

**BEFORE THE  
MARYLAND PUBLIC SERVICE COMMISSION**

IN THE MATTER OF BALTIMORE GAS  
AND ELECTRIC COMPANY'S  
APPLICATION FOR AN ELECTRIC AND  
GAS MULTI-YEAR PLAN

\*  
\* Case No. 9692  
\*  
\*

\* \* \* \* \*

**SURREBUTTAL TESTIMONY**

**OF**

**COURTNEY LANE**

**ON BEHALF OF THE OFFICE OF PEOPLE'S COUNSEL**

*August 25, 2023*

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Exhibit CL-1: Resume of Courtney Lane

Exhibit CL-3: BGE Responses to Data Requests

1 **SURREBUTTAL TESTIMONY OF**  
2 **COURTNEY LANE**

3  
4 **INTRODUCTION**

5 **Q. Please state your name and business address.**

6 A. My name is Courtney Lane. I am a principal associate at Synapse Energy  
7 Economics, Inc. (Synapse) located at 485 Massachusetts Avenue, Suite 3,  
8 Cambridge, MA 02139.

9 **Q. Have you previously submitted testimony in this proceeding?**

10 A. Yes. I submitted direct testimony in this proceeding on June 20, 2023, on  
11 behalf of the Office of People’s Counsel.

12 **Q. What is the purpose of your surrebuttal testimony?**

13 A. The purpose of my surrebuttal testimony is to respond to the rebuttal  
14 testimony of Baltimore Gas and Electric Company’s (BGE or the Company)  
15 witnesses Case, White, Frain, and Warner. My surrebuttal testimony  
16 addresses topics related to BGE’s proposed performance incentive  
17 mechanism (PIM) and performance metrics, proposed electric vehicle (EV)  
18 program budgets and cost-recovery mechanism, and the benefit-cost analysis  
19 (BCA) of the Company’s existing EV program portfolio.

20 My surrebuttal testimony responds to several key aspects of each witness’s  
21 rebuttal testimony but does not attempt to address every instance of  
22 disagreement. Thus, silence on any particular issue should not be interpreted  
23 as agreement.

1 **Q. What materials did you rely on to develop your testimony?**

2 A. In addition to the testimony of each witness, the sources for my testimony  
3 are responses to discovery requests, public documents, and my personal  
4 knowledge and experience.

5 **Q. Was this testimony prepared by you or under your direction?**

6 A. Yes. My testimony was prepared by me or under my direct supervision and  
7 control.

8 **Q. Have you attached any exhibits to your testimony?**

9 A. Yes, I have attached my resume as Exhibit CL-1 and BGE's responses to  
10 OPC data requests that I cite in this testimony as Exhibit CL-3. My resume  
11 was attached to my direct testimony, but I have learned that it was not  
12 labeled as CL-1.

13 **I. Summary of Conclusions and Recommendations**

14 **B. Please summarize your primary conclusions and recommendations.**

15 A. My overall conclusions and recommendations remain unchanged from my  
16 direct testimony. Regarding the specific issues I address in this surrebuttal  
17 testimony, I summarize my primary conclusions and recommendations as  
18 follows:

- 19
  - Witness Case's rebuttal testimony does not provide a persuasive

20 argument for why BGE's proposed EV program budgets should be

21 approved as part of its Application for an Electric and Gas Multi-

1 Year Plan (MYP 2), when the design and scope of these programs are  
2 still being considered in Case Nos. 9478 and 9696. The outcome of  
3 these cases will impact the proposed EV program budgets included in  
4 the MYP 2 and ratepayers should not incur costs which the  
5 Commission has yet to determine are “just and reasonable.” The  
6 Commission should reject BGE’s proposed EV program budget in the  
7 MYP 2 because consideration of EV program budgets, program  
8 design, and associated cost-recovery mechanisms should occur within  
9 the same proceeding.

- 10 • Witness Case also fails to address my concerns related to the  
11 Company’s proposed PIM and performance metrics. He has not  
12 demonstrated that the Company either has a disincentive or lacks a  
13 financial incentive to achieve its proposed performance metrics. I  
14 therefore continue to recommend that the Commission reject BGE’s  
15 proposed Greenhouse Gas (GHG) Emissions Reduction performance  
16 metric, Removal of Oil- Based Equipment (ROBE) performance  
17 metric, Customers Experiencing Four or More Sustained Outages  
18 each Year for Three Consecutive Years (CEMI4-3P) performance  
19 metric, and the Zero-Emission Vacuum (ZEVAC) performance  
20 metric because they do not meet the criteria set forth by the  
21 Commission in Order No. 89638.

