission establish a working group to develop and file “long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards to be adopted by the Commission for electric company or gas company energy efficiency or demand response programs.”⁶ In addition, the CEDC Act directed the Commission to consider recommendations from the Working Group regarding: (1) measures to ensure utility programs “do not impede District business or nonprofits currently providing energy efficiency and demand response programs;” and (2) “[p]erformance incentive mechanisms that are based on the quantitative performance indicators” the Working Group establishes for utility run energy efficiency and demand response (“DR”) programs.⁷ The CEDC Act also required that the Working Group file recommendations with the Commission within 90 days from the date of the Working Group’s first meeting.⁸

4. On October 3, 2019, the Commission established the EEDR Metrics Working Group and opened this case to address the development of EEDR metrics.⁹ The Working Group met over six times and consistent with the directives in the CEDC Act and the October 3rd Notice, the Working Group filed a Working Group Report (“Report”) on January 30, 2020, recommending electric company and gas company energy efficiency or demand response standards.¹⁰ In addition,

⁶ See D.C. Code § 8-1774.07(g)(1) (Supp. 2019).

⁷ See D.C. Code § 8-1774.07(g)(2) (Supp. 2019).

⁸ See D.C. Code § 8-1774.07(g)(3) (Supp. 2019).

⁹ *Formal Case No. 1160*, Public Notice, published October 3, 2019 (“October 3rd Notice”). The Working Group was chaired by Commission Staff, open to interested participants, and operated through the consensus of the participants. The participants included the Potomac Electric Power Company (“Pepco”), Washington Gas Light Company (“WGL”), the DC Sustainable Energy Utility (“DCSEU”), Commission Staff, the Office of the People’s Counsel for the District of Columbia (“OPC”), Department of Energy and Environment (“DOEE”), Office of the Attorney General (“OAG”), DCSEU Advisory Board (“SEU Advisory Board”), National Housing Trust (“NHT”), the Apartment and Office Building Association of Greater Washington (“AOBA”), Dynamic Energy Strategies, LLC, Audubon Naturalist Society, Lime Energy, ICF, Sierra Club DC Chapter, and the American Council for an Energy-Efficient Economy (“ACEEE”).

¹⁰ *Formal Case No. 1160*, generally Report. Page 2 of the Report notes that meetings were held from November 1, 2019 through January 16, 2020.

the Report provided recommendations as to how the Commission should consider: “(1) long-term energy savings metrics; (2) annual energy savings metrics; (3) quantitative performance indicators; (4) cost-effectiveness standards; (5) measures the Commission can take to ensure programs do not impede District business or non-profits currently operating in the District that provide EEDR programs; (6) EEDR performance incentive mechanisms; and (7) additional utility application matters for electric company or gas company energy efficiency or demand response programs.”¹¹

5. On February 11, 2020, the Commission, by Public Notice, requested comments on the Report.¹² On March 12, 13, and 16, 2020, comments were filed by the Office of the People’s Counsel for the District of Columbia (“OPC”),¹³ the Government of the District of Columbia on behalf of the Department of Energy and Environment (“DOEE”),¹⁴ the Sustainable Energy Utility Advisory Board (“SEUB”) on behalf of the DC Sustainable Energy Utility (“DCSEU”),¹⁵ the National Consumer Law Center (“NCLC”), the National Housing Trust (“NHT”), and the National Resources Defense Council (“NRDC”) (jointly referred to as “NCLC/NHT/NRDC”),¹⁶ and Lime Energy, a Willdan Company (“Lime Energy”).¹⁷

IV. EEDR REPORT

A. Overview and Recommendations

6. The Report notes: (1) the District’s ambitious climate goals and the important role that energy efficiency and demand response programs play in meeting the goals;¹⁸ (2) that Pepco and WGL are not new to operating energy efficiency programs, albeit not in the District¹⁹; and (3)

¹¹ Report at 1-21.

¹² *Formal Case No. 1160*, Public Notice, published February 11, 2020.

¹³ *Formal Case No. 1160*, the Office of the People’s Counsel’s Comments in Response to the Energy Efficiency and Demand Response Metrics Working Group Report, filed March 12, 2020 (“OPC’s Comments”).

¹⁴ *Formal Case No. 1160*, DOEE’s Comments in Response to the Energy Efficiency and Demand Response Metrics Working Group Report, filed March 13, 2020 (“DOEE’s Comments”).

¹⁵ *Formal Case No. 1160*, the Sustainable Energy Utility Advisory Board’s Comments in Response to the Public Service Commission of the District of Columbia’s February 11, 2020 Public Notice, filed March 12, 2020 (“SEUB’s Comments”).

¹⁶ *Formal Case No. 1160*, the National Consumer Law Center, the National Housing Trust, and the National Resources Defense Council’s Comments on the Energy Efficiency and Demand Response Metric’s Working Group Report, filed March 16, 2020 (“NCLC/NHT/NRDC’s Comments”).

¹⁷ *Formal Case No. 1160*, Lime Energy, A Willdan Company’s Comments, dated March 12, 2020, and docketed June 22, 2020 (“Lime Energy’s Comments”).

¹⁸ Report at 4.

¹⁹ Report at 5.

that the DCSEU and DOEE are successful energy efficiency providers and have established numerous metrics and standards in which to assess energy efficiency programs.²⁰

7. Contained in the Report is an overview of Energy Efficiency Programs which are considered as “mechanism[s] for encouraging energy efficiency.”²¹ These programs are demand-side management (“DSM”) including both energy efficiency and demand response, which are “programs involving the planning, implementing, and monitoring activities that are designed to encourage consumers to modify their level and pattern of electricity and/or natural gas usage.”²² DSM programs are targeted to various utility customer classes and can provide financial incentives (i.e., rebates), technical assistance (i.e., efficiency upgrades to more efficient technology such as LED lighting or HVAC equipment or more complex projects for whole-building deep retrofits), and/or other things that encourage reduced energy consumption.²³ However, DSM’s refers only to energy and load-shape modifying activities that are utility-administered or DCSEU programs, and are not energy or load-shaping changes that occur from normal market-place operations or government-mandated energy-efficiency standards.²⁴ The Report notes that although “the utility or DCSEU oversees the implementation of the programs and offers technical assistance to building owners, [a] programs success requires active engagement and participation of a wide range of local businesses who conduct much of the work implementing the energy-saving measures.”²⁵

8. The Report states that: (1) “[e]ach program is a set of energy efficiency actions or measures, and the utility or the DCSEU commits to run a particular portfolio for a number of years, which allows the creation of certainty for building owners, contractors, and customers that the energy efficiency incentives and services provided in the portfolio will be available;”²⁶ (2) energy efficiency programs have goals that can be set at the portfolio level rather than for each individual program offering to provide the administrator flexibility to achieve goals by emphasizing particular programs;²⁷ and (3) the program administrator should have the flexibility to shift resources (and associated savings goals) from under-performing programs to over-performing

²⁰ Report at 5.

²¹ Report at 3.

²² Report at 3.

²³ Report at 3.

²⁴ Report at 3. Program administrator is the entity, such as the DCSEU or a utility, primarily responsible for the administration and implementation of a program.

²⁵ Report at 3.

²⁶ Report at 3. As an example, the Report notes that DCSEU programs are approved for 5-years multi-year implementation which allows the program to have lower administrative fees, ensure robust participation as market awareness grows and experience, which leads to improvements in the program offerings.

²⁷ Report at 4.

programs within its portfolio.²⁸ The Working Group recommends that a multi-year goal (3 to 5 years) is an important element to goal attainment.²⁹

9. For a successful program, the Working Group recommends that the Commission establish the following foundational principles for all program administrators for the implementation of programs: (1) Have goals for all obligated entities that roll up to District-wide goals; (2) Be regularly, transparently, and independently evaluated and improved upon based on those evaluations; (3) Create systems for coordination or collaboration across obligated entities; (4) Have feedback mechanisms for staff, contractors, trade allies, and customers; (5) Have transparent and clear rules for market participants; and (6) Have the contracting resources, authority, financial resources, flexibility, training, and data required to deliver successful customer-facing programs.³⁰

B. Long Term Savings Metrics

10. The CleanEnergy DC Plan, as updated by the Sustainable DC 2.0 Plan, lays out the Districts long-term target to achieve a 50% reduction in per capita energy use by 2032 from a 2012 baseline.³¹ This target is inclusive of energy use by all sectors, including electric, natural gas, and transportation.³²

11. The Report notes that the District, in an effort to reach its' energy savings goals, is pursuing multiple initiatives and any utility-administered EEDR program would "operate within and be impacted by a broader ecosystem of new and emerging programs."³³ The programs include, but are not limited to: (1) Energy efficiency programs implemented by the DCSEU; (2) Pepco's Energy Wise Rewards program; (3) The CleanEnergy Act Building Energy Performance Standards ("BEPS"); (4) New building energy codes and standards, including the goal to establish Net-Zero Energy Codes for all buildings by 2026; (5) The Weatherization Assistance Program ("WAP") – administered by DOEE; (6) PowerPath DC, which focuses on distribution grid modernization including non-wires alternatives; (7) *Formal Case 1142*, in which WGL is implementing an energy efficiency program targeting low-income multi-family housing in the amount of \$4.2 million, which is funded by AltaGas Ltd. in compliance with a merger commitment; (8) *Formal Case 1148*, in which Pepco along with the Energy Efficiency and Energy Conservation Task Force is initiating a whole-building deep energy retrofit program targeting multi-family housing, including low- and limited-income residents in the amount of \$11.25 million; (9) The Green Finance Authority; and

²⁸ Report at 4.

²⁹ Report at 4.

³⁰ Report at 4.

³¹ Report at 5. Citing the Sustainable DC 2.0 Plan, p. 74, available at http://www.sustainabledc.org/wp-content/uploads/2019/04/sdc-2.0-Edits-V5_web.pdf.

³² Report at 5.

³³ Report at 5.

(10) The Property Assessed Clean Energy financing program administered by Urban Ingenuity under contract with DOEE.³⁴

12. In considering energy savings goals, the Report indicates that specific long-term energy savings metrics for energy efficiency programs are needed but that the Working Group could not reach a consensus on the issue.³⁵ However, the Report notes that the DCSEU started with an energy savings goal of less than 1% reduction per year of gross energy savings from a 2014 baseline which was gradually increased to 1% per year savings level over 5 years.³⁶ The Report recommends that whatever metrics the Commission decides should account for targets in the CEDC compliance with BEPS.³⁷

13. Although the Report does not provide specific long-term energy savings metrics, it does recommend medium-term goals for the first 5 years of utilities' energy efficiency programs. The Report recommends that Pepco begin their programs operating "with a target of 1% per year of gross wholesale³⁸ annualized electricity savings by the fifth year of utility program implementation."³⁹ After the initial startup years, the Report suggests that the annual savings goal should eventually align with the DCSEU's 1% annual gross savings goal.⁴⁰ The Report recommends that the Working Group be reconvened prior to the end of three (3) years to assess the impact of BEPS and other energy efficiency efforts and to make long-term goal recommendations for energy efficiency programs as a result of conducting an EEDR Potential Study⁴¹ which includes a review of the required contribution of EEDR programs in meeting the

³⁴ Report at 5-6.

