



October 24, 2023

**VIA ELECTRONIC FILING**

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

*Re: In the Matter of the Petition of the Office of People's Counsel for Near-Term, Priority Actions and Comprehensive, Long-Term Planning for Maryland's Gas Companies, Case No. 9707*

Dear Mr. Johnston:

Attached for filing please find the Comments of the Maryland League of Conservation Voters, Center for Progressive Reform, Chesapeake Climate Action Network, National Consumer Law Center, Green & Healthy Homes Initiative, Elders Climate Action Maryland, Climate Reality Greater Maryland, Maryland PIRG Foundation, Climate Communications Coalition, Climate Law & Policy Project, Cedar Lane Environmental Justice Ministry, Indivisible Howard County MD, 350 Montgomery County, Howard County Climate Action, MLC Climate Justice Wing, Interfaith Power & Light (DC., MD., No.VA), Climate Mobilization Montgomery County, Chesapeake Physicians for Social Responsibility, Unitarian Universalist Legislative Ministry of Maryland, Maryland Energy Advocates Coalition and Sierra Club Maryland ("Non-Profit Organizations") pursuant to the Commission's June 14, 2023 Revised Notice Initiating New Docket and Request for Comments.

If you require additional information, please do not hesitate to contact me.

Sincerely,

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*On Behalf of the Non-Profit Organizations*

**BEFORE THE MARYLAND PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE PETITION OF THE OFFICE OF  
PEOPLE’S COUNSEL FOR NEAR-TERM, PRIORITY  
ACTIONS AND COMPREHENSIVE, LONG-TERM  
PLANNING FOR MARYLAND’S GAS COMPANIES**

Case No. 9707

**COMMENTS**

The Non-Profit Organizations (“NPOs”)<sup>1</sup> applaud the Maryland Public Service Commission (“Commission”) for opening this proceeding and accepting comments<sup>2</sup> in response to the Petition of the Office of People’s Counsel’s for Near-Term, Priority Actions and Comprehensive, Long-Term Planning for Maryland’s Gas Companies.<sup>3</sup> Aligning utility practices starting immediately, and setting in place medium- to short-term gas planning, is essential to protecting ratepayers and meeting Maryland’s climate goals.

**I. INTRODUCTION**

The scientific consensus is clear that society must move away from fossil fuels and gas combustion as swiftly as possible to avoid the worst effects of climate change. It is undebatable that the combustion of methane—the prime component of the distributed gas industry’s delivered

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<sup>1</sup> The Non-Profit Organizations who are signatories to these comments include the Maryland League of Conservation Voters, Center for Progressive Reform, Chesapeake Climate Action Network, National Consumer Law Center, Green & Healthy Homes Initiative, Elders Climate Action Maryland, Climate Reality Greater Maryland, Maryland PIRG Foundation, Climate Communications Coalition, Climate Law & Policy Project, Cedar Lane Environmental Justice Ministry, Indivisible Howard County MD, 350 Montgomery County, Howard County Climate Action, MLC Climate Justice Wing, Interfaith Power & Light (DC., MD., No.VA), Climate Mobilization Montgomery County, Chesapeake Physicians for Social Responsibility, Unitarian Universalist Legislative Ministry of Maryland, Maryland Energy Advocates Coalition and Sierra Club Maryland.

<sup>2</sup> Case 9707, *Petition of the Office of People’s Counsel’s for Near-Term, Priority Actions and Comprehensive, Long-Term Planning for Maryland’s Gas Companies*, Revised Notice of Opportunity to Comment, Maillog No 303506, filed June 14, 2023; *see also* Request for Extension Granted, Maillog No. 305292, filed September 28, 2023.

<sup>3</sup> Case 9707, OPC’s Petition, Maillog No. 301247, filed February 9, 2023 (“OPC Petition”).

product—and direct leakage of methane are intense contributors to climate change. On April 4, 2022, the Intergovernmental Panel on Climate Change (“IPCC”) Working Group III (“WGIII”) issued the third and final installment of the Sixth United Nations IPCC Report titled “Climate Change 2022: Mitigation and Climate Change.”<sup>4</sup> The IPCC WGIII Report sounded the call that policy makers must aggressively move toward ending fossil fuel use and increasing electrification in order to mitigate the worst effects of climate change. The IPCC WGIII Report concludes that to limit global warming to 1.5 degrees Celsius (C), or even 2 degrees C, the world’s energy systems must rapidly decarbonize. Jan Christoph Minx, a climate researcher and a lead author on the report, concluded that “[t]he big message coming from here is we need to end the age of fossil fuel. And we don’t only need to end it, but we need to end it very quickly.”<sup>5</sup> A recent collection of peer-reviewed studies commissioned by the Environmental Defense Fund found that leaks from the oil and gas industry emit as much as 13 million metric tons of methane a year, which is 5 million metric tons more than was previously estimated by the U.S. Environmental Protection Agency.<sup>6</sup>

The Commission must swiftly heed these calls to address climate change by putting forward aggressive policies to stem gas expansion, limit gas infrastructure, and promote electrification as the primary mode of decarbonization. The General Assembly has found that “[g]reenhouse gases are air pollutants that threaten to endanger the public health and welfare of

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<sup>4</sup> IPCC WGIII, *Climate Change 2022: Mitigation of Climate Change*, IPCC AR6 WG III (Apr. 4, 2022) (“IPCC WGIII Report”), [https://report.ipcc.ch/ar6wg3/pdf/IPCC\\_AR6\\_WGIII\\_FinalDraft\\_FullReport.pdf](https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf).