- 1           • Witness White does not provide sufficient justification for why the  
2           use of ZEVAC machines warrants a financial incentive, when  
3           customers are already paying for these machines. She also fails to  
4           provide a sufficient reason for why the Company cannot pursue non-  
5           pipes alternatives (NPA) as a PIM. I recommend that BGE develop a  
6           PIM for NPAs as a means to reduce costs and GHG emissions.
- 7           • Witness Frain does not provide sufficient justification for why BGE's  
8           non-capital EV program costs should be classified as a regulatory  
9           asset. This approach will needlessly cost ratepayers more over the  
10          long term, while allowing the Company to earn a return on program  
11          costs that are not capital investments. Should the Commission decide  
12          to approve the proposed EV program costs in the MYP 2, I  
13          recommend the Commission reject BGE's proposal to classify non-  
14          capital EV program expenses as a regulatory asset. Should the  
15          Commission approve regulatory asset treatment of EV program costs,  
16          BGE should not be allowed to earn a return on that asset.
- 17          • Witness Warner does not sufficiently address the concerns I raised  
18          related to his flawed methodology in assessing the cost-effectiveness  
19          of BGE's EV program offerings. The Company should not ignore the  
20          costs related to charger rebates in its BCA. The Commission should  
21          require BGE to revise and resubmit its BCAs so the participant share

1 of the Level 2 charger costs, net of the utility rebate, are included in  
2 the “Charger Rebate and Home Charging Incentive” (Charger Rebate  
3 & HCI) BCA and the “Charger Rebate, EV-Time-of-Use, and Home  
4 Charging Incentive” (Charger Rebate & TOU & HCI) BCA. The  
5 exclusion of these costs inflates the cost-effectiveness of the  
6 Company’s EV programs, leading to an inaccurate evaluation of  
7 these programs.

8 **II. Response to BGE Witness Case**

9 **A. EV Program Budget Proposal**

10 **Q. How does witness Case respond to your recommendation that EV**  
11 **program budgets should be removed from the MYP 2?**

12 A. Witness Case continues to rely on Commission Order No. 88997 in Case  
13 No. 9478 as justification for bifurcating the review of EV program budgets  
14 and EV program design. He states that the approved cost-recovery  
15 mechanism for EV programs is base rates, which are now set via an MYP.<sup>1</sup>  
16 He also states that without inclusion of the new EV programs in the MYP 2,  
17 the benefits of those proposed EV programs would not be realized.<sup>2</sup>

18 **Q. Do you agree with witness Cases’s arguments?**

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<sup>1</sup> Rebuttal Testimony of Mark D. Case at 50, lines 12-15.

<sup>2</sup> Case Rebuttal Testimony at 50, lines 18-20.

1 A. No, I do not. First, the Commission's order in Case No. 9478 pertained to  
2 the Phase I EV pilot portfolio. The order specifically addressed the  
3 components of the EV portfolio as filed in that case. The Phase I EV pilot  
4 has a sunset date and requires a third-party evaluation at the end of the pilot  
5 period.<sup>3</sup> The Commission has yet to opine on a cost-recovery mechanism for  
6 a second phase of utility EV programs; nor has it made a determination  
7 regarding BGE's proposed EV Phase II as filed in Case No. 9478 and  
8 BGE's proposed electric school bus (EVSb) pilot program in Case No.  
9 9696.

10 It is premature to approve budgets in this proceeding when Case Nos. 9478  
11 and 9696 are ongoing. The Company's proposed program design and  
12 associated budgets may be materially modified by the Commission in these  
13 proceedings. For example, the direct testimony filed thus far by intervenors  
14 in Case No. 9696 raises concerns regarding the interpretation and  
15 application of the \$50 million rebate limit under the *Climate Solutions Now*  
16 *Act* (CSNA).<sup>4</sup> Depending on the outcome of that case, there could be a  
17 reduction in the EVSB pilot program costs as included in the MYP 2, which

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<sup>3</sup> Order No. 88997 at 12-13.