³⁵ Report at 6.

³⁶ Report at 6.

³⁷ Report at 6.

³⁸ Report at 7. The Report notes that "[w]holesale energy savings refers to energy savings where a line loss factor has been applied to meter-level savings to approximate the generation-level impact of those energy savings. Gross savings refer to all savings achieved through energy efficiency programs, whereas net savings take into consideration savings that might have occurred in the absence of a particular program such as free ridership and spillover effects. It can take up to a year to conduct the econometric analysis to determine a net-to-gross ratio for a given program, creating significant lag in reporting evaluated net savings relative to gross savings." Report at 7, fn. 16.

³⁹ Report at 7.

⁴⁰ Report at 7.

⁴¹ The Working Group noted a need for an EEDR Potential Study to identify the technical, economic, and achievable EEDR potential in the District. U.S. DOE defines a Potential Study as "a quantitative analysis of the amount of energy savings that either exists, is cost-effective, or could be realized through the implementation of energy efficiency programs and policies." Report at 7, fn. 15. Potential Studies identify specific energy savings opportunities, often down to the measure level, and seek to define not just technical potential (energy savings opportunities based on current technology regardless of the cost or difficulty to implement), but also economic potential, "the subset of technical potential that is considered cost-effective compared to a supply-side energy resource alternative (i.e., energy generation)" and achievable potential, "a subset of economic potential, is the energy savings that could be realistically achieved given real-world constraints, including market and programmatic barriers." <https://www.energy.gov/eere/slsc/energy-efficiency-potential-studies-catalog>. Report at 7-8, fn. 15.

District's long-term and interim savings goals.⁴² The Report advocates the use of an EEDR Potential Study because it could guide future EEDR program design, implementation, and energy savings goals.⁴³

C. Annual Energy Savings Metrics

14. According to the Report, “[a]nnual energy savings targets are an incremental breakdown of the program cycle energy savings goals.”⁴⁴ The program administrators set goals over the 3 or 5 year cycle of a program and if they do not achieve the goal in one year they have the opportunity to close the gap by achieving more in the next years within the program cycle.⁴⁵ If a program over or underachieves in an individual year, the over or under savings can be applied to subsequent years in the program cycle.⁴⁶ The Working Group recommends that Pepco have a 3-year program to allow for quicker review and refinement. Pepco recommends a 5-year cycle to; (1) gain market experience; (2) gain the trust of customers; (3) allow certainty for contractors and businesses to meet the Commission's and EEDR Act's goals; and (4) lower the cost to administer programs through more favorable contract terms and deeper, more persistent savings that take time to complete.⁴⁷

15. The Report proposes medium-term goals of an annual savings of 1% of gross electricity savings for the initial program cycle, allowing for an initial ramp-up of program delivery by Pepco.⁴⁸ There was no consensus in the Report regarding the savings ramp period to reach the 1% savings.⁴⁹ The Report notes that consistent with the ramp-up rate range presented by the American Council for an Energy-Efficient Economy (“ACEEE”), DOEE and other participants recommend that a 1% savings rate should be achieved by program year three (3) and that Pepco should have interim goals for the first and second years of the program.⁵⁰ DOEE believes that to achieve this goal, energy efficiency programs should be offered to customers in all rate classes.⁵¹

⁴² Report at 7.

⁴³ Report at 7.

⁴⁴ Report at 8.

⁴⁵ Report at 8.

⁴⁶ Report at 8. The Report notes that the DCSEU currently has a 5-year contract (FY17 – FY21).

⁴⁷ Report at 8.

⁴⁸ Report at 8.

⁴⁹ Report at 8.

⁵⁰ Report at 8-9.

⁵¹ Report at 9.

In contrast, Pepco proposed a gradual ramp-up starting with approximately 0.2% savings in year one and increasing savings by an additional 0.2% in the following years until reaching 1% gross savings per year after 5 years.⁵² The Report proposes that future program cycles be revised based on the results of the EEDR Potential Study.⁵³”

16. The Report notes that WGL is “working to develop realistic, achievable, and analyzed-for-ratepayer-impact energy reduction targets” for its energy efficiency program design filing.⁵⁴ WGL recognizes that a more comprehensive program EEDR Potential Study should be undertaken to understand the market potential and prevent duplication of DCSEU programs. In addition, WGL states that a revenue decoupling mechanism would be a necessary component of a utility-led energy efficiency program in the District.⁵⁵

17. Also noted in the Report is ACEEE recognition that there is an added level of complexity of coordinating programs with the DCSEU and advocates setting a 3-year program cycle with a requirement that after two years the Commission conduct a proceeding on policy to reassess the program.⁵⁶ In addition, ACEEE recommends that WGL propose its own plan which should include an overall goal and ramp rates.⁵⁷

18. The Report notes the Sierra Club DC Chapter’s position that prohibiting these programs from exceeding their budgets constraints (*see* Cost Recovery discussion *infra*) would slow implementation of these programs.⁵⁸ Alternatively, the Sierra Club DC Chapter proposes a more aggressive ramp-up of 1/3% per year of annual energy savings to achieve a 1% gross savings within 3 years of the programs’ creation, and to include performance incentives to help meet the more aggressive target.⁵⁹

19. The Report mentions that there were no recommendations for peak demand savings (MWs) target for DR; but indicates that this could be considered after the EEDR Potential Study.⁶⁰

⁵² Report at 8.

⁵³ Report at 9.

⁵⁴ Report at 9.

⁵⁵ Report at 9.

⁵⁶ Report at 9.

⁵⁷ Report at 9.

⁵⁸ Report at 9.

⁵⁹ Report at 9.

⁶⁰ Report at 9.

DOEE noted that some demand response programs have localized reduction targets under Pepco's non-wires alternatives ("NWA").⁶¹

20. According to the Report, the DCSEU only uses MMBtu ("One Million British Thermal Units") for calculating energy savings for low-income projects but uses MWhs ("Megawatt Hours") and therms for non-low-income electricity and gas project savings. The Report indicates that opposed to using the DCSEU current methodology, DOEE is evaluating the implications of collecting energy savings data on a MMBtu as compared to the MWhs and therms. If such a change is made in how annual energy savings and project energy savings are evaluated, then the Commission, utilities, and stakeholders will need to examine a similar change in utility quantitative performance indicators ("QPI") calculations.⁶² Pepco asserts that making the shift to using "an MMBtu goal aligns efficiency program metrics with both the energy reduction goals as well as the emissions reductions goals."⁶³ The Report notes that changing to an MMBtu goal would allow the DCSEU and the utilities to offer programs that reduce overall carbon emissions, however it could cause an increase in kWh usage due to fuel switching from oil or gas to electric energy.⁶⁴ The Working Group asserts that these types of initiatives will become increasingly valuable as the city moves towards a cleaner fuel mix for its electric energy supply. Sierra Club DC Chapter wants an immediate change to evaluating energy efficiency programs on MMBtu savings "so that utilities can design programs that incentivize beneficial fuel switching, i.e. from gas to electricity."⁶⁵

D. Quantitative Performance Indicators ("QPI")

21. According to the Report, the EEDR Metrics Working Group supports the use of annual QPI for utility run programs similar to those reported by Pepco for EmPower Maryland's semi-annual reporting which at a high level include data regarding: (1) program participation; (2) measure count and category by program; (3) annualized energy savings by program, in both gross and net wholesale MWh; (4) demand reduction by program, in wholesale MW; (5) levels of participation, program spending, and energy savings for customers receiving energy assistance; (6) budget and spend by program; and (7) potential program modifications. On the natural gas side, WGL reports on (1) program participants; (2) measure count by program; (3) total annual budget expenditures by program; (4) annualized energy savings in gross therms; (5) participation, spend, and savings for customers receiving energy assistance; (6) lifecycle energy savings in gross therms; (7) and lifecycle energy cost savings; and (8) net therm savings provided by programs.⁶⁶

⁶¹ Report at 9. Demand Response programs focus on peak demand savings and Energy Efficiency programs focus on energy savings.

⁶² Report at 9.

⁶³ Report at 9-10.

⁶⁴ Report at 10

⁶⁵ Report at 9-10.

⁶⁶ Report at 10.

ACEEE wants additional reporting, at sector level and program level, on total savings, participation, costs, and greenhouse gas savings.⁶⁷

22. The Report recommends that the Commission approve an approach which would allow a sub-working group (WGL, Pepco, and DCSEU) established by the Working Group to develop consensus QPIs that are similar to DCSEUs, but adding elements specific to utilities.⁶⁸ For making easier comparisons with the DCSEU program years the Report recommends that the timing of QPI reporting align with the District Government's fiscal year (October 1 to September 30).⁶⁹ Pepco notes that the timing of Commission approval of energy efficiency programs may require a partial program year for initial implementation to better align reporting cycles with DC Government and DCSEU programs.⁷⁰ WGL indicates it will establish an appropriate gas QPI if demand response is included in the utility-led portfolio of programs offered in the District.⁷¹

23. DOEE and Sierra Club DC Chapter provided recommendations for peak demand savings. DOEE recommends that demand response programs should continue to have callable MW loads as the primary QPI considering the peak demand impact. Whereas, Sierra Club DC Chapter proposes that "Pepco report peak demand savings (MWs) in terms of both Winter MW and Summer MW as electrification efforts may eventually change the electricity use characteristics in the District to reach peak capacity in the winter instead of the summer."⁷²

E. Cost-Effectiveness Standards

24. In measuring the cost effectiveness of energy efficiency programs, the Working Group agreed and recommended that the standard for the benchmarking for energy-saving targets should be the standard currently used by the DCSEU, the gross energy wholesale savings, to determine energy efficiency.⁷³ In addition, the Working Group also recommends, consistent with

⁶⁷ Report at 10.

⁶⁸ Report at 10.

⁶⁹ Report at 10.

⁷⁰ Report at 10.

⁷¹ Report at 10.

⁷² Report at 10-11.

⁷³ Report at 7 fn.16, and 11. Gross savings refers to "the change in energy consumption and/or demand that results directly from program related actions taken by participants in an efficiency program, regardless of why they participated and unadjusted by any factors." Wholesale energy savings refers to energy savings where a line loss factor has been applied to meter-level savings to approximate the generation-level impact of those energy savings. Net savings takes into consideration savings that might have occurred in the absence of a particular program such as free ridership and spillover effects. Net energy savings are generally used in benefit cost analysis.