<sup>5</sup> Angela Dewan & Rachel Ramirez, *UN report on climate crisis confirms the world already has solutions—but politics are getting in the way*, CNN (Apr. 4, 2022), <https://www.cnn.com/2022/04/04/world/un-ipcc-climate-report-mitigation-fossil-fuels/index.html>.

<sup>6</sup> Environmental Defense Fund, *Major Studies Reveal 60% More Methane Emissions*, available at <https://www.edf.org/climate/methane-studies> (last accessed Oct. 15, 2023).

the people of Maryland.”<sup>7</sup> In addition to earlier legislation,<sup>8</sup> that finding recently informed the passage of the 2022 Climate Solutions Now Act (“CSNA”), which aims to reduce climate pollution while ameliorating the disproportionate harms that greenhouse gases and co-pollutants impose on communities with environmental justice concerns.<sup>9</sup> The CSNA’s two headline requirements are: (1) “[t]he State shall reduce statewide greenhouse gas emissions by 60% from 2006 levels by 2031” and (2) “[t]he State shall achieve net-zero statewide greenhouse gas emissions by 2045.”<sup>10</sup>

The CSNA directs the Maryland Department of the Environment (“MDE”) to “develop building emissions energy performance standards for covered buildings” in order to effectuate (1) “a 20% reduction in net direct greenhouse gas emissions on or before January 1, 2030, as compared with 2025 levels for average buildings of similar construction,” and (2) “net-zero direct greenhouse gas emissions on or before January 1, 2040.”<sup>11</sup> The General Assembly has made clear that it anticipates reaching those greenhouse gas reduction requirements through *electrifying* Maryland’s buildings, which will obviate the need for supplying methane gas to them. The CSNA provides: “the General Assembly supports *moving toward broader electrification* of both existing buildings and new construction as a component of decarbonization.”<sup>12</sup> Further, the CSNA explicitly requires the Building Codes Administration to

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<sup>7</sup> MD. CODE ANN., ENVIR. § 2–1201(1).

<sup>8</sup> See, e.g., Md. H.B. 610 (2016) (Reauthorization of 2009 Greenhouse Gas Emissions Reduction Act).

<sup>9</sup> See S.B. 528 (2022).

<sup>10</sup> MD. CODE ANN., ENVIR. §§ 2–1204.1, 2–1204.2.

<sup>11</sup> MD. CODE ANN., ENVIR. § 2–1602(a).

<sup>12</sup> S.B. 528, Ch. 38 § 10(a)(1) (emphasis added).

“develop recommendations for an *all-electric* building code for the State”<sup>13</sup> and to “develop recommendations regarding efficient cost-effectiveness measures for the *electrification* of new and existing buildings.”<sup>14</sup>

The Maryland Commission on Climate Change (“MCCC”), a statutorily created state governmental entity charged with developing recommendations for implementing the CSNA’s steep emission reduction requirements, was even more clear about the CSNA’s stark implications for Maryland’s gas system. MCCC released its Building Plan in 2021, which set forth electrification requirements and adopted core objectives for the construction of new buildings, stating that buildings should be constructed to meet space and water heating demand without fossil fuels and almost all fossil fuel heaters should be replaced with heat pumps in existing homes by 2045.<sup>15</sup> Importantly, the Building Plan set forth a recommendation of a “[g]radual transition to an all-electric residential buildings sector” on the way to “zero direct emissions by 2045.”<sup>16</sup> In its most recent 2022 Annual Report, the MCCC restated the recommendations of the Building Plan,<sup>17</sup> and again attached the Building Plan to its Annual Report. The 2022 Annual report also recommended that the General Assembly require the Commission to plan for “[a]ppropriate gas system investments/abandonments for a shrinking customer base and reductions in gas throughput in the range of 60 to 100 percent by 2045,”<sup>18</sup> and called for the initiation of gas transition plans to meet

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<sup>13</sup> *Id.* § 10(b)(1)(i) (emphasis added).

<sup>14</sup> *Id.* § 10(b)(1)(v) (emphasis added).

<sup>15</sup> MCCC, *Building Energy Transition Plan: A Roadmap for Decarbonizing the Residential and Commercial Building Sectors in Maryland* (Nov. 2021) (“Building Plan”).

<sup>16</sup> MCCC Building Plan at 23.

<sup>17</sup> Maryland Commission on Climate Change, *2022 Annual Report* (“MCCC 2022 Report”) at 29-30, [https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2022%20Annual%20Report%20-%20Final%20\(4\).pdf](https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2022%20Annual%20Report%20-%20Final%20(4).pdf)

<sup>18</sup> MCCC 2022 Report at 17.

the CSNA,<sup>19</sup> particularly in light of the inevitable impending decrease in gas demand in Maryland.