<sup>4</sup> Climate Solutions Now Act of 2022 (CSNA), 2022 Md Laws Ch. 38 (codified in relevant part at Md. Code Ann., Pub. Util. Art. (PUA) § 7-217).



1 would have customers paying more in year one of the MYP 2 than is  
2 necessary.

3 **Q. Does BGE's proposed annual reconciliation mechanism address your**  
4 **concerns with the inclusion of proposed EV program budgets in the**  
5 **MYP 2?**

6 A. No, it does not. It is not reasonable to set base rates that include program  
7 budgets that are still being considered in other ongoing proceedings even if  
8 those costs can be reconciled at a future year. The Company is requesting  
9 approval of its proposed EV program costs for at least the first year prior to  
10 the approval of the associated programs. This is problematic because, if  
11 approved, ratepayers will incur costs which the Commission has not, and  
12 cannot, determine are "just and reasonable" at this time. The Company has  
13 not provided sufficient information in its MYP 2 application to justify the  
14 proposed cost to ratepayers.

15 In sum, the Commission should consider the budgets, program design, and  
16 cost-recovery mechanisms in the same proceeding to ensure that customer  
17 costs reflect the programs being implemented from the beginning.

18 **Q. Do you agree with witness Case that the benefits of its proposed EV**  
19 **programs would not be realized if the budgets are not included in the**  
20 **MYP 2?**<sup>5</sup>

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<sup>5</sup> Case Rebuttal Testimony at 50, lines 18-20.

1 A. No, I do not. As stated above, the Commission has not yet determined that  
2 BGE's proposed EV programs will have net benefits to customers, let alone  
3 ruled on a cost-recovery mechanism for those programs. The exclusion of  
4 proposed EV program budgets from the MYP 2 does not amount to a  
5 rejection of BGE's proposed EV programs and associated budgets, unless  
6 BGE is saying that it will withdraw its proposed EV programs if the  
7 Commission denies cost recovery in this case. If that is BGE's position, the  
8 Company should make it explicit. Should the Commission approve the  
9 Company's proposed EV programs as included in Case Nos. 9478 and 9696  
10 along with a cost-recovery mechanism, the benefits of those programs will  
11 be realized, and costs will be recovered appropriately as determined by the  
12 Commission.

13 **Q. Does witness Case agree with your recommendation that Phase I EV**  
14 **programs need to be evaluated before additional programs are**  
15 **considered?**

16 A. No, he does not. Witness Case states that existing programs can be evaluated  
17 while new programs begin and notes that over the course of the first five  
18 years of the Phase I EV programs, new EV programs have been approved by  
19 the Commission.<sup>6</sup>

20 **Q. What is your response to witness Case's assertion that new programs**  
21 **should not wait for the completion of an evaluation of Phase I?**

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<sup>6</sup> Case Rebuttal Testimony at 51, lines 15-18.

1 A. I disagree with witness Case. While it is true that during the Phase I EV pilot  
2 period, utilities proposed modifications to existing programs and introduced  
3 new programs, these were all under the umbrella of Phase I. Consideration  
4 of new programs as part of a Phase II is not the same situation.

5 First, in Order No. 99887 the Commission was clear that Phase I was a pilot  
6 meant to test assumptions and provide more clarity around the costs and  
7 benefit of utility program offerings.<sup>7</sup> Second, there are threshold questions  
8 that need to be addressed prior to approval of Phase II EV programs. These  
9 include whether there should be a Phase II and, if so, what is the appropriate  
10 role of utilities versus the market in the electrification of the transportation  
11 sector. In addition, as discussed in my direct testimony, there are several key  
12 policy questions related to a potential EV Phase II that have yet to be  
13 addressed including:

- 14 • Do the market barriers the utilities sought to address with Phase I still  
15 exist?
- 16 • Are there Phase I EV programs that are better provided by the market  
17 rather than the utilities going forward?
- 18 • Should Phase II still be considered a pilot?
- 19 • Should there be changes to the filing structure, approval, and cost-  
20 recovery process?

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<sup>7</sup> Direct Testimony of Courtney Lane at 76-77.

1 The final EV evaluation and the subsequent legislative-style hearing will  
2 provide information needed to help inform answers to these questions.

3 It is important to examine the results of any pilot program before  
4 considering whether it is in the best interest of ratepayers to continue  
5 supporting utility EV programs, or if programs should be modified to be in  
6 the ratepayer interest. Indeed, this is the purpose of pilot programs; by  
7 definition they are intended to inform future program design through data  
8 collection and lessons learned.