DCSEU's current practice, the net energy savings should be used for cost-effectiveness and that the utilities calculate the net energy savings by subtracting free-ridership and spill-over effects.⁷⁴

25. The Working Group also recommends the use of the Societal Benefit Cost ("SBC") test analysis which the DCSEU programs use to measure cost-effectiveness.⁷⁵ In addition, the Working Group noted several other tests (i.e., the Utility Cost Test ("UCT"), Total Resource Cost ("TRC") test, and Rate Impact Measure ("RIM") that could be tracked and provide other insights into the programs. Pepco and WGL agreed to use DCSEU's inputs to the extent they are applicable to utility energy efficiency programs.⁷⁶ The Report notes that this would allow District-based energy efficiency programs to use the same cost-effectiveness standards.⁷⁷ The Working Group reached a consensus that: (1) programs should be evaluated for cost-effectiveness at the portfolio level and across all years of the EEDR program cycle; (2) focusing on the portfolio level and multiple years allows the EEDR administrators to pursue more diverse and comprehensive EEDR portfolios, such as programs that could achieve deeper energy savings but are typically less cost-effective; and (3) while individual programs would be screened for cost-effectiveness, the utility programs would only be required to demonstrate a Societal Cost Test ("SCT") benefit-cost ratio greater than one at the portfolio level.⁷⁸ The Report indicates that Pepco believes that cost-effectiveness does not directly reflect the cost to achieve energy savings and as progress is made "from simpler approaches, such as retail LED lighting mark-downs and large commercial prescriptive measure rebates, to more complex retrofit programs or programs targeting harder to reach populations, the cost per MWh of annualized energy savings typically increases, though the programs may still be cost-effective relative to policy objective."⁷⁹

26. The Report reflects that there was not a consensus among the Working Group with respect to assessing cost-effectiveness of energy efficiency programs serving low-income residents. The members offered differing means for assessing cost-effectiveness.

27. In addition, the Report indicates that Dynamic Energy Strategy recommended that the Commission: (1) waive the cost-effectiveness test for low-income programs; (2) that the predominately low- to moderate-income ("LMI") programs should be exempted from portfolio-level cost-effectiveness testing and/or "adders" should be provided for non-energy benefits such as for health and safety improvements.⁸⁰

⁷⁴ Report at 11.

⁷⁵ Report at 11.

⁷⁶ Report at 11.

⁷⁷ Report at 11.

⁷⁸ Report at 11.

⁷⁹ Report at 11.

⁸⁰ Report at 12.

28. Whereas, the Report reflects that Pepco and other Working Group members believe that: (1) the best practices typically exclude programs designed to reach limited-income households from the overall cost-effectiveness screening; and (2) “the value of calculating the Benefit-Cost ratio using SCT for these programs for tracking additional benefits to limited-income households as well as the substantially higher costs of administering these programs, including health and safety improvements, more personal and direct customer education and outreach, higher incentive levels, and other unique challenges to reaching those with the highest energy burden.”⁸¹

29. The Report notes that ACEEE recommended that the RIM test should only be used to the extent it provides information on the rate impact, the bill impact and the participation impact (rate increase or reduction).⁸² In addition, ACEEE recommends that low-income programs be exempt from meeting cost-effectiveness standards, but that for informational purposes they should be required to report on the cost-effectiveness.⁸³

30. The Report indicates that the Sierra Club DC Chapter believes that the cost-effectiveness for low-income programs should be evaluated differently from other programs and be reported and tracked for transparency.⁸⁴ They recommend that the Commission adopt the methodology used by DCSEU (i.e., non-energy benefits adder), or exempt low-income programs from having to meet the cost-effectiveness targets.⁸⁵

31. In addition, the Report notes that OPC acknowledges that low-income energy efficiency programs may not be as cost-effective as some of the other programs, but OPC contends that they are necessary to ease the energy burden. Moreover, OPC suggests that utilities’ portfolios should be comprehensive and offer programs that provide access for all ratepayers regardless of income, because if a ratepayer shares in the cost they should share in the benefits and savings in their households.⁸⁶

32. The Report reflects that WGL supports: (1) calculating the benefit-cost ratio based on the SCT for informational purposes when evaluating programs that benefit low- and moderate-income eligible programs; (2) excluding income-qualified programs SCT calculations for the overall energy efficiency program portfolio cost-effectiveness calculations; and (3) a ratepayer impact analysis to accompany the SCT for all income-qualified programs.⁸⁷

⁸¹ Report at 12.

⁸² Report at 12.

⁸³ Report at 12.

⁸⁴ Report at 12-13.

⁸⁵ Report at 12.

⁸⁶ Report at 13.

⁸⁷ Report at 13.

33. Lastly, the Report notes that DOEE believes that: (1) low-income program costs and benefits should be included in EEDR cost-effectiveness screening, but assessing portfolio level cost-effectiveness should achieve a benefits to cost ratio of one; and (2) low-income programs should receive a non-energy benefits adder reflecting any benefits that accrue from targeting LI households.⁸⁸

F. Measures the Commission Can Take to Ensure Programs Do Not Impede District Business or Nonprofits Currently Operating in the District that Provide EEDR Programs

34. The Report notes ACEEE's recommendations regarding how: (1) the administrator of EEDR programs can leverage existing EEDR efforts to achieve greater cost-effectiveness without duplicating efforts; and (2) the Commission can understand the strength and weaknesses of District agencies, the DCSEU, and the utilities to allow each entity to focus their responsibilities on the areas where they have the strength to avoid confusion.⁸⁹ In addition, ACEEE recommends for administrative purposes that: (1) workforce development should be handled by District agencies; (2) customer acquisition to be handled by the utilities; (3) retail product programs will be handled by the utilities; and (4) multi-family and low-income customers to be handled by in a coordinated effort between DCSEU and the utilities.⁹⁰ The Report indicates that there is a need for flexibility to allow program types to evolve and to allow for the development of innovative new approaches.⁹¹

G. EEDR Performance Incentives Mechanisms ("PIMs")

35. Pursuant to the CEDC Act, the Working Group was to consider recommendations regarding PIMs based on quantitative performance indicators (*see* section E *supra*). However, the Report notes that the Working Group, including Pepco, believes that Pepco's base rate case, *Formal Case No. 1156*, is a more appropriate place for review of PIMs since the Commission by Order No. 20273 "directed the parties and stakeholders to 'meet and discuss what PIMs are achievable in [the] rate case, [and] how PIMs [could] be utilized to advance the District's clean energy goals, and what information is suitable for tracking for future PIM development.'"⁹² Although the Working Group accepts that this case is not the Commission's primary vehicle for PIMs development, the group disagrees on whether PIMs related to EEDR could be addressed here.⁹³ The Report recognizes that the Working Group was not proposing specific PIMs for the

⁸⁸ Report at 13.

⁸⁹ Report at 13.

⁹⁰ Report at 13.

⁹¹ Report at 13.

⁹² Report at 14.

⁹³ Report at 14.

utilities at this time, although ACEEE did recommend principles necessary for effective PIMs.⁹⁴ However, the Working Group indicated that they did explore how the DCSEU is compensated in relation to its performance which will be useful in the future development of PIMs.⁹⁵

H. Additional Utility Application Matters

36. The CleanEnergy DC Act requires a utility to; (1) coordinate with DOEE, the DCSEU, and the SEU Advisory Board to ensure that proposed programs are not substantially similar to DCSEU programs unless the DCSEU supports the program; and (2) offer energy efficiency programs that “shall primarily benefit low- and moderate-income residential ratepayers to the extent possible.”⁹⁶

1) Consultation and Coordination with DOEE, DCSEU, and SEU Advisory Board

37. The Report notes that the CEDC Act’s requirement of consultation and coordination with DOEE, DCSEU, and the SEU Advisory Board would be problematic for certain members of the board (i.e., the Commission and OPC) due to their involvement with assessing utility applications filed with the Commission.⁹⁷ The Working Group recommends that the utilities: (1) present their EEDR proposals to DOEE, DCSEU, and the SEU Advisory Board prior to filing an Application with the Commission; and (2) include the date of presentation of programs to DOEE, DCSEU, and SEU Advisory Board in the Application filed with the Commission.⁹⁸ ACEEE recommends that the Commission: (1) establish a process to facilitate coordination with DOEE, DCSEU, and the SEU Advisory Board; and (2) “consider including a QPI related to the combined success of the administrators to further encourage collaboration.”⁹⁹

2) Relationship to DCSEU Programs

38. The Report indicates that the Working Group recognizes that the CEDC Act requires the utility to show that any proposed programs are not “substantially similar to programs

⁹⁴ Report at 14-15.

⁹⁵ Report at 14. The DCSEU is compensated for each goal and begins to earn an incentive payment if: (1) it meets the minimum performance target for each benchmark; (2) it meets the contract established series of energy savings goals and performance incentives and earns payments as it moves from 50-80% of a goal up to 100% of the goal; (3) its performance meets or exceeds 100% of the performance target for that benchmark it receives 100% of the incentive payment. The contract establishes a cap on the 100% payment level established in the contract and provides for penalties for non-performance when DCSEU fails to meet a performance benchmark. Penalties for non-performance are assessed on an annual basis for two benchmarks, and at the end of the 5-year base period for all cumulative benchmarks.

⁹⁶ Report at 15.

⁹⁷ Report at 15.

⁹⁸ Report at 15.

⁹⁹ Report at 15.

offered or in development by the SEU, unless the SEU supports such programs.”¹⁰⁰ The Working Group suggests that the most efficient way to meet this statutory requirement is for the utility to get an opinion from the DCSEU concerning the utility’s proposed program.¹⁰¹

3) Primarily Benefit Low- and Moderate-Income Residential Ratepayers to the Extent Possible

39. The Report notes that “[u]tility proposed EEDR programs are to primarily focus on both low-income and medium-income ratepayers. The Report reflects that the Working Group agreed that for “utility EE purposes low- income should be recognized as synonymous with utility customers eligible for the Residential Aid Discount (“RAD”) program for Pepco and Residential Essential Service (“RES”) for WGL, which is household income at or below 60% State Median Income (“SMI”).”¹⁰² In addition, “the Working Group defines moderate-income for EE purposes as household income at or below 120% of AMI as established by the U.S. Department of Housing and Urban Development (“HUD”) for the Washington Metropolitan Area Statistical Area.” The Report reflects that 120% of Area Median Income (“AMI”) is currently approximately \$145,000 a year for a family of four.¹⁰³ The Report recognizes that this is consistent with both the definition of moderate-income eligibility for the DC Homestead Property Tax Credit and with Pepco’s senior and disabled citizens class in *Formal Case No. 1149*.¹⁰⁴ The Report indicates that “having these definitions for low- and middle-income customers will assist the utilities to readily qualify customers for a new program targeting this group without a separate income qualification process.”¹⁰⁵ Nonetheless, the Working Group also considered other ways, other than income qualification or participation in the above-referenced programs, to allow customers to be considered LMI, such as census blocks, or geographic determinants, average rent, or propensity modeling as opportunities to expand reach and mitigate barriers to program participation. However, because the utilities do not income qualify, accepting other forms of income qualification would be necessary to reach the target LMI customer base and fundamental to the utilities’ ability to meet the intent of the Act. The Report notes that “[a] major intent of the CleanEnergy DC Act is not to overlap with DCSEU programs.”¹⁰⁶ To that end, the Working

¹⁰⁰ Report at 16.

¹⁰¹ Report at 16.

¹⁰² Report at 16. Although “low income” customers are defined as customers eligible for RAD or RES, the Report notes that in order to become exempt from the utility surcharges associated with the respective EE programs, customers will need to be enrolled in the RAD and/or RES programs with Pepco and WGL.

¹⁰³ Report at 16. The Report notes that the CleanEnergy DC Act, defines low-income for the DCSEU as “persons with household incomes of 80% or less than the Area Median Income (“AMI”).” See D.C. Code § 8-1774.10(c)(12)(B) (2019).

¹⁰⁴ Report at 16.

¹⁰⁵ Report at 16.