These trends are acknowledged by Maryland’s utilities. A study performed by Energy and Environmental Economics (“E3”) for Baltimore Gas & Electric (“BGE”) recognizes that “[a]ll the decarbonization scenarios evaluated by E3 in this study envision a transformation in the way buildings are heated,” which includes “an emphasis on electrification as the core engine of building heating decarbonization.”<sup>20</sup> In line with those trends, E3 paints a conservative picture of declining gas sales “reductions ranging between 54% and 70% in 2045 relative to 2020” and projects, “[f]ocusing just on all gas delivered via BGE’s pipeline, gas throughput declines [of] 60% -78% in 2045 relative to today.”<sup>21</sup>

Despite these realities, Maryland’s gas utilities continue to seek approval of capital investments and programs that fail to account for the requirements of the CSNA and the stated policy intentions of the state. Immediate intervention by the Commission is needed to align near-term gas utility operations with the climate mandates of the state, and a proceeding to oversee medium- to long-term planning is imperative to meet Maryland’s goals for carbon neutrality by 2045.

As such, the Non-Profit Organizations respectfully request that the Commission grant the Maryland Office of People’s Counsel (“OPC”)’s petition and initiate the proceedings requested

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<sup>19</sup> MCCC 2022 Report at 16-17.

<sup>20</sup> Case No. 9692, *In the Matter of Baltimore Gas and Electric Company’s Application for an Electric and Gas Multi-Year Plan*, BGE Integrated Decarbonization Strategy Report at 25 (October 2022) (“E3 Study”), available at [https://www.ethree.com/wp-content/uploads/2022/10/BGE-Integrated-Decarbonization-White-Paper\\_2022-11-04.pdf](https://www.ethree.com/wp-content/uploads/2022/10/BGE-Integrated-Decarbonization-White-Paper_2022-11-04.pdf)

<sup>21</sup> *Id.*

therein, and that the Commission consider the following comments and further stakeholder input to guide the structure and content of the proceedings in a future-of-gas docket. In addition, as set forth below, NPOs offer recommendations for the structure of this proceeding to help avoid pitfalls that have arisen in similar dockets underway in other states.

**I. The Commission should establish metrics and standards through which to review current and near-term utility planning and investment proposals to ensure those proposals are consistent with Maryland law and public policy and the urgent need to address the climate crisis.**

Maryland’s existing legal and policy framework regarding emissions reduction and decarbonization requires immediate changes to gas utilities’ operations and capital spending. However, at present the Commission lacks a structured framework for reviewing and evaluating utility planning and investment proposals against Maryland’s climate mandates. If the Commission does not establish a framework in the short term through which to assess gas company planning and investment proposals in light of Maryland’s climate laws, the gas utilities will (1) continue to operate “business as usual” and lock in gas pipeline assets with useful lives beyond the state’s climate mandates; and (2) rush to have self-serving programs approved that do little to meaningfully reduce carbon emissions from their outsized contributions to climate change. The NPOs could not agree more with OPC that “given the long-term consequences of *today’s* decisions and *today’s* investments, the current business models of the gas companies do not reflect the market realities of the coming declines in gas consumption and implementation of the State’ Climate change response strategies.”<sup>22</sup> As such, immediate action is necessary to climate-align existing utility programs and pending proposals that are being submitted by the utilities in real time to get ahead of Maryland’s legal requirements for mitigating climate change.

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<sup>22</sup> OPC Petition at 28 (emphasis added).

**A. Utilities are seeking the Commission’s approval for capital spending that is inconsistent with large projected reductions in gas consumption and puts customers at risk of massive rate increases.**

Currently, utility capital spending is completely out of sync with Maryland’s climate laws. For example, Washington Gas Light (“WGL”)’s STRIDE program has a current end date of 2043—two years shy of Maryland’s 2045 mandate to achieve net-zero greenhouse gas emissions statewide pursuant to the CSNA. However, in the hearing on WGL’s most recent STRIDE 3 program, when asked whether the company has taken any action to reconcile the program’s current end date of 2043 with the CSNA’s mandate to achieve net-zero greenhouse gas emissions statewide by 2045, Company Witness Lawson simply replied, “I am aware of those statements” and, “I can’t accurately predict where we’re going to be in 2045.”<sup>23</sup> Moreover, WGL Witness Jacas testified that a new pipe’s lifespan is “over 100 years.”<sup>24</sup> This means WGL is seeking to lock in new century-long investments in gas pipes right up until the deadline for reaching net-zero greenhouse gas emissions, at which point the most if not all pipes are likely to cease being used.

In its pending multi-year rate plan, BGE anticipates spending hundreds of millions of dollars in the short term (and billions in the long term) on its gas distribution system based on its unwarranted presumption that there will be a continuing role for its gas system—in direct contradiction to the CSNA and recommendations of the MCCC. Indeed, BGE Witnesses in that case testified that the cost to replace all the remaining gas infrastructure in Baltimore City alone

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<sup>23</sup> Case No. 9708, *In the Matter of Washington Gas Light Company’s Application for Approval of a New Gas System Strategic Infrastructure Development and Enhancement Plan and Accompanying Cost Recovery Mechanism*, Hearing Video at 2:11:01 to 2:11:33, available at <https://www.youtube.com/watch?v=iXqtUeyALAc>

<sup>24</sup> *Id.* at 54:59 to 55:06.



with brand-new gas pipes is around \$2 billion,<sup>25</sup> and that it would take about 20 years to replace all the pipes in Baltimore City that are categorized as “leak-prone.”<sup>26</sup> This incredible quantum of spending on new gas distribution infrastructure makes no sense in light of Maryland’s climate laws, and is another example of Maryland’s gas utilities planning to continue putting pipes in the ground all the way up to 2045 for the benefit of their shareholders, with no regard to the steep costs ratepayers will be stuck paying throughout the long lifetime of that infrastructure.