9 **B. Performance Incentive Mechanisms**

10 **Q. What does witness Case state in response to your concern that certain**  
11 **proposed performance metrics are not cost-effective and therefore fail**  
12 **to meet the Commission's criteria of showing measurable benefits?**

13 A. Witness Case interprets the Commission's PIM criteria in Order No. 89638  
14 to apply across the entire PIM proposal and does not believe that each  
15 performance metric is required to show a BCA greater than 1.0.<sup>8</sup>

16 **Q. Do you agree with this response?**

17 A. No, I do not. First, BGE is using the terms "PIM" and "performance metric"  
18 in a manner that confuses the application of the Commission criteria in  
19 Order No. 89638. In its MYP 2, the Company combines what it refers to as  
20 four "performance metrics" into one PIM. However, each of the four

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<sup>8</sup> Case Rebuttal Testimony at 70, lines 1-2.

1 performance metrics (CEMI4-3P, ZEVAC, GHG, and ROBE) fits the  
2 definition of a PIM. As defined in the Phase II Report on Performance  
3 Based Regulation Work, a PIM is “a ratemaking component/mechanism that  
4 adopts specific metrics, targets, and financial incentives to effect desired  
5 utility performance designed to support specified State policies.”<sup>9</sup> CEMI4-  
6 3P, ZEVAC, GHG, and ROBE all contain specific metrics, targets, and  
7 financial incentives and should be considered PIMs regardless of how the  
8 Company chooses to label them. It is therefore important that each of these  
9 four performance metrics be assessed on its own merits in accordance with  
10 the PIM criteria in Commission Order No. 89638.

11 Second, my concerns with the Company’s proposed performance metrics go  
12 well beyond cost-effectiveness and whether each provides measurable  
13 benefits. A well-designed PIM should focus on performance areas where a  
14 utility lacks an incentive or has a disincentive to achieve a desired outcome.  
15 However, BGE’s proposed performance metrics pertain to actions and  
16 investments it is already pursuing without a PIM. The Company has not  
17 sufficiently demonstrated that a PIM is needed to overcome an existing

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<sup>9</sup> Exploring the Use of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company, PC51, and In the Matter of Alternative Rate Plans for Methodologies to Establish New Base Rates for an Electric Company or a Gas Company, Case No. 9618, Phase II Report on Performance Based Regulations, June 17, 2020 (Phase II Report), at iv.

1 financial disincentive, risk, or that it lacks an incentive to achieve the  
2 outcomes associated with its proposed performance metrics.

3 **Q. What is witness Case's response to your conclusion that the Company**  
4 **already has a financial incentive to achieve many of its proposed**  
5 **performance metrics?**

6 A. Witness Case states that "earning the authorized return on investments is not  
7 an incentive. Rather, it is simply recovering the utility's cost of capital and  
8 certainly not what the Commission envisioned in Order No. 89226 regarding  
9 performance-based rates."<sup>10</sup>

10 **Q. What is your response to this opinion?**

11 A. I do not find witness Case's response compelling. First, rate-of-return  
12 incentives are a type of performance incentive used to encourage utilities to  
13 invest in energy efficiency or other distributed energy resource (DER)  
14 programs. This type of incentive allows utilities to earn a rate of return on  
15 energy efficiency or DER spending, comparable to what they receive for  
16 traditional capital investments. As noted by the U.S. Environmental  
17 Protection Agency (EPA), shareholder performance incentives can include  
18 providing utilities the ability to earn a rate of return on specific operating  
19 expenses such as energy efficiency or other DER programs in recognition  
20 for the multiple benefits they can provide.<sup>11</sup> The American Council for an

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<sup>10</sup> Case Rebuttal at 70, lines 15-18.

<sup>11</sup> U.S. Environmental Protection Agency, 2022, *State Energy and Environmental Guide to Action: Electric Utility Regulatory Frameworks and Financial Incentives*, at 11.