¹⁰⁶ Report at 16.

Group has identified energy efficiency “single family” programs as an underserved area, which may be a good initial program area for the utilities.¹⁰⁷

40. The Report reflects that the Working Group did not reach a consensus on “what [was] meant for a utility program to ‘primarily benefit’ low- and moderate-income or how the utility and the Commission should assess this aspect of a utility proposed program.”¹⁰⁸ Nonetheless, the Working Group did have a broad agreement that meeting the District’s aggressive goals would require EEDR programs by utilities beyond the LMI market.

41. Noted in the Report is Dynamic Energy Strategy’s suggestion that the Commission broadly interpret the term “primarily benefit” to allow programs for all residential customers and commercial customers as the most cost-effective means of reducing energy consumption and lowering carbon emissions.¹⁰⁹ They argue that: (1) LMI residents will benefit from program offerings, economic and job development, potential lower bills through overall demand reduction and environmental benefits; and (2) “Energy efficiency remains the cheapest, quickest and cleanest resource for meeting energy demands.”¹¹⁰

42. Also contained in the Report is Pepco’s recommendation that the Commission broadly interpret the CEDC Act noting that the term “benefit” to LMI customers must allow for both direct (e.g., EE measures employed on a customer’s home) and indirect benefits¹¹¹ (e.g., economic growth and job creation or demand reduction induced price effects). Pepco proposes that the Commission allow the inclusion of some programs that supplement DCSEU program offerings. Pepco believes that “by excluding RAD and RES customers from the surcharge and using a single surcharge across all customer classes, low- and moderate-income customers additionally benefit through diluted burden-sharing of cost to achieve the City’s goals.”¹¹²

43. The Report also reflects NCLC/NHT/NRDC’s proposal that the term “benefit” be defined as “the level of energy savings that accrue to low- and moderate-income ratepayers.”¹¹³ NCLC/NHT/NRDC argues that a savings based definition of benefits assures that “low- to moderate-income ratepayers receive equitable opportunities to save both electricity and natural gas and benefit from meaningful cost savings from lower energy bills while meeting the City’s carbon emissions.”¹¹⁴ NCLC/NHT/NRDC asserts that the utilities in coordination with DCSEU

¹⁰⁷ Report at 16-17.

¹⁰⁸ Report at 17.

¹⁰⁹ Report at 17.

¹¹⁰ Report at 17.

¹¹¹ Report at 17.

¹¹² Report at 17.

¹¹³ Report at 17.

¹¹⁴ Report at 17.

should set energy savings targets to assure that a greater share of energy-saving primarily accrues to low- to moderate-income ratepayers.¹¹⁵

44. The Report reflects that Sierra Club DC Chapter believes that: (1) low- income programs are important equity considerations for energy efficiency programs; (2) non-residential programs are outside the scope of the requirement to primarily benefit LMI residential customers; (3) programs for moderate-income households need not be designed differently or subject to a means test; and (4) compliance with LMI requirements should be demonstrated with surveys, census data, other statistical methods, or some combination of these methods that don't require income verification for program participation.¹¹⁶ However, Sierra Club DC Chapter does believe that low-income programs should be subject to means testing because those programs require different incentives.¹¹⁷

45. The Report notes that OPC believes that “‘primarily benefit’ means that the utilities’ portfolio of programs should be largely geared towards low- to moderate-income; however, . . . utilities should also have energy efficiency programs that benefit all ratepayers regardless of their income level to ensure equitable access.”¹¹⁸

46. The Report indicates that WGL believes that the term “‘primarily benefit’” should be broadly interpreted, with the term “benefit” to include energy (equipment/measures installed, lower fuel costs) and non-energy benefits (health & safety, job creation, education).¹¹⁹ WGL asserts that “[f]rom a programmatic perspective, a broader interpretation could allow utilities to service LMI community through multiple program pathways that could accompany and support higher-cost, lower-energy savings-yield nature of dedicated LMI energy efficiency programs to create a comprehensive portfolio.”¹²⁰ As one of those pathways, WGL notes that Commercial and Industrial (“C&I”) programs should be offered alongside of residential programs where C&I customers who service the LMI community can benefit from program participation and pass on benefits to LMI residents by providing lower cost services or expanding upon existing services.¹²¹

47. As shown in the Report, DOEE supports a flexible approach to the definition and believes that it is in relation to the breadth of the utility program, the size of the program budget, and the scale of energy savings. Moreover, DOEE notes that “‘if the utility proposes a limited portfolio, then at least 50% of program benefits should accrue to low-and moderate-income

¹¹⁵ Report at 17.

¹¹⁶ Report at 18.

¹¹⁷ Report at 18.

¹¹⁸ Report at 18-19.

¹¹⁹ Report at 19.

¹²⁰ Report at 19.

¹²¹ Report at 19.

residential customers.”¹²² However, if a “more comprehensive portfolio is proposed, then there should be a 30% floor on the percentage of program budget spent on low-and moderate-income residential customers.”¹²³

4) Cost Recovery

48. The Report recommends that the Commission approve a 3-year or 5-year program cycle and provide for the possibility of an extension of the program if the 3-year cycle is approved. The Utilities should be required to submit program proposals with: (1) corresponding budgets for each program within a portfolio; (2) flexibility to move funding between programs over the course of the approved program cycle based on the performance of the program without seeking approval of the Commission provided it is within a cost threshold of 10% to 15% of the program budget and that notice is provided to the Commission during the program cycle;¹²⁴ and (3) requiring explicit Commission approval to exceed the overall budget for the EEDR portfolio.¹²⁵

49. In addition, the Working Group recommends that: (1) the Utilities be able to recover the costs of the programs through a surcharge that is based on energy usage and included as a line item on the customer’s bill; and (2) low-income customers be exempt from the surcharge.¹²⁶ However, Pepco proposes: (1) a single surcharge applicable to all rate classes except customers enrolled in RAD; (2) the program costs be amortized for seven years; (3) there would be an annual true-up mechanism as approved by the Commission; and (4) the utility would file a more detailed cost-recovery calculation and process as part of its portfolio filing.¹²⁷ OPC advocates for amortizing the program costs over at least 5 to 7 years.¹²⁸ AOBA suggests that cost causality be tied to any cost recovery so that residential customers and commercial customers support programs which are beneficial to that class of customers.¹²⁹

50. The Report notes ACEEE’s concerns about how RAD customers could be exempt from the surcharge if they are the specific class of customers eligible for the programs. Further, ACEEE argues that exempting these customers: (1) is counter to regulatory principles; (2) could invite court challenge from those forced to pay for programs they cannot participate in; and (3)

¹²² Report at 19.

¹²³ Report at 19.

¹²⁴ The Working Group did not make any specific recommendation as to the threshold.

¹²⁵ Report at 19.

¹²⁶ Report at 19.

¹²⁷ Report at 19. The cost recovery would be aligned with the average lifetime of the measures implemented through the programs and would be calculated using the weighted average cost of capital approved by the Commission.

¹²⁸ Report at 19-20.

¹²⁹ Report at 20.

could be problematic if programs are paid for through specific line item on customer bills for customers who are not eligible.¹³⁰

I. Items Left Unresolved by the EEDR Metric Working Group

51. According to the Report, the Working Group, because time constraints left several critical issues unresolved which include: (1) the process for adopting a uniform technical reference manual; (2) other issues related to cost recovery such as expensing or amortizing EEDR program costs; and (3) the design of PIMS for EEDR program implementation.¹³¹ Consequently, the Report recommends that the Commission reconvene the Working Group for an additional 120 days to resolve these issues and other remaining issues that may be identified.¹³²

V. COMMENTS ON EEDR REPORT

52. **OPC.** OPC recommends “that the utilities should have an annual net energy savings target and a long-term energy savings metric target” along with tracking and reporting “on GHG reduction numbers annually.”¹³³ OPC supports utility run energy efficiency and demand response programs on a three-year span because this “will allow stakeholders an opportunity to evaluate how the utilities are operating the energy efficiency and demand response programs in the District and the time span is aligned with the programs that are in effect in Maryland by WGL and Pepco currently.”¹³⁴ Also, OPC notes that “like the DCSEU, the utilities should eventually reach one percent (1%) of annual savings after its initial three-year phase” but if the “Commission decide to approve a five-year time period for the utilities, then OPC suggests that the one percent (1%) target be implemented as an annual target for years three through five.”¹³⁵ Furthermore, OPC notes that “utilities should report twice per year on net savings, lifetime savings, program subscription numbers, the program's budget balances to date, therms savings, use of the District's certified business enterprises, trade allies and marketing tactics to engage consumers” and “host a year end stakeholder meeting to answer any questions and give an update on program implementation.”¹³⁶

53. OPC further states that “the use of the [SCT] and the use of multiple scenarios, which is the test the DCSEU utilizes when formulating their portfolio of offerings” should be used.¹³⁷ OPC recommends “the Commission require the utilities to utilize the SCT as a tracking

¹³⁰ Report at 20.

¹³¹ Report at 20.

¹³² Report at 20.

¹³³ OPC's Comments at 3.

¹³⁴ OPC's Comments at 3.

¹³⁵ OPC's Comments at 3.

¹³⁶ OPC Comments at 6.

¹³⁷ OPC's Comments at 4.

system for the low-to-moderate income programs and not as a disqualifier from implementing programs in this sector”¹³⁸ and the utilities should be required to “offer a comprehensive portfolio of programs to assure equitable access for all ratepayers regardless of their income threshold.”¹³⁹ Discussing the definition for low- and moderate-income residential ratepayers, OPC supports the working group’s low-income customers definition as “utility customers who are eligible for the [RAD] program for Pepco and [RES] for WGL, which is a household income at or below the 60% SMI.”¹⁴⁰ In regards to moderate-income, OPC notes for energy efficiency purposes it is “defined as those with a household income at or below 120% of AMI as established by the U.S. Department of Housing and Urban Development []” and at present, this is approximately \$145,000 a year for a family of four and “this definition of moderate-income aligns with the eligibility for the DC Homestead Property Tax Credit and is consistent with Pepco’s senior and disabled citizens class designation in Formal Case No. 1149.”¹⁴¹

54. OPC further believes that “utilities should [not] be incentivized to implement EEDR programs at this time” because “utilities will likely be able to recover costs related to the implementation of their portfolio of programs that are determined to be prudent by the Commission, with input from parties.”¹⁴² OPC notes that “utilities should present their portfolio of programs to DOEE, DCSEU, and the SEU Advisory Board and report the date the meeting(s) were held in their official application filing to the Commission” and in the case where “any member believes a program presented is duplicative of the DCSEU’s programs, it may file a letter with the Commission. Additionally, because OPC, Pepco and WGL are members of the SEU Advisory Board, OPC recommends that these members should abstain from voting in favor of the portfolio of programs and reserve their right to file comments with the Commission directly when the utilities file their application.”¹⁴³

55. Regarding cost recovery, OPC believes that: (1) “the budget approved by the Commission for the utilities portfolio of EEDR programs should be the only money the utility is able to recover from consumers;”¹⁴⁴ (2) the cost recovery mechanisms should be similar to ones utilized in the past providing stakeholders with an opportunity to ensure that incurred costs were prudent; (3) OPC supports the use of a surcharge as a line item on consumers’ bills based on energy usage amortized over a period no less than seven years; and (4) the Commission should

¹³⁸ OPC’s Comments at 4.