The gas utilities are not planning for Maryland’s decarbonized future and are only seeking to lock in Commission approval of large, boondoggle gas infrastructure spending that is completely divorced from the realities of electrification in Maryland. In fact, this infrastructure spending will not only fail to support Maryland’s emission reduction mandates, but will actively impede the state from meeting its clearly stated goals. This will result in locking in billions upon billions of dollars<sup>27</sup> of stranded assets,<sup>28</sup> shackling ratepayers and taxpayers<sup>29</sup> with the financial burden of subsidizing gas utilities’ attempts to remain profitable and relevant in light of Maryland’s decarbonized future. There is an immediate need to open a proceeding to check this

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<sup>25</sup> Case No. 9692, *In the Matter of Baltimore Gas and Electric Company’s Application for an Electric and Gas Multi-Year Plan* (“Case No. 9692”), WGL Response to OPC DR 56-1

<sup>26</sup> Case No. 9692, Tr. at 743:21–744:4 (Sept. 5, 2023) (BGE Witness White).

<sup>27</sup> The Brattle Group found that declining costs for electrification in conjunction with policy initiatives could lead to approximately \$150-180 billion in unrecovered gas distribution infrastructure across the United States. OPC Petition at 36; see also *The Future of Gas Utilities Series: Transitioning Gas Utilities to a Decarbonized Future*,

*Part 1 of 3* (Aug. 2021) at 2 available at [https://www.brattle.com/wp-content/uploads/2022/01/The-Future-of-Gas-Utilities-Series\\_Part-1.pdf](https://www.brattle.com/wp-content/uploads/2022/01/The-Future-of-Gas-Utilities-Series_Part-1.pdf)

<sup>28</sup> Lloyd’s 2017 “Stranded Assets,” available at <https://www.lloyds.com/strandedassets>

<sup>29</sup> OPC Petition, Appendix D-3, *OPC, Climate Policy for Maryland’s Gas Utilities – Financial Implications* (November 2022).

rampant spending before it imperils ratepayers' pocketbooks and derails Maryland's building momentum to fight the climate crisis.

**B. A host of existing utility practices must be examined immediately before they lock in gas programs that are incompatible with Maryland's decarbonized future.**

The NPOs agree with OPC that a Priority Track proceeding<sup>30</sup> is necessary to address immediate action on gas utility practices and programs that are clearly inconsistent with Maryland's climate laws and market trends toward electrification. The NPOs also agree with the recommendation that this proceeding should incorporate additional stakeholder input regarding priority areas,<sup>31</sup> and a general process that is "robust, transparent, and inclusive of all stakeholders,"<sup>32</sup> and not dominated by the utilities.

**i. Procurement practices**

The NPOs agree that Maryland's current gas utility procurement process (1) fails to account for the inevitable decrease in gas demand, (2) lacks the relevant time horizon to incentivize the utilities to plan for emissions reduction requirements under the CSNA, and (3) improperly allows gas utilities to procure gas alternatives, which are actually false "solutions," such as so-called "renewable natural gas," ("RNG") "certified natural gas," and "clean" hydrogen.

As noted in OPC's Reports and the petition, and as supported by utility trend analyses,<sup>33</sup> it is undeniable that gas demand will decline as Maryland moves toward 2045. Maryland's gas

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<sup>30</sup> OPC Petition at 36 – 42.

<sup>31</sup> OPC Petition at 37.

<sup>32</sup> OPC Petition at 4.

<sup>33</sup> BGE E3 Study at 25 (estimating a 54% to 70% reduction in gas by 2045).

procurement processes must themselves be reformed to reject the acceptance of “long-term contracts based on models that assume steady or growing gas consumption,”<sup>34</sup> or otherwise be incorporated into larger-scale planning that requires harmonization of longer-term procurement with decreasing gas demand and the requirements of the CSNA. As noted by OPC, the current gas procurement process consisting of annual filings, approvals, and meeting year-out demand projections is incompatible with the need for long-term climate planning and is incapable of realizing forward-looking supply planning. The NPOs agree that the Commission should immediately require the gas companies to align their procurement strategies with the CSNA and the reality that gas sales will drop over time.<sup>35</sup>

Further, gas utility procurement practices must also be free of the false solutions being proffered by the gas industry as supposed “climate-friendly” gas-based alternatives to electrification, such as RNG, “certified natural gas,” and “clean” hydrogen.<sup>36</sup>

First, RNG fails as a climate solution because it has wildly variable emissions that are sometimes higher than those of fossil gas, is in extremely limited supply and thus very expensive compared to electrification, and otherwise still results in greenhouse gas emissions when combusted. RNG is a term used by the gas industry to describe biogas, which refers to methane derived from biogenic (organic) sources such as landfills, sewage treatment facilities, forests, livestock operations, and farms. Biogas is produced through either anaerobic digestion or

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<sup>34</sup> OPC Petition at 38.

<sup>35</sup> OPC Petition at 38.

<sup>36</sup> See OPC Petition at 46-47 (citations omitted).

thermal gasification.<sup>37</sup> Each of these different sources of RNG come with varying emissions profiles.