1 Energy-Efficient Economy (ACEEE) also summarizes this type of  
2 performance incentives, stating:

3 “[t]his type of incentive is important for investor-owned utilities because  
4 of their financial responsibility towards their shareholders, and because  
5 of the traditional bias towards rewarding supply-side investments with a  
6 higher return. This higher return leads to higher earnings for shareholders  
7 compared with an energy efficiency program, even though the latter  
8 delivers incremental resource requirements at lower cost.”<sup>12</sup>

9 Second, when a utility’s rate of return is greater than the cost of borrowing,  
10 utilities have a financial incentive to maximize their capital expenditures in  
11 order to increase rate base and thereby increase profits. This is often referred  
12 to as the Averch-Johnson effect.<sup>13</sup>

13 Regulated utilities have an inherent incentive to favor capital expenditures  
14 over operating expenses in order to increase return to investors. Indeed, this  
15 can be seen in BGE’s parent company Exelon’s Summer 2023 Investor

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<sup>12</sup> American Council for an Energy-Efficient Economy (ACEEE), Performance Incentives Toolkit, May 14, 2012. Available at: <https://www.aceee.org/toolkit/2012/05/performance-incentives#:~:text=Rate%20of%20return%20incentives%20allow,return%20on%20supply%2Dside%20investments>.

<sup>13</sup> The Averch-Johnson effect is identified by economists as the tendency of regulated companies to engage in excess capital investments to increase their profits and was originally published in the American Economic Review, vol. 52, no. 5, 1962, at 1052–1069 “Behavior of the Firm Under Regulatory Constraint” by Harvey Averch and Leland L. Johnson.

1 Meetings slide deck, which touts to utility investors approximately \$18  
2 billion in expected rate base growth over 2023 to 2026 to be recovered  
3 through alternative recovery mechanisms such as MYPs, a capital plan that  
4 results in expected rate base growth of 7.9 percent over that same period,  
5 including about \$6.0 billion in new capital investments for BGE.<sup>14</sup>

6 It is clear that the Company has sufficient financial incentive to invest in  
7 proposed Fleet Electrification and Rooftop Solar programs contained within  
8 the GHG Emissions Reduction performance metric, the proposed ROBE  
9 performance metric, and CEMI4-3P performance metric. Adopting financial  
10 incentives for the achievement of these performance metrics only  
11 exacerbates the Company's existing incentive to expand its rate base.

12 *i. GHG Performance Metric*

13 **Q. Does witness Case provide additional defense for BGE's GHG**  
14 **performance metric in his rebuttal testimony?**

15 A. Yes. Witness Case states that a PIM is needed because "accelerating each  
16 PIM program involves the execution of each PIM program's work plan" and  
17 I should consider "the amount of work that needs to be executed to meet the  
18 Company's targeted performance levels."<sup>15</sup> He goes on to state that the

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<sup>14</sup> Exelon Summer 2023 Investor Meetings at slides 11, 15, and 32. Available at:  
<https://investors.exeloncorp.com/static-files/9d6899f2-3c80-4b3f-91a5-4469ec37b0cc>.

<sup>15</sup> Case Rebuttal at 84, lines 16-21.



1 primary purpose of a PIM is to “incentivize BGE to accelerate and execute  
2 the various programs in order to meet these targeted performance levels.”<sup>16</sup>

3 **Q. What is your response to this justification for a GHG performance**  
4 **metric?**

5 A. I do not think it is appropriate for ratepayers to provide the Company with a  
6 financial incentive for working hard and executing a work plan. This is  
7 especially true when the hard work leads to the acceleration of existing  
8 Company initiatives that align more with BGE’s investment goals and  
9 shareholder interests than ratepayer interests.

10 As stated in my direct testimony, the Company already has a financial  
11 incentive to increase its investments in Fleet Electrification and Rooftop  
12 Solar through the ability to earn a return on the associated capital  
13 investments. In addition, investments in Tree Planting, Fleet Electrification,  
14 and Rooftop Solar are already occurring without a performance incentive;  
15 these investments help meet the operational GHG reductions goals of BGE  
16 and its parent-company Exelon, as set forth in its Path to Clean Initiative.  
17 This all points to the fact that a performance incentive is not needed to  
18 overcome a disincentive or risk associated with implementation of these  
19 GHG programs.