¹³⁹ OPC’s Comments at 4.

¹⁴⁰ OPC’s Comments at 4-5. OPC notes that the CleanEnergy DC Omnibus Act defines low-income for the DCSEU as “persons with household incomes of 80% or less than the Area Median Income.”

¹⁴¹ OPC’s Comments at 5.

¹⁴² OPC’s Comments at 5.

¹⁴³ OPC’s Comments at 5-6.

¹⁴⁴ OPC’s Comments at 6.

provide no less than 60 days for stakeholders to review and comment on the utilities' filed application on their portfolio of programs.¹⁴⁵

56. **DOEE.** DOEE states that “utilities [should] propose EEDR programs that target all customer classes, including commercial and industrial customers, and create special programs addressing the unique barriers facing low-income District of Columbia residents.”¹⁴⁶ DOEE “recommends that the Commission adopt a savings goal of 1% weather normalized total electricity sales in the District of Columbia in 2019, or the most recent calendar year with complete sales data in the third program year with interim savings targets of 0.33% and 0.66% for Program Years 1 and 2, respectively.”¹⁴⁷ DOEE recommends that the length of the initial EEDR program cycle should be three years and that savings rates targets for subsequent EE program cycles should be based on the results of the EEDR Potential Study.¹⁴⁸

57. DOEE suggests that WGL propose its own plan for energy savings ramp and goals for its initial program cycle based on program offerings.¹⁴⁹ DOEE asserts that: (1) gas savings goals should be informed by the EEDR Potential Study which study should be implemented concurrently with the initial program cycle; (2) “the EEDR Potential Study should be District-wide, cover all customer classes, and be agnostic to the program implementer (DCSEU or utility);”¹⁵⁰ (3) the EEDR Potential Study should not be delayed until the results of DOEE’s Strategic Electrification Roadmap and Carbon Neutrality Strategy;¹⁵¹ and (4) these programs would only provide high-level data points which may not be suitable for the purpose of designing a utility program and establishing the program budget.¹⁵²

58. DOEE recommends that the length of the initial EEDR program cycle be three years, and not five (5) years as Pepco proposes, because it provides utilities sufficient time “to build out their program delivery structures and gain experience, while preserving the flexibility to modify plans once the performance is known.”¹⁵³ According to DOEE, the three (3) year cycle provides some flexibility because it would allow the utility to demonstrate two (2) years of actual

¹⁴⁵ OPC’s Comments at 6.

¹⁴⁶ DOEE’s Comments at 7.

¹⁴⁷ DOEE’s Comments at 9.

¹⁴⁸ DOEE’s Comments at 11.

¹⁴⁹ DOEE’s Comments at 11.

¹⁵⁰ DOEE’s Comments at 12.

¹⁵¹ DOEE’s Comments at 12. DOEE indicates that results will not be available until completion in the fourth quarter of 2020.

¹⁵² DOEE’s Comments at 13.

¹⁵³ DOEE’s Comments at 14.

data before filing the next program cycle in the third year.¹⁵⁴ In addition, DOEE argues that the EEDR Potential Study should be completed during those two years and that the results of the study could be used to shape EEDR program goals for the next cycle.¹⁵⁵ DOEE maintains that rapid changes in technology, improvement in program design, and implementation best practices requires a more frequent review than five (5) years.¹⁵⁶

59. Although the Report accepts that this proceeding is not the primary vehicle for addressing PIMS, DOEE recommends that the Commission reconvene the Working Group once a framework is developed for PIMs through *Formal Case No. 1156*.¹⁵⁷ DOEE suggests that the Working Group should develop recommendations on appropriate EEDR PIMs (if any), consistent with the requirements in *Formal Case No. 1156* and Section 201(b) of the CEDC Act.¹⁵⁸ DOEE recommends that “the PIMs should be narrowly focused on performance-based cost recovery of EEDR program costs.”¹⁵⁹ DOEE states that “it is both possible and preferable to define a framework for EEDR PIMs in this proceeding.”¹⁶⁰ DOEE believes that the Commission would benefit from any recommendations by the Working Group regarding the appropriate design and metrics for EEDR PIMs.¹⁶¹ In addition, the Working Group PIMs recommendations would send a clear signal to the utilities about the kinds of PIMs likely acceptable to the Commission and stakeholders.¹⁶²

60. DOEE recommends that “all utility-administered EEDR programs, including LMI programs, be included in costs-effectiveness screening using the SCT, and that the determination of cost-effectiveness be assessed at the portfolio level.”¹⁶³ DOEE believes that the SCT is the appropriate “mechanism for measuring the effectiveness of low-income programs because it includes an extensive list of benefits, including non-energy benefits, to adequately capture all benefits provided to low-income households.”¹⁶⁴ DOEE disagrees with members of the Working Group that want to exempt all low-income programs from meeting cost-effectiveness standards because DOEE believes that screening all programs in the utility portfolio will inform future program design and implementation strategies and provide assurances to the public that the utilities

¹⁵⁴ DOEE’s Comments at 14.

¹⁵⁵ DOEE’s Comments at 14.

¹⁵⁶ DOEE’s Comments at 15.

¹⁵⁷ DOEE’s Comments at 15.

¹⁵⁸ DOEE’s Comments at 15.

¹⁵⁹ DOEE’s Comments at 15.

¹⁶⁰ DOEE’s Comments at 16.

¹⁶¹ DOEE’s Comments at 17.

¹⁶² DOEE’s Comments at 17.

¹⁶³ DOEE’s Comments at 18.

¹⁶⁴ DOEE’s Comments at 19.

are managing costs and benefits of all programs.¹⁶⁵ DOEE maintains that there is a “need for increased flexibility in low-income cost effectiveness testing to ensure that programs can achieve a benefit-to-cost ratio of at least one. This could include benefits adder for low-income programs.”¹⁶⁶

61. DOEE wants a verifiable process for conducting income verification of LMI program participants to ensure only eligible households participate. DOEE recommends that the Commission reconvene the EEDR Metrics Working Group to develop an income verification process that is consistent with established methods for facilitating effective collaboration and coordination with the existing EEDR program implementers.¹⁶⁷ DOEE recommends streamlining “coordination among programs implemented by DOEE, the DCSEU, and other implementers to potentially expand the number of households served through LMI programs.¹⁶⁸ Also, DOEE wants the Commission to require the utilities to adopt coordinated methodologies to qualify program participants or reconvene the Working Group to help develop approaches that demonstrate compliance with LMI requirements.¹⁶⁹

62. DOEE suggests that the Commission consider a broader spectrum of EEDR programs such as Conservation Voltage Reduction (“CVR”) and location-based DR.¹⁷⁰ The CVR allows conservation of energy, reduced peak demand, and avoids line losses by operating the distribution system to provide electricity to customers at lower voltages with potentially significant cost savings.¹⁷¹ DOEE notes that CVR is a program that only Pepco can adopt and implement and the Commission should consider CVR as part of Pepco’s EEDR portfolio.¹⁷² With respect to location-based DR, DOEE asserts that it should be considered as part of all Pepco capacity-related projects.¹⁷³ DOEE notes that “DR is an important resource that can shift peak load, thereby potentially deferring or avoiding the need for costly capacity additions or upgrades.”¹⁷⁴ DOEE believes that developing location-based DR programs relieve local capacity constraints and

¹⁶⁵ DOEE’s Comments at 18-19.

¹⁶⁶ DOEE’s Comments at 19.

¹⁶⁷ DOEE’s Comments at 20.

¹⁶⁸ DOEE’s Comments at 20.

¹⁶⁹ DOEE’s Comments at 20.

¹⁷⁰ DOEE’s Comments at 21-22.

¹⁷¹ DOEE’s Comments at 21.

¹⁷² DOEE’s Comments at 21.

¹⁷³ DOEE’s Comments at 21.

¹⁷⁴ DOEE’s Comments at 21.

provide multiple benefits for residents, businesses, and will be a key component in deploying NWA projects in the District.¹⁷⁵

63. Lastly, DOEE requests that the Commission reconvene the Working Group for a period not to exceed 120 days to develop a recommendation for topics that may not have been enumerated by the CEDC Act, but are critical to developing a complete regulatory framework for utility-administered EEDR programs.¹⁷⁶ Those topics may include: (1) Governance structure to coordinate the planning, delivery, reporting, and evaluation of EEDR programs administered by the DCSEU and the utilities; (2) Program cost recovery mechanism, including expensing or amortization of program costs; (3) PIMs for EEDR; (4) Minimum filing requirements for EEDR program plans and annual reports; and (5) Data sharing.¹⁷⁷

64. **SEUB.** The SEUB notes that “presently [DCSEU] reports on greenhouse gas reductions achieved through its implementation of its programs, namely by applying a formula that converts energy savings into greenhouse gas reductions.”¹⁷⁸ In addition, the SEUB states that the CAEA does not “reward[] (or penalize[]) for [][DCSEU’s] achievement of, or its failure to achieve, greenhouse gas reduction targets.”¹⁷⁹ As such, given the difference between energy savings and greenhouse reduction targets, SEUB notes that it’s comments are primarily focused on the question of whether “it would make recommendations as to items the PSC should consider in fashioning the metrics with which to measure the utilities’ implementation of EE and DR programs, and/or to a broader audience than the PSC and the DCSEU.”¹⁸⁰ SEUB states that the Working Group needs to figure out whether utilities should track GHG emissions reductions or set goals on energy saving reduction targets because “the utilities may also submit programs and or pilots to be approved by the PSC that would focus on greenhouse gas reductions, which should assist in aligning utility programs with the goal of the [Clean and Affordable Energy Act of 2008] CEDC.”¹⁸¹

65. SEUB notes that “while it is widely agreed there is a relationship between reduction in peak demand (both the District’s peak coincident with PJM’s relevant system peak, and otherwise) and reduction in greenhouse gas emissions, the District has not yet quantified the impact of the former on the latter, or explored the relationship between District peak, system peak, and related potential programming (e.g., creation of District-specific programs, versus facilitating

¹⁷⁵ DOEE’s Comments at 21.

¹⁷⁶ DOEE’s Comments at 22.

¹⁷⁷ DOEE’s Comments at 22-23.

¹⁷⁸ SEUB’s Comments at 2.

¹⁷⁹ SEUB’s Comments at 2.

¹⁸⁰ SEUB’s Comments at 2.