Moreover, regardless of its source, there are dire emissions risks associated with leaks of this substance in the distribution system, which is particularly harmful since methane has a 20-year global warming potential of 82.5 times that of carbon dioxide.<sup>38</sup> Further, RNG supplies are currently very limited and unlikely to grow substantially in the future<sup>39</sup>—a concern that has been acknowledged by the American Gas Association (“AGA”).<sup>40</sup> Despite these realities, an internal set of AGA meeting notes from March 2018 shows the industry determined that RNG can be used to “mitigate the opposition’s fervor” to phase out the burning of gas due to climate concerns, highlighting that utilities’ plans to ostensibly utilize RNG are simply disingenuous greenwashing.

Industry attempts to utilize “certified gas” in procurement should also be curtailed as a false climate solution. Certified gas purports to have emission-reducing potential because it adheres to so-called “best practices” that are still connected with the environmentally disastrous practice of extraction of fracked methane gas at the gas well. There are no established standards

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<sup>37</sup> Natural Resources Defense Council, *A Pipe Dream of Climate Solution? The Opportunities and Limits of Biogas and Synthetic Gas to Replace Fossil Gas*, at 2 (June, 2020), <https://www.nrdc.org/sites/default/files/pipe-dream-climate-solution-bio-synthetic-gas-ib.pdf>

<sup>38</sup> IPCC WGI, *Climate Change 2021: The Physical Science Basis*, at 7-125, IPCC AR6 WGI (2021), [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Full\\_Report.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf).

<sup>39</sup> *Earthjustice & Sierra Club, Rhetoric v. Reality: The Myth of “Renewable Natural Gas” for Building Decarbonization* (July 2020), available at [https://earthjustice.org/wp-content/uploads/report\\_building-decarbonization-2020.pdf](https://earthjustice.org/wp-content/uploads/report_building-decarbonization-2020.pdf)

<sup>40</sup> American Gas Association, *APGA Basecamp 2018*, at 615 (2018), <https://www.documentcloud.org/documents/6768592-APGABasecamp-2018.html#document/p615/a549439>; see also Susie Cagle, *US gas utility funds ‘front’ consumer group to fight natural gas bans*, *The Guardian* (July 26, 2019), <https://www.theguardian.com/us-news/2019/jul/26/us-natural-gas-ban-social-gas-berkeley>.

for this certification process, and indeed in July of this year, the federal Department of Energy announced plans to halt endorsement of standards regarding certified gas.<sup>41</sup> Overall lifecycle emissions of different types of certified gas vary substantially and certified gas is still methane gas, possessing all the same emissions associated with leaks in transport and distribution as other fracked gas, as well as the same greenhouse gas emissions when it is combusted.

Gas utilities' overtures on utilizing hydrogen for blending with distribution-grade methane in their distribution systems should also be dismissed. While there are various ways to produce hydrogen,<sup>42</sup> each coming with vastly different emissions profiles, "green hydrogen" that is produced by electrolysis (i.e. splitting hydrogen from water molecules) that is powered by only 100% renewables<sup>43</sup> is the only hydrogen type with no direct carbon emissions.<sup>44</sup> However, producing this hydrogen is inefficient, and using renewable electricity to power electrolysis results in substantial energy losses—anywhere between 20 and 40% of the energy is lost.<sup>45</sup> Due to this inefficiency, analysis has shown that "green hydrogen will always be a considerably more

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<sup>41</sup> Corey Paul & Maya Weber, *US DOE will not develop certified natural gas standard amid focus on international emissions framework*, S&P Global (July 21, 2023), <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/natural-gas/072123-us-doe-will-not-develop-certified-natural-gas-standard-amid-focus-on-international-emissions-framework>

<sup>42</sup> RMI, *Clean Energy 101: The Colors of Hydrogen*, (April 13, 2022), available at <https://rmi.org/clean-energy-101-hydrogen/>

<sup>43</sup>RMI, *Hydrogen Reality Check: all "Clean Hydrogen" is Not Equally Clean* (October 4, 2022), available at <https://rmi.org/all-clean-hydrogen-is-not-equally-clean/>.

<sup>44</sup> Hydrogen's 100-year greenhouse warming potential (GWP) is twice as high as previously thought, and its 20-year GWP is 3 times higher than its 100-year GWP. Hydrogen's maximum GWP occurs around 7 years after the initial pulse of emissions.

Ocko, I. B. and Hamburg, S. P.: Climate consequences of hydrogen emissions, *Atmos. Chem. Phys.*, 22, 9349–9368, <https://doi.org/10.5194/acp-22-9349-2022>, 2022.

<sup>45</sup> Earthjustice, *Reclaiming Hydrogen for a Renewable Future*, at 16 ("Hydrogen Report")(citing Energy Transitions Commission, *Making the Hydrogen Economy Possible: Accelerating Clean Hydrogen in an Electrified Economy*, at 22 (Apr. 2021), available at <https://energy-transitions.org/wpcontent/uploads/2021/04/ETC-Global-Hydrogen-Report.pdf>)

expensive fuel than renewable electricity,”<sup>46</sup> calling into question its cost-effectiveness compared to direct electrification of traditionally gas-fueled end uses. For end use in buildings, gas utilities have been toying with the notion of blending certain levels of hydrogen (without even committing to “green hydrogen”) with its existing distribution-grade methane as a means of justifying continued maintenance and investment in their aged, leaking gas distribution systems.<sup>47</sup> Recent studies have estimated that acceptable levels fall within 5%–20% hydrogen by volume,<sup>48</sup> but this means that the blend would remain 80%-95% gas which would maintain the heavy emissions impact of that distribution-grade methane’s combustion. Significantly, hydrogen has a far lower energy density than methane, so a 5% blend of hydrogen by volume corresponds to a blend of less than 2% hydrogen by energy. Even at those blend levels, hydrogen blending presents a host of operational safety issues,<sup>49</sup> as well as potentially exacerbating health harms due to “higher NO<sub>x</sub> emissions than natural gas because hydrogen burns faster than natural gas,”<sup>50</sup> when using blends in household appliances.