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<sup>16</sup> *Ibid.*

1        *ii. Tree Planting*

2        **Q. How does witness Case respond to your recommendation that the**  
3        **Commission should reject BGE's Tree Planting program?**

4        A. Witness Case indicates there are "certain sensitivities" that could make the  
5        Tree Planting program cost-effective such as partnering with the Maryland  
6        Department of Natural Resources beyond 2024, focusing on planting trees  
7        with high carbon capture potential, extending the time horizon of the BCA  
8        by five years, or utilizing a different discount rate. He also argues that tree  
9        planting is a reliable means of reducing GHG emissions, citing Maryland's  
10       *Tree Solutions Now Act of 2021*.<sup>17</sup>

11       **Q. Does this response offer sufficient justification for a Tree Planting**  
12       **program?**

13       A. No, it does not. Putting aside differences of opinion regarding whether tree  
14       planting is a viable GHG emission offset, I do not consider the sensitivities  
15       provided by witness Case to be sufficient justification for a tree planting  
16       program. The extension of a BCA timeline or use of a different discount rate  
17       to make a program cost-effective does not negate the fact that tree planting  
18       can be provided by any number of governmental or non-governmental  
19       institutions and businesses and is not a monopoly service that needs to be

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<sup>17</sup> Case Rebuttal Testimony at 87-88.

1 funded by ratepayers—especially when the base case is not cost-effective,  
2 and the program does not provide any utility system benefits.

3 In addition, witness Case does not offer any rebuttal to my direct testimony  
4 regarding the insufficient baseline data for the Tree Planting program. The  
5 lack of baseline data does not provide sufficient information as to whether  
6 the Company can easily meet the program target. Witness Case also fails to  
7 address the fact that the Company has been planting trees and developing  
8 new initiatives to plant trees without a performance incentive.<sup>18</sup> I therefore  
9 continue to assert that the Tree Planting program does not meet the criteria  
10 set forth in Commission Order No. 89638 and should be rejected by the  
11 Commission.

12 *iii. Fleet Electrification*

13 **Q. How does witness Case respond to your recommendation that the**  
14 **Commission should reject BGE's Fleet Electrification program?**

15 A. Witness Case states that factoring in various scenarios included in Company  
16 Exhibit MDC-2 and additional qualitative benefits noted therein, BGE's  
17 customers should expect to receive benefits that outweigh the costs of the  
18 program.<sup>19</sup> He also states that earning a return on its fleet investments is not  
19 an incentive.<sup>20</sup>

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<sup>18</sup> Lane Direct Testimony at 44 and 47.

<sup>19</sup> Case Rebuttal at 91, lines 14-20.

<sup>20</sup> *Id.*, at 92, lines 6-10.

1 **Q. Do you find this response offers sufficient support for a performance**  
2 **incentive for the Fleet Electrification program?**

3 A. No, I do not. As described earlier in my surrebuttal testimony, the ability to  
4 earn a return on an investment is an incentive to the Company. The  
5 Company already earns a return for its fleet investments and therefore is  
6 incentivized. It should not receive an additional ratepayer-funded financial  
7 incentive to accelerate electrification, especially given the uncertainty  
8 around the cost-effectiveness of the program.

9 *iv. Rooftop Solar*

10 **Q. How does witness Case respond to your recommendation that the**  
11 **Commission should reject BGE's Rooftop Solar program as part of its**  
12 **proposed GHG performance metric?**

13 A. Witness Case reiterates his earlier point that earning a return on investments  
14 is not an incentive to the Company.<sup>21</sup>

15 **Q. Do you find this response offers sufficient support for a performance**  
16 **incentive for the Rooftop Solar program?**

17 A. No, I do not. As described earlier in my surrebuttal testimony, the ability to  
18 earn a return on an investment is an incentive to the Company. I therefore  
19 stand by my original conclusion that the Company already has a financial  
20 incentive to install solar at its facilities and should not receive an additional

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<sup>21</sup> Case Rebuttal at 94, lines 3-15.

1 ratepayer-funded financial incentive to accelerate the installation of solar PV  
2 systems.

3 *v. Removal of Oil-Based Equipment*

4 **Q. How does witness Case respond to your recommendation that the**  
5 **Commission should reject the ROBE performance metric?**

6 A. Witness Case argues that avoidance of penalties and fines has not proven to  
7 be a sufficient incentive for the Company to remove distribution oil circuit  
8 breakers (OCBs) on an accelerated path. He also states that if one were to  
9 assume a higher rate of breaker failures it would make the ROBE  
10 performance metric cost effective, noting that it is not unreasonable to  
11 assume a higher failure rate than the historical rate given the age of the  
12 OCBs being replaced.<sup>22</sup>

13 **Q. Do you find this response sufficient support a ROBE performance**  
14 **metric?**

15 A. No, I do not. First, witness Case does not respond to the key issue I raise in  
16 my direct testimony, which is that the Company has not sufficiently justified  
17 accelerated deployment of OCBs, let alone whether a performance incentive  
18 is warranted.