¹⁸¹ SEUB’s Comments at 3.

participation in or expanding the impact of existing PJM programs).”¹⁸² Nevertheless, SEUB states that “DOEE expects it will have devised the methods with which to quantify the impact of various types of peak demand on greenhouse gas reductions by the end of this calendar year, when it has completed its studies on electrification of the transportation sector.”¹⁸³ However, the SEUB notes that DCSEU “lacks certain tools that would enable it to unilaterally incentive peak demand shifting” but is willing to “facilitate[] equipment installations, and perform other tasks that may support a larger peak demand program.”¹⁸⁴

66. **NCLC/NHT/NRDC.** NCLC/NHT/NRDC states that “low-income households have the most to gain from improved energy-efficient housing but too often fail to receive a level of benefits from efficiency programs that is consistent with their needs” therefore “to achieve its ambitious climate change and energy reduction goals, [] [the District] will need to focus its efforts on overcoming the barriers that exist to reducing energy use in low-income homes.”¹⁸⁵ NCLC/NHT/NRDC recommends that the Commission: (1) “set a tentative long-term goal of an annual savings of 2% and conduct an energy efficiency potential study as soon as possible to determine if it needs to be adjusted;” (2) “require Pepco to achieve a medium-term goal of an annual savings of 1% of gross electricity savings to be achieved over three years;” (3) “require the tracking and reporting of indicators that help to ensure portfolio effectiveness;” (4) “interpret the statutory requirement that EEDR programs must primarily benefit low- and moderate-income (LMI) residents to mean that LMI households must receive a higher share of energy savings than other sectors. Benefits should not be defined as the share of funding going to LMI residents as funding levels don’t always translate into significant savings”; (5) “require the use of the Societal Cost Test with adders to account for the values of non-energy benefits, and should exempt low-income programs from being required to pass the cost-effectiveness test”; and (6) “implement Performance Incentive Mechanisms for achieving the overall energy savings target as well as a separate Performance Incentive Mechanism for achieving energy savings targets for LMI residents.”¹⁸⁶

67. NCLC/NHT/NRDC asserts that “a savings target for a portfolio should be set such that the savings are relative to economic potential and comparable to targets in other jurisdictions” therefore, it supports the idea that “a study [] be performed for the District as soon as possible” and recommends that the study be done “every three years so program administrators and regulators can revise performance management policy and program design according to changes in economically available savings.”¹⁸⁷ NCLC/NHT/NRDC states that an annual savings goal of

¹⁸² SEUB’s Comments at 3.

¹⁸³ SEUB’s Comments at 3.

¹⁸⁴ SEUB’s Comments at 3-4.

¹⁸⁵ *Formal Case No. 1160*, the National Consumer Law Center, the National Housing Trust, and the Natural Resources Defense Council’s Comments at 1, filed March 16, 2020 (“NCLC/NHT/NRDC’s Comments”).

¹⁸⁶ NCLC/NHT/NRDC’s Comments at 2.

¹⁸⁷ NCLC/NHT/NRDC’s Comments at 2-3.

2% is appropriate in the long-term.¹⁸⁸ NCLC/NHT/NRDC states if the Commission “sets an aggressive annual savings target, its long-term cumulative effect should be calculated as a complementary long-term performance metric” allowing better “performance management, namely requiring annual savings targets allowing for yearly tracking, reporting, and accountability, coupled with a long-term cumulative target would help ensure that the full deployment of a comprehensive suite of measures in building retrofits and new construction.”¹⁸⁹ NCLC/NHT/NRDC notes alternatively, the Commission “could adopt an annual savings target while allowing averaging over multiple years to reduce the likelihood that measure selection will be biased towards short-term saving.”¹⁹⁰

68. NCLC/NHT/NRDC avers that “[c]ontemporaneous with the performance of a potential study, it is appropriate and necessary for the District to set a medium-term savings target and believes “the one-percent target discussed by the Working Group is comparatively modest” and a reasonable starting point that “can be recalibrated upwards as warranted by the findings of a potential study.”¹⁹¹ Alternatively, NCLC/NHT/NRDC states if the Commission decides not to do a study, it “agrees with the Sierra Club that the overall program portfolio should achieve a ‘ramp rate of 1/3% per year to achieve 1% annual gross savings within 3 years of program inception” and should track and report indicators that help to ensure portfolio effectiveness.¹⁹²

69. NCLC/NHT/NRDC further states “[f]or the LMI residential sub portfolio to benefit ‘primarily’ from new EEDR programs, the PSC should establish an energy savings target that will result in LMI ratepayers receiving a greater share of energy savings than non-LMI ratepayers based on their energy load” and also recommends “that low-income customers be defined as households with incomes less than 80% AMI which is consistent with the definition used in the CleanEnergy DC Act.”¹⁹³ NCLC/NHT/NRDC also agrees with the Working Group recommendation that customers who participate in the RAD and RES programs offered by Pepco and WGL, as well as participants in other programs that have low-income definitions of 80% AMI or lower,” including “the Weatherization Assistance Program (“WAP”) and the Low Income Home Energy Assistance Program (“LIHEAP”), should automatically qualify for the low-income utility energy efficiency programs without a separate income-qualification process” and that moderate-income be defined as a household making between 80% to 120% AMI.”¹⁹⁴ NCLC/NHT/NRDC also recommends in order to establish the intent to set goals in this manner, the Commission should “prioritize conducting a Potential Study inclusive of LMI opportunities, and set a schedule for updating the goals when the Potential Study is concluded” and that a “new potential study . . . examine the

¹⁸⁸ NCLC/NHT/NRDC’s Comments at 3.

¹⁸⁹ NCLC/NHT/NRDC’s Comments at 3.

¹⁹⁰ NCLC/NHT/NRDC’s Comments at 3.

¹⁹¹ NCLC/NHT/NRDC’s Comments at 4.

¹⁹² NCLC/NHT/NRDC’s Comments at 4.

¹⁹³ NCLC/NHT/NRDC’s Comments at 5.

¹⁹⁴ NCLC/NHT/NRDC’s Comments at 5-6.

potential in LMI residential housing as per the statutory requirement that LMI customers benefit primarily from new programs” with the requirement that utilities “report separately on the number of households served who are low-income and moderate-income, and set a performance target for savings in the LMI sub portfolio.”¹⁹⁵ NCLC/NHT/NRDC states that this will help to ensure that “the utilities do not meet their legal requirement to primarily benefit LMI households by only serving households with incomes in the range of 80-120% AMI.”¹⁹⁶

70. Furthermore, NCLC/NHT/NRDC concurs “with the Working Group’s recommendation that the PSC require the use of the Societal Benefit Cost Test to assess the cost-effectiveness of the energy efficiency portfolios” and “recommend[s] using adders for non-energy benefits of importance to DC’s policy goals” but notes that in the “case of the low-income residential sub portfolio [they] concur with those in the Working Group who proposed exempting it from dispositive cost-effectiveness testing.”¹⁹⁷ NCLC/NHT/NRDC further concurs with “ACEEE that while ‘low-income programs be exempt from meeting cost-effectiveness standards, [they] should report on cost-effectiveness for informational purposes.’”¹⁹⁸ NCLC/NHT/NRDC notes that it “concur[s] with the Sierra Club that an aggressive ramp-up of energy efficiency services to a one-percent savings rate should be facilitated by PIMs” and recommends that “ACEEE’s list of specific principles of effective PIMs” be used.¹⁹⁹ Lastly, NCLC/NHT/NRDC notes that “[g]iven the primary importance of delivering benefits to low-income District residents as per the statute, [it] recommends providing a separate PIM for the LMI residential sub portfolio and coupling it with a penalty mechanism for underperformance which ACEEE has recognized as a useful practice for Energy Efficiency Resource Standards.”²⁰⁰

71. **LIME ENERGY.** Lime Energy states: (1) it prefers “the longer cycle” because it “provides stability in the market for businesses” and “encourage and support large-scale and long-term projects, which often lead to very large and impactful energy savings.”²⁰¹ Lime Energy also notes that while “a longer-lived program can help to lower administrative costs and freeing up money to be spent delivering energy savings, making the programs more cost-effective”, it does not necessarily hold programs static; (2) an energy efficiency and demand response Potential Study should be undertaken sooner than later to help ensure critical information is available as early in the process of designing and implementing programs as possible; (3) “an expanded portfolio of programs, including those to [be] administered by utilities and their 3rd party implementers, can

¹⁹⁵ NCLC/NHT/NRDC’s Comments at 6.

¹⁹⁶ NCLC/NHT/NRDC’s Comments at 6.

¹⁹⁷ NCLC/NHT/NRDC’s Comments at 6-7.

¹⁹⁸ NCLC/NHT/NRDC’s Comments at 7.

¹⁹⁹ NCLC/NHT/NRDC’s Comments at 7.

²⁰⁰ NCLC/NHT/NRDC’s Comments at 7.

²⁰¹ Lime Energy’s Comments at 1-2.

be launched in parallel and modified based on the results of the potential study;”²⁰² (4) “the EEDR Working Group should be tasked with making recommendations regarding Performance Incentive Mechanisms (PIMS) for utilities as a fundamental part of effective EEDR program design;”²⁰³ (5) that the Commission should take action that leverages the power of the utility’s brand and data to prompt high participation at the lowest possible incentive levels providing clear lines of accountability and the sharing of risks²⁰⁴; and (6) that utility run EEDR programs should include all residential customers as well as small businesses, and large commercial and industrial customers.²⁰⁵ Lastly, while there is a requirement to not replicate substantially similar program offered by the SEU, Lime Energy notes that this “may limit the success of reaching key customer segments needed to achieve District goals” because “[s]ome SEU programs and offerings are not successfully generating needed levels of participation, and the utility may be better suited to serve certain sets of customers.”²⁰⁶ Therefore, creation of a “broad portfolio of programs” is more cost-efficient in “lowering energy consumption and carbon emissions in the District to the benefit of all residents” and “LMI customers will benefit through the economic development and new jobs created by such programs; potentially lower energy costs through the overall reduction in demand; and through an improved environment.”²⁰⁷

VI. DECISION

72. The Commission accepts the Final EEDR as filed and commends the Working Group participants for their contributions and comments. In reviewing the Final EEDR Report, we note that the Commission is responsible for ensuring that the utilities we regulate act in accordance with the District’s energy and climate change commitments to facilitate a reduction in the District’s GHG emissions by 50% below the 2006 levels by 2032, achieve carbon neutrality by 2050, reduce energy use by 50% by 2032, and increase the use of renewable energy to 100% of the supply by 2032.²⁰⁸ Also, pursuant to the CEDC Act, the Commission is to consider recommendations from this Working Group to ensure that the utility EEDR programs developed do not hinder District business or nonprofits that are currently providing energy efficiency and demand response programs, and establish QPIs for utility run energy efficiency and demand response programs.²⁰⁹

²⁰² Lime Energy’s Comments at 2.

²⁰³ Lime Energy’s Comments at 2.

²⁰⁴ Lime Energy’s Comments at 2.

²⁰⁵ Lime Energy’s Comments at 2-3.

²⁰⁶ Lime Energy’s Comments at 3.

²⁰⁷ Lime Energy’s Comments at 3.

²⁰⁸ CleanEnergy DC Omnibus Amendment Act of 2018, D.C. Law 22-257, effective March 22, 2019 (“CleanEnergy DC Act”). See also, Clean Energy DC: The District of Columbia Climate and Energy Plan, August 2018. Available at <https://doee.dc.gov/cleanenergydc>.

²⁰⁹ D.C. Code §8-1774.07 (g)(1).

73. In attempting to achieve these goals, the Commission recognizes that energy efficiency programs and demand response programs will come with incremental costs requiring significant investment. This Order sets forth the foundational principles applicable to all EEDR programs administered by the utilities. This Order also addresses the cycle length and annual energy savings metrics, quantitative performance indicators, and cost-effective standards for the electric and gas company's energy efficiency or demand response programs recognizing the programs should primarily benefit low- and moderate-income residential ratepayers to the maximum extent possible.