## ii. Gas Line-Extension Policy

There is a fundamental tension between the requirements of the CSNA and existing policies that promote fossil gas system expansion through a right to gas service and associated

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<sup>46</sup> Hydrogen Report at 16 (citing Jens Perner et al., *The Future Cost of Electricity-Based Synthetic Fuels*, Frontier Economics Ltd., at 11 (Sept. 19, 2018), available at [https://www.agora-energiewende.de/fileadmin2/Projekte/2017/SynKost\\_2050/Agora\\_SynKost\\_Study\\_EN\\_WEB.pdf](https://www.agora-energiewende.de/fileadmin2/Projekte/2017/SynKost_2050/Agora_SynKost_Study_EN_WEB.pdf)).

<sup>47</sup> AGA, Hydrogen One-Pager (March 2022), available at [https://www.aga.org/wp-content/uploads/2022/12/aga\\_hydrogen\\_onepager\\_march2022-1.pdf](https://www.aga.org/wp-content/uploads/2022/12/aga_hydrogen_onepager_march2022-1.pdf)

<sup>48</sup> M. W. Melaina, O. Antonia, and M. Penev, *Blending Hydrogen into Natural Gas Pipeline Networks: A Review of Key Issues*, The National Renewable Energy Laboratory (“NREL”) (Mar. 2013) (“NREL Report”), available at <https://www.nrel.gov/docs/fy13osti/51995.pdf>.

<sup>49</sup> Case No. 9692, *Initial Brief of the Sierra Club*, Maillog No. 305509, at 12-13 (October 10, 2023)

<sup>50</sup> A.20-11-004, Prepared Direct Test. of Kevin Woo et al. on Behalf of Southern Cal. Gas Co. et al., at 17 (Cal. P.U.C. Nov. 2020), [https://www.socalgas.com/sites/default/files/2020-11/H2\\_Application-Chapter\\_4-Technical.pdf](https://www.socalgas.com/sites/default/files/2020-11/H2_Application-Chapter_4-Technical.pdf)

subsidies for the extension of the gas system to new customers. To meet the emissions reduction goals of the CSNA, Maryland will need to drastically reduce its gas consumption which in turn will increasingly render gas utility infrastructure as stranded assets. In order to limit that risk, and avoid intensifying equity and affordability implications of the energy transition, immediate action that limits gas line extensions is needed.

iii. **Gas utility marketing practices are wholly-contrary to Maryland’s trajectory and should be immediately examined and addressed.**

The State’s gas utilities continue to greenwash the nature of its high GHG-emitting product while promoting false narratives regarding fossil gas alternatives such as “renewable natural gas,” “certified gas” and “clean” hydrogen, as discussed above. For example, WGL’s recent marketing campaign falsely claimed “gas as ‘a clean Energy’” and conveniently failed to disclose “well-established fact that fossil gas production, distribution, and consumption are major sources of greenhouse gas emissions.”<sup>51</sup> Indeed, through Order No. 90057, the Commission indicated that a proceeding that examined these practices, as a general matter and/or across the range of Maryland’s gas utilities, was the appropriate scope of inquiry.<sup>52</sup>

The NPOs respectfully submit that the Commission make this inquiry part of an immediate priority proceeding.

iv. **Gas utilities are using the EmPOWER Maryland proceedings to lock in gas end uses that only serve the utilities and their shareholders and must be addressed.**

As noted above, numerous analyses at the international, national, and Maryland state level are clear that buildings, as a major source of GHG contribution, must decarbonize as

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<sup>51</sup> OPC Petition at 40.

<sup>52</sup> Order No. 90057, Case No. 9673 (Feb. 7, 2022), at 6, ¶ 18 (finding that “a complaint against one utility is an inappropriate forum to address the broader issues raised by natural gas and its role in greenhouse gas emissions”).

rapidly as possible with the preferred path being through electrification. Allowing for incentives to be established for gas-powered appliance end uses tethers consumers to the gas system for 12 to 15 years, which is fast approaching the 2045 goal to reach net-zero emissions in Maryland. Installing new gas appliances is a step backwards and is contrary to MCCC's recommendation to end incentives for gas appliances.<sup>53</sup> Continuing to install gas appliances also perpetuates users' exposure to the well-documented public health harms associated with gas appliances due to methane leaks (even when off)<sup>54</sup> and harmful emissions directly related to the combustion through their use.<sup>55</sup>

As such, the Commission should take immediate action to end gas appliance incentives.

## **II. The Commission should initiate a medium- to long-term gas planning proceeding to ensure an equitable phasedown of the gas distribution system in Maryland.**

The NPOs urge the Commission to engage in medium- to long-term planning and oversight to harmonize utility operations with Maryland's climate laws and the public interest while maintaining safe, affordable, and reliable service. The Commission should begin with the premise that gas utility operations must adapt to meet the goals of the CSNA and the policy objectives for implementation, as set forth in the MCCC's recommendations and MDE's forthcoming

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<sup>53</sup> MCCC 2022 Report at 16.