19 As described in my direct testimony, the Company's baseline performance  
20 does not point to a need for BGE to accelerate its replacement of OCBs. The

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<sup>22</sup> Case Rebuttal Testimony at 96, lines 18-22 and 97, lines 1-12.

1 Company has not received financial penalties or fines under the Maryland  
2 Department of the Environment Oil Control Program in the last 10 years,  
3 has not received any fines or regulatory costs resulting from oil spills from  
4 circuit breakers in the last five years, and indicates that OCB failures have  
5 not caused non-compliance with the federal *Clean Water Act*. Furthermore,  
6 there have only been three reportable OCB spills in the previous 10 years.<sup>23</sup>

7 Second, I do not find that the Company has provided sufficient data to  
8 support the statement that OCB failure rates will be sufficiently higher than  
9 historical rates, which is needed to push the accelerated replacement plan to  
10 be cost-effective. As noted by the Company's own consultants in Company  
11 Exhibit MDC-2, "[t]he observed failure rates vary substantially from year to  
12 year. For example, in the ~9 months of 2022 for which we have data, the  
13 annualized failure rate was 1.3%. The data demonstrate too much random  
14 variation to establish or quantify a clear trend, but BGE's subject matter  
15 experts generally expect the failure rate to increase as the fleet of remaining  
16 OCBs continues to age."<sup>24</sup>

17 Lastly, the Company has failed to demonstrate why a performance incentive  
18 is required. As noted in my direct testimony, the Company states it does not

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<sup>23</sup> Lane Direct Testimony at 55, lines 1-10.

<sup>24</sup> Company Exhibit MDC-2, at 26, footnote 28.

1 have a disincentive to replace OCBs with Vacuum-based Circuit Breakers  
2 (VCB). In addition, the Company already has a financial incentive through  
3 the ability to earn a higher rate of return on new VCBs.<sup>25</sup>

4 **III. Response to BGE Witness White**

5 **A. Zero-Emission Vacuum**

6 **Q. How does witness White respond to your recommendation that the**  
7 **Commission should reject the ZEVAC performance metric?**

8 A. Witness White states that BGE purchased the two ZEVAC machines as part  
9 of a commitment to lessen GHG emissions through purging operations, but  
10 these purchases should not preclude the Company from constructing a PIM  
11 around their use. She also states that I perceive a positive value from the  
12 ZEVAC program from an environmental impact.<sup>26</sup>

13 **Q. Do you find this response sufficient to support a ZEVAC performance**  
14 **metric?**

15 A. No, I do not. While I agree that the ZEVAC program provides an  
16 environmental impact, that does not mean BGE should be entitled to a  
17 financial reward. As witness White indicates, on its own accord, BGE  
18 decided to purchase ZEVAC machines as part of its commitment to lessen  
19 GHG emissions.<sup>27</sup> The Company was also aware of the potential for

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<sup>25</sup> Lane Direct Testimony at 54, lines 13-17 and 56, lines 6-9.

<sup>26</sup> Rebuttal Testimony of Dawn C. White at 84, lines 17-20 and 85, lines 3-5.

<sup>27</sup> *Ibid.*

1 increased costs with respect to utilizing ZEVAC units in purging operations  
2 when it made the decision to purchase the ZEVAC machines, yet it decided  
3 to move forward with the purchase that is currently being paid for by  
4 ratepayers.<sup>28</sup> The Company has a responsibility to ratepayers to utilize these  
5 machines to the extent possible to maximize the associated value of this  
6 equipment and should not need a PIM to encourage it to do so.

7 **B. Non-Pipes Alternatives**

8 **Q. What is witness White's response to your recommendation for a PIM**  
9 **relate to NPAs?**

10 A. First, witness White indicates that Commission Order No. 89638 does not  
11 support parties other than the Company proposing a PIM. Second, Ms.  
12 White concludes that a performance metric around NPAs does not make  
13 sense given the number of unknowns regarding the path Maryland may  
14 choose with respect to climate change and energy.

15 **Q. What is your response?**

16 A. While I agree that Commission