74. After careful review of the Final EEDR Report, the Commission agrees with the Working Group that we should first set foundational principles applicable to all programs regardless of the administration model, setting forth principles and guidance to the utilities regarding the creation of the EEDR programs. The Commission finds, as the Final EEDR Report notes, that the principles to successful implementation of an EEDR program are that: (1) all obligated entities should have program goals that align with the District of Columbia's energy and climate targets and goals; (2) the goals should be regularly and transparently reviewed and independently evaluated for future improvement; (3) systems should be created for coordination or collaboration across obligated entities; (4) there should be a feedback mechanism for staff, contractors, trade allies, and customers; (5) there should be transparent and clear rules for market participants; and (6) the participants should have the resources, authority, flexibility, training, and data required to deliver successful customer-facing programs. The foundational principles set forth above should be used when developing EEDR programs.

A. Program Cycle Length

75. The cycle length of a program is an important element and provides the time period for a program's operation and subsequent evaluation. The Final EEDR Report notes that the Working Group did not come to a consensus on the cycle length of an EEDR program. The recommended program cycle length ranged from 3 to 5 years. Pepco proposes, and Lime Energy supports, a 5-year cycle for the initial ramp-up of programs and for the medium-term programs because it allows the Company to gain market experience, provide certainty for contractors, and lowers program administration costs. Whereas, OPC, DOEE, Sierra Club, and ACEEE propose a 3-year cycle for the initial ramp-up period of programs and for the mid-term programs. We are persuaded that a 3-year cycle for the initial ramp-up programs and the mid-term programs is appropriate because it provides a shorter-term review of a program and should provide for the ability to achieve energy savings faster, and therefore is consistent with the District's GHG reduction objectives. To add flexibility to the program, as some of the Working Group members propose, the Commission will initially adopt the 3-year cycle for Pepco and WGL. Pepco and WGL's programs should be assessed and evaluated after two years of implementation and data collection. Based on DOEE's recommendation, any mid-course corrections or shifting of resources from under-performing programs to over-performing programs shall be evaluated by the Commission during the review period as described in paragraph 84 of this Order. This report, when filed with the Commission, should contain any proposed program changes. In an effort to guide how future cycles should be revised, the Commission agrees with the Working Group and believes that an EEDR Potential Study should be conducted.

B. Energy Savings Metrics

76. The Commission notes that the Working Group did not reach a consensus on any specific long-term energy savings metrics, but did indicate mid-term goals for Pepco. As mid-term goals, ACEEE, DOEE, and Sierra Club proposed achieving a 1% savings increase by year 3 of the program with an interim goal in the first two years of 0.33% each year. Pepco proposed a 5-year cycle with 0.2% savings per year so that the final year will total 1% gross savings of total sales. After reviewing the proposals, and approving a 3-year cycle, the Commission determines that the mid-term goals as proposed by the majority of the Working Group are reasonable. Thus, Pepco should begin its programs operating with a target of 1% target reduction per year of gross wholesale electricity savings in Year 3 over a 3-year cycle. This translates to a Year 1 goal of 0.33% and a cumulative Year 2 goal of 0.66%. The 1% cumulative goal in the last year of the program cycle could be further revisited and expanded after the EEDR Potential Study is completed.

C. Savings Target

77. The Commission considered the various proposals for setting the savings target. Pepco and the SEUB propose to use gross savings, OPC suggests net savings, and DOEE proposes to use weather normalized gross savings. Gross savings include all savings achieved through energy efficiency programs whereas net savings take into consideration what might have occurred in the absence of a particular program such as the free ridership²¹⁰ effect or spill-over effect.²¹¹ Free ridership and spillover effect could be accounted for in a cost-benefits analysis and would be consistent with the DCSEU's current practice of using net energy savings to measure cost-effectiveness. Nonetheless, we agree with the Working Group's proposal that the standard for benchmarking energy savings targets should be the gross energy wholesale savings, the standard currently used by the DCSEU to determine energy efficiency. The Commission is persuaded by Pepco and the SEUB that using gross savings to set the target would make it easier to compare the DCSEU and the utility's implementation of programs. Lastly, as for MW savings targets for EEDR Programs, the Commission recognizes that at present there are none; however, this will be addressed after the EEDR Potential Study is completed.

D. Cost Recovery

78. Consistent with the recommendation of the Final EEDR Report, the Commission will require utilities to submit program proposals with: (1) corresponding budgets for each program

²¹⁰ Free Ridership –The term “free-rider” refers to individuals or organizations who obtain conservation subsidy benefits (such as rebates), but who would have undertaken conservation actions even if the subsidy had not been available.

²¹¹ There are two forms of spillover, Spillover (Participant) which consist of additional measures that were implemented by the program participant for which the participant did not receive an incentive. They undertook the project on their own, influenced by prior program participation, and Spillover (Non-Participant) which consists of additional energy savings achieved when a nonparticipant implements energy efficiency measures or behavior as a result of the program's influence (for example, through exposure to the program) but did not participate in the program and therefore are not accounted for in program savings.

within a portfolio; (2) flexibility to move funding between programs over the course of the approved program cycle based on the performance of the program without seeking approval of the Commission provided it is within a cost threshold of 15% of the program budget, and that notice is provided to the Commission during the program cycle; and (3) requiring explicit Commission approval to exceed the overall budget for the EEDR portfolio. Also, the Commission is persuaded that the Working Group's proposal to use a surcharge for cost recovery for EEDR programs which will allow the utilities to be able to recover the costs of the programs is reasonable. The Commission accepts Pepco's proposal that the surcharge be based on energy usage which is indicated as a line item on customers' bills and exempts the RAD and RES customers from paying the surcharge, with a 7-year amortization period, consistent with OPC's recommendation, using a regulatory asset calculating the weighted average cost of capital with an annual true-up mechanism as the methodology for cost recovery. The Commission will require that a more detailed proposal of the cost-recovery calculation and process be included as part of the utilities' program portfolio filing. The Commission acknowledges AOBA's request that the costs of the energy efficiency programs be assigned to the direct beneficiaries of a program; however, we believe that additional discussion is necessary and will include this as a matter to be further considered by the Working Group.

79. The Commission believes that establishing a surcharge for cost recovery for EEDR programs would help reduce regulatory lag and is a reasonable method for cost recovery. Although the proposed approach for cost recovery is similar to the Maryland approach for cost recovery, we will refrain from making a decision on that issue until we have a proposed EEDR Program before us.

E. EEDR Technical Potential Study

80. The Final EEDR Report recommends that an EEDR Potential Study be conducted to guide future EEDR program design, implementation, and energy savings goals. An EEDR Potential Study is designed to identify energy savings opportunities and potential savings opportunities that are cost-effective and could be realized through an energy efficiency program and policies. Although the Working Group recommends an EEDR Potential Study be conducted, the Working Group could not agree on the timing for the study. OPC wants to delay the EEDR Potential Study until a decarbonization study is complete, while DOEE opines that the decarbonization study isn't an efficiency measure and would not provide data for the technical, economic, and achievable potential for gas or electric EEDR programs, and therefore wants the study conducted now. We believe that the EEDR Potential Study should be performed now because the study will help define and determine the District's long-term EEDR goals. In addition, we believe that conducting the study sooner rather than later will help the DCSEU and utilities to define the overall goals to achieve and will ensure that Pepco's EEDR programs do not overlap with those established by the DCSEU.

81. The Commission directs Pepco and WGL to each develop a scope of work and RFP to share with the Commission and Working Group for approval by the Commission, to issue the RFP, to hire consultant(s) that will be evaluated and selected by the Commission, and to pay for an EEDR Potential Study to inform the Commission about the development of future electricity and natural gas EEDR programs. The Commission shall monitor the contract(s) for the EEDR Potential Study. Such EEDR Potential Study should be completed within 180 days of the date that the contract with the consultant is signed. Consistent with paragraph 76, the Working Group

should revisit the 1% cumulative energy savings goal in the last year of the program cycle to determine whether it should be expanded after the EEDR Potential Study is completed. As for WGL, within three (3) months of completion of the Potential Study, the Company should leverage the results of its study to develop programs for submission to the Commission for approval. The cost recovery of the study will be included in a regulatory asset initially and a surcharge will be established to cover the amortization and carrying costs for the study. After the EEDR Potential Study is completed, Commission staff and Working Group members will discuss the implications of the study and address program goals for WGL's EEDR programs. Also, Commission staff and Working Group members will further evaluate Pepco's EEDR goals based on the study recommendations.

F. Measures to Take to Ensure Programs Do Not Impede District Business or Nonprofits

82. The Final EEDR Report notes ACEEE's recommendations that the District agencies, the DCSEU, and the utilities should be responsible for areas where they have strengths in order to ensure the success of the programs. The Commission is in agreement with ACEEE and believes that some of the core responsibilities should be delegated to specific entities and we, therefore, adopt the recommendation that for administrative purposes, the: (1) workforce development should be handled by District agencies; (2) customer acquisition is to be handled by the utilities; (3) retail product programs will be handled by the utilities; and (4) multi-family and low-income customers to be handled in a coordinated effort between the DCSEU and the utilities.

G. EEDR Performance Incentive Mechanisms

83. The Final EEDR Report notes that this is not the appropriate case to review PIMs and that PIMs are best left for review in *Formal Case No. 1156*. However, the Final EEDR Report does suggest that EEDR PIMS could be addressed in this case. The Commission believes that its consideration and review of PIMs is not limited to *Formal Case No. 1156* and that EEDR PIMs can be considered in this case. Nothing precludes the Working Group from recommending a list of EEDR PIMs with quantitative performance indicators that will apply to the electric and natural gas utilities and that advance the District's energy and climate goals. Any PIMs that may be considered and adopted in *Formal Case No. 1156* will apply to the electric utility, are not set in stone and can be changed consistent with ensuring that we advance the District's energy and climate goals. Therefore, we direct the Working Group to discuss the design and a recommended list of EEDR PIMs for the Commission's review and consideration. The Working Group shall file its recommendation in the report to be filed within 180 days of the date of this Order.

H. Quantitative Performance Indicators ("QPI") - Reporting Requirements

84. The Commission, consistent with §201 (g)(1) of the CEDC Act has reviewed the recommendations for QPIs and adopts the Working Group's recommendation for reporting on EEDR metrics with one modification that the reports should be semi-annual as opposed to annual for the first 3-year cycle. We have determined that the reports should use semi-annual QPIs for programs run on the electric side such as: (1) program participation; (2) measure count and category by program; (3) annualized energy savings by program, in both gross and net wholesale MWh; (4) demand reduction by program, in wholesale MW; (5) levels of participation, program

spending, and energy savings for customers receiving energy assistance; (6) budget and spend by program; and (7) potential program modifications. Pepco shall submit any proposed program changes along with the fourth semi-annual report (i.e. the two-year evaluation report). The Commission believes that these reporting requirements will provide us with ample data to evaluate the programs.

85. With respect to annual QPIs on the natural gas side, the reports should provide: (1) program participants; (2) measure count by program; (3) total annual budget expenditures by program; (4) annualized energy savings in gross therms; (5) participation, spend, and savings for customers receiving energy assistance; (6) lifecycle energy savings in gross therms; (7) lifecycle energy cost savings; and (8) net therm savings provided by programs.