<sup>54</sup> Eric D. Lebel *et al.*, *Methane and NO Emissions from Natural Gas Stoves, Cooktops, and Ovens in Residential Homes*, 56 ENV'T SCI. & TECH. 2529 (2022).

<sup>55</sup> See Drew R. Michanowicz *et al.*, *Home is Where the Pipeline Ends: Characterization of Volatile Organic Compounds Present in Natural Gas at the Point of the Residential End User*, 56 ENV'T SCI. & TECH. 10258 (2023), <https://pubs.acs.org/doi/epdf/10.1021/acs.est.1c08298>; Weiwei Lin *et al.*, *Meta-Analysis of the Effects of Indoor Nitrogen Dioxide and Gas Cooking on Asthma and Wheeze in Children*, 42 INT'L J. EPIDEMIOLOGY 1724 (2013); Am. Cancer Soc'y, *Benzene and Cancer Risk*, <https://www.cancer.org/cancer/risk-prevention/chemicals/benzene.html> (last visited June 9, 2023).



Climate Pathway Report.<sup>56</sup> To meet those goals, the Commission should require the adoption of the lowest-cost path for decarbonizing (1) the state’s gas distribution system as a whole and (2) each of Maryland’s gas utilities’ systems. Central to this concept should be a commitment to access to energy, reasonable, affordable rates and bills, customer equity, and energy justice.<sup>57</sup>

It is imperative that the Commission institute a long-term planning proceeding that harmonizes utility regulation with the mandates of the CSNA and the policies of Maryland’s administrative agencies and commissions, including MDE and the MCCC. The CSNA set ambitious, economy-wide emission reduction mandates, but does not directly set interim emission reduction targets for utility operations. As such, there are no medium- and long-term emission reduction targets for the gas system, let alone specific targets for each of the regulated gas distribution utilities in Maryland. The Commission’s future-of-gas proceeding should remedy this shortcoming and place obligations directly on the utilities to model their planning based on the CSNA’s requirements and the reality of drastic projected decreases in gas demand.

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<sup>56</sup> The Commission has previously recognized the importance of MDE’s Climate Pathway Plan, striking BGE’s “electrification plan”, because “it is premature to consider and potentially approve BGE’s electrification plan in the current proceeding, when MDE’s State plan to reduce statewide greenhouse gas emissions to meet required targets will not—pursuant to the CSNA—be filed until December 31, 2023. Moreover, the MBCA [Maryland Buildings Code Administration] is not required to file its final report addressing timely and cost-efficient methods for decarbonizing buildings in the State until December 1, 2023.” Order No. 90755, *Baltimore Gas and Electric Company’s Application for an Electric and Gas Multi-Year Plan*, at 8, Case No. 9692 (August 9, 2023)

<sup>57</sup> “Energy justice” refers to a concept like environmental justice but pertains specifically to energy-related benefits and burdens. It refers to the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on those disproportionately harmed by the energy system, and further aims to make energy accessible, affordable, clean, and democratically managed for all communities. See Tim Woolf, Alice Napoleon, Asa Hopkins, PhD, and Kenji Takahashi, *Long-Term Planning to Support the Transition of New York’s Gas Utility Industry*, Synapse Energy Economics, Inc. Prepared for Natural Resources Defense Council, at 5 fn. 3 (April 30, 2021) (hereinafter “Synapse Long-Term Planning Whitepaper” and filed with these Comments in this docket) (*Citing* The Initiative for Energy Justice, available at <https://iejusa.org>). See, also, PUA § 4-309 (authorizing PSC to institute limited income mechanisms to benefit limited-income customers.

The medium- to long-term proceeding should begin with a premise that dismisses the gas utilities' narrative that purported low- or zero-carbon fuels are consistent with Maryland's decarbonization future.<sup>58</sup> As stated above, the usual suspects of proposed "low" or "zero" carbon alternative combustion fuels have inherent and insurmountable efficiency, emissions, and cost issues compared to electrification. The NPOs agree with OPC that reliance on this narrative is little more than a justification of business-as-usual heavy spending on gas infrastructure that is calculated to enrich shareholders at the expense of ratepayers' safety, economic well-being, and health. Any long-term proceeding should abide by the recommendations of the MCCC and MDE in maintaining a planning path predicated on a phasing out of gas infrastructure in favor of electrification.

In initiating and managing a future-of-gas docket, the Commission should take steps to avoid experiencing pitfalls that have plagued gas planning dockets in other states.

A unifying problematic feature of multiple other states' gas planning dockets involves the degree of control and influence given to the state's gas utilities. In Massachusetts, the gas utilities and their retained consultants ran the gas planning process, to the detriment of both meaningful stakeholder input and credible substantive outcomes. The gas utility-commissioned study underlying the Massachusetts future-of-gas docket<sup>59</sup> relied on multiple faulty assumptions, including the premise that all sources of "RNG" are carbon-neutral.<sup>60</sup> The study also imposed higher weatherization costs on a high-electrification scenario and inflated the costs estimated for

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<sup>58</sup> OPC Petition at 46 – 47.

<sup>59</sup> Ma. Dep't Pub. Utils. ("DPU"), *Final Joint Stakeholder Response to Draft LDC Reports*, Ma. DPU Docket No. 20-80 (Mar. 17, 2022).

<sup>60</sup> *Id.* at 2.

cold-climate heat pumps.<sup>61</sup> Predicating a future-of-gas analysis on studies that are biased in favor of gas paves the way for generating incorrect outcomes that harm ratepayers.

In New York, the Public Service Commission likewise put the gas utilities in the driver's seat in developing 20-year long-term plans that were intended to cohere with New York's climate mandates.<sup>62</sup> Unsurprisingly, the first gas utility to submit a plan proposed not to fully electrify a single customer over the 20-year planning horizon,<sup>63</sup> and retained this recommendation in its long-term plan despite engaging in an 8-month stakeholder process during which all stakeholders and an independent consultant retained by Commission staff strongly opposed the utility's approach.<sup>64</sup> Similarly, the "Climate Business Plan" developed by WGL and filed with the DC Public Service Commission (Orwellianly titled "Natural Gas and its Contribution to a Low Carbon Future") adopted the same flawed approach.<sup>65</sup> The experiences in other jurisdictions reveal how ostensibly climate-focused planning processes can be hijacked by gas utilities and used to recommend speculative investments in perpetuating reliance on the gas pipeline system.

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<sup>61</sup> Sierra Club Letter to Future of Gas Consultants, "Sierra Club Comments and Recommendations Relating to the LDC Regulatory Framework and Proposals, and the Draft Independent Consultant Report Prepared by E3 & ScottMadden, MA DPU Docket No. 20-80: Investigation by the Department of Public Utilities on its own Motion into the role of gas local distribution companies as the Commonwealth achieves its target 2050 climate goals" (Mar. 17, 2022).

<sup>62</sup> New York Pub. Serv. Comm'n, *Order Adopting Gas System Planning Process*, NY PSC Case No. 20-G-0131 (May 12, 2022), at 4 (providing that gas utility planning "must be conducted in a manner consistent with" New York's climate law).

<sup>63</sup> Nat'l Fuel Gas Distrib. Corp., Initial Long-Term Plan, NY PSC Case No. 22-G-0610 (Dec. 22, 2022).

<sup>64</sup> See Nat'l Fuel Gas Distrib. Corp., Final Long-Term Plan, NY PSC Case No. 22-G-0610 (July 17, 2023); cf. Charles River Assocs., Final Report: National Fuel Gas Distribution Corporation Long-Term Plan Assessment, NY PSC Case No. 22-G-0610 (July 25, 2023) (independent consultant report critiquing National Fuel Gas' final long-term plan).

<sup>65</sup> See Washington Gas & AltaGas, Natural Gas and its Contribution to a Low Carbon Future: Climate Business Plan for Washington, D.C., DC PSC Case No. FC1142 (Mar. 16, 2020).

Accordingly, the Maryland PSC should take care to ensure that any studies in its future-of-gas docket are conducted by a neutral third-party entity and all stakeholders have an equal opportunity to make recommendations or challenge assumptions underlying the study early on in the process. The PSC should also oversee the entity conducting the study to ensure that it does not make incorrect assumptions, such as overestimating the costs (and underestimating the performance) of air- and ground-source heat pumps and weatherization measures; underestimating the costs (and overestimating the availability) of RNG, “certified gas,” and hydrogen; treating ongoing utility pipe replacement efforts as unavoidable (thus overstating the cost of electrification-based futures); ignoring the availability of federal electrification and weatherization incentives; and misstating the emission reductions attributable to various forms of methane gas or electric appliances.

New York’s long-term gas planning dockets also highlight procedural hurdles that can make public engagement more challenging. For instance, public intervenors in New York’s docket were not provided an opportunity to conduct formal discovery on the gas companies’ submissions.<sup>66</sup> Additionally, the flow of the gas utility long-term planning docket was structured so that the eleven gas utilities were filing staggered gas system plans over a span of 25 months—a time-consuming and cumbersome process that is proving prohibitively difficult and costly for interested stakeholders to participate in.<sup>67</sup> The Maryland PSC should take steps to ensure that its future-of-gas docket allows members of the public to meaningfully participate, including by

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<sup>66</sup> New York Pub. Serv. Comm’n, *Order Adopting Gas System Planning Process*, NY PSC Case No. 20-G-0131 (May 12, 2022), at 24.

<sup>67</sup> New York Pub. Serv. Comm’n, *Order Adopting Gas System Planning Process*, NY PSC Case No. 20-G-0131 (May 12, 2022), at 64-65.

commenting on studies in the docket, conducting discovery, participating in hearings, and commenting on any substantive plans that the utilities produce.

Accordingly, the NPOs recommend that the Commission open the medium- to long-term future-of-gas planning proceedings, as recommended by OPC, and initiate a process by which stakeholders can convene to develop the parameters of that proceeding.

## **CONCLUSION**

**WHEREFORE**, the reasons stated above, the Non-Profit Organizations request that the Commission align their decision making on utility proposals with Maryland’s legal mandates and public policy and grant OPC’s petition to open the various gas planning proceedings contained therein. In so doing, the Non-Profit Organizations urge the Commission to incorporate the recommendations set forth above.

Date: October 24, 2023



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*On Behalf of the Non-Profit Organizations*

## CERTIFICATE OF SERVICE

I hereby certify that on the 24<sup>th</sup> day of October, 2023, I electronically filed a copy of this Entry of Appearance in PSC Case No. 9707 with the Maryland Public Service Commission. Copies were electronically served on:

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