I. Cost Effectiveness Standards

86. The Commission adopts the Working Group's recommendation in measuring cost-effectiveness of EEDR programs by use of the SBC test analysis for portfolio screening, in part, because it is the same method that DCSEU programs use to measure cost-effectiveness making it easier to compare and evaluate programs. In addition, we agree with the Final EEDR Report's suggestion that use of other tests (UCT, TRC, and RIM) could be used to track and provide additional insights into programs. We accept the Working Group's consensus recommendations on measuring cost-effectiveness, that: (1) programs should be evaluated for cost-effectiveness at the portfolio level and across all years of the EEDR program cycle; (2) the focus should be on the portfolio level through multiple years to allow the EEDR administrators to pursue more diverse and comprehensive EEDR portfolios, such as programs that could achieve deeper energy savings but are typically less cost-effective; and (3) individual programs should be screened for cost-effectiveness, but the utility programs would only be required to demonstrate an SCT benefit-cost ratio greater than one at the portfolio level. The Commission recognizes that some programs (especially innovative ones) may not be immediately cost-effective, but could improve through time. Therefore, in determining cost-effectiveness, we believe that for the overall portfolio level the SCT should be used as the screening test and to make this evaluation. In addition, we believe that the other tests are useful at the program level for tracking purposes and will be treated as supplementary only.

87. With respect to Low-Income Programs, the Working Group did not have a consensus position with respect to assessing cost-effectiveness of those EE Programs. The recommendations varied, such as: (1) Dynamic Energy Strategy's suggested waiving the cost-effectiveness test and exempting LMI programs from portfolio level costs; (2) Pepco recommended using best practices by excluding limited-income households from the overall cost-effectiveness screening and calculating the Benefits-Cost ratio using SCT for these programs for tracking additional benefits to limited-income households; (3) ACEEE recommended exempting low-income programs from meeting the cost-effectiveness standards; (4) Sierra Club suggested evaluating the low-income programs using the DCSEU's methodology (i.e. non-energy benefits adder) and tracking for transparency; (5) WGL recommended using SCT (with ratepayer impact analysis) for informational purposes and excluding these calculations from the overall energy efficiency program portfolio costs for low- and moderate-income programs; and (6) DOE recommended including low-income programs in the EEDR cost-effectiveness test with a benefits to cost ratio of one and use a 20% non-energy benefits adder reflecting any benefits accrued from

targeting low-income household. After reviewing the various recommendations, the Commission believes consistent with ACEEE's recommendation, we will not initially require cost-effectiveness for individual low-income programs because it has been shown that the majority of such programs would not be cost-effective by themselves. Thus, while the Commission will not use a specific benefits cost ratio for individual low-income programs, the Commission will review the programs as a portfolio, including low-income and non-low-income programs, and assess that the portfolio of programs passes the overall cost-effectiveness test.²¹²

J. Additional Utility Application Matters

88. The CleanEnergy DC Act requires that the utility show that a proposed program is not "substantially similar" to those offered by the DCSEU. The Commission adopts the Working Group's proposal that the utilities: (1) present their EEDR proposals to DOEE, DCSEU, and the SEU Advisory Board prior to filing an Application with the Commission; and (2) include the date of presentation of programs to DOEE, DCSEU, and SEU Advisory Board in the application that is filed with the Commission. Specifically, we believe that review and comment by the DCSEU on a proposed program provides the utility with a direct route to learning whether a proposed EEDR program is duplicative of a DCSEU program or is not complimentary to its program.

89. The Working Group members had similar views when addressing the issue of whether utility EEDR programs are to primarily focus on both low- and moderate-income residential ratepayers to the extent possible. The Working Group agreed that for utility EE programs the definition for low-and moderate-income is synonymous with the eligibility criteria for the RAD and RES programs, requiring household income at or below 60% of SMI or income at or below 120% of AMI as established by HUD, respectively. Comments by NCLC/NHT/NRDC recommend that the low-income definition be 80% of AMI or lower and states that recipients of WAP and LIHEAP should automatically qualify for the low-income utility energy efficiency programs without a separate income-qualification process. They also recommend that moderate-income be defined as a household making between 80% to 120% of AMI. The Final EEDR Report notes that using these definitions will also allow the senior/disabled citizens population to qualify for the programs, and will facilitate faster qualification for programs. The Commission approves the Working Group's definition of 120% of AMI as moderate-income and approves NCLC/NHT/NRDC's suggested definition of 80% AMI as low-income consistent with the Working Group recommendation and the CleanEnergy Act definition. To the extent possible, we will focus on low- and moderate-income customers (minimum of 30%) but will allow the utilities to target some projects for Commercial and Institutional/Government (C&I) customers. We believe that flexibility is needed to reach the greatest potential for the utilities' programs.

²¹² 2020 National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, National Energy Screening Project, August 2020, available at https://www.nationalenergyscreeningproject.org/wp-content/uploads/2020/08/NSPM-DERs_08-04-2020_Final.pdf.

Per the manual at 6-10, one of the ways cost-effectiveness analyses for EE resources can be applied is at the portfolio level. "Evaluation at the portfolio level means that the programs within a portfolio (i.e., combining all programs together) must be cost-effective collectively. Some programs may not be cost-effective on their own but could still be pursued if the combined impact of all of the programs was cost-effective. The primary advantage of this approach is that it indicates the benefits and costs of the entire suite of EE programs." (Appendix H-3-4).

90. With respect to the term “primarily benefit,” the Working Group did not present a consensus on how this term should be interpreted. OPC states that the term means that the “utilities’ portfolio of programs should largely be geared towards low- to moderate-income,” but to ensure equitable access, they should also have energy efficiency programs that benefit all ratepayers regardless of their income level. Whereas, WGL wants the term broadly interpreted to include energy (equipment/measures installed, lower fuel costs) and non-energy benefits (health & safety, job creation, education). WGL states that the broader interpretation would allow utilities to offer programs to C&I customers along-side residential programs where C&I customers service the low- and moderate-income community. DOEE supports a flexible approach that should be proportional to the breadth, size, budget of a program, and the scale of energy savings. DOEE recommends that if the portfolio of programs is limited, then 50% of program benefits yield to low- and moderate-income residential customers. However, if a more comprehensive portfolio of programs is proposed, then there should be a 30% floor on the program budget for low- to moderate-income residential customers. The Commission has considered the options and believes that “primarily benefit,” means that to the extent possible, the programs should focus on low- and moderate-income residential customers with a minimum floor of 30% total program budget, but we will allow the utilities to target some projects for C&I customers. Currently, the DCSEU assigns 20% of the annual budget to low-income programs and a slightly higher percentage allocation is acceptable under the circumstances. We believe that flexibility is needed to allow the utilities to reach the greatest potential for their programs. However, because the Commission is allowing an EEDR Potential Study, we note that the 30% floor can be revisited once the EEDR Potential Study is complete.

K. WGL Metrics

91. The Working Group did not recommend any specific energy savings goals or metrics for WGL and WGL did not propose any. The Commission understands WGL’s hesitancy in proposing energy savings goals or metrics considering the Company does not have a decoupling mechanism. The Commission notes that WGL has already proposed that energy efficiency programs for natural gas be part of the AltaGas Climate Business Plan filed in *Formal Case No. 1142*.²¹³ Additionally, the Commission recognizes that one of the WGL/AltaGas merger commitments require that AltaGas provide \$4.2 million for energy efficiency and energy conservation initiatives with a primary focus on assisting low and limited-income residents who are living in affordable multifamily units, whether in buildings that are wholly master-metered, buildings where the tenants pay all of the utility bills, or buildings with mixed owner- and tenant-meters. The Commission will monitor this commitment to ensure compliance.

L. Reconvene the Working Group

92. As recommended, the Commission reconvenes the Working Group to consider a limited number of unresolved issues such as the governance structure to coordinate the planning, delivery, reporting, and evaluation of EEDR programs administered by the utilities including cost allocation and recovery, filing requirements, income verification, data sharing, and additional reporting requirements, if any, and the design and recommended list of EEDR PIMs. Therefore,

²¹³ *Formal Case No. 1142, In the Matter of the Merger of AltaGas, Ltd. and WGL Holdings, Inc. (“Formal Case No. 1142”).*

the Commission grants the Working Group's request to reconvene. The Working Group shall reconvene and file a report within 180 days of the date of this Order addressing the aforementioned issues. Pepco should file its EEDR Programs and cost recovery proposals within 60 days after the filing of the Working Group Report.

THEREFORE, IT IS ORDERED THAT:

93. The Commission **ACCEPTS** as filed the Working Group's Energy Efficiency and Demand Response Report;

94. The Commission **DIRECTS** the Potomac Electric Power Company to develop Energy Efficiency and Demand Response Programs, budgets and milestones consistent with paragraphs 75-90 of this Order;

95. The Commission **ADOPTS** a 3-year cycle for the initial ramp-up period of programs and for the mid-term programs;

96. The Commission **DIRECTS** the Potomac Electric Power Company to report Quantitative Performance Indicators semi-annually for electric energy efficiency programs;

97. The Potomac Electric Power Company is **DIRECTED** to file two-year mid-course program modifications, if any, with the fourth semi-annual report (i.e. the two-year evaluation report) within thirty days after the end of the semi-annual reporting period;

98. The Potomac Electric Power Company is **DIRECTED** to submit the proposed Energy Efficiency and Demand Response Programs within 60 days after the filing of the Working Group Report;

99. Interested persons may submit comments on any proposed Energy Efficiency and Demand Response program within 45 days of program submission and reply comments are due 15 days thereafter;

100. The Commission **DIRECTS** the Potomac Electric Power Company and Washington Gas Light Company to each hire a consultant(s), as selected by the Commission, to conduct an Energy Efficiency and Demand Response Potential Study to be completed within 180 days from the date the contract with the consultant is signed;

101. The Working Group is **DIRECTED** to revisit the 1% cumulative energy savings goal adopted in this Order in the last year of the program cycle to determine whether it should be expanded after the completion of the Potential Study;

102. Washington Gas Light Company is **DIRECTED** to file Energy Efficiency and Demand Response programs for the Commission's approval within three (3) months of completion of the Potential Study;

103. The Commission **DIRECTS** the Potomac Electric Power Company and Washington Gas Light Company to each develop a scope of work and Request For Proposal for the Energy Efficiency and Demand Response Potential Study to share with the Commission and

Working Group to inform the development of future electricity Energy Efficiency and Demand Response Programs;

104. The Energy Efficiency and Demand Response Potential Study **SHALL** be funded through an Energy Efficiency and Demand Response surcharge accomplished through establishing a regulatory asset with an initial 5-year amortization period for the actual cost recovery;

105. The Commission **DIRECTS** the Working Group to reconvene to discuss the design and a recommended list of Energy Efficiency and Demand Response Performance Incentive Mechanisms for the Commission’s review and consideration consistent with paragraph 83 of this Order; and

106. The Commission **DIRECTS** Staff to reconvene the Working Group and file a report within 180 days of the date of this Order, consistent with paragraph 92 of this Order.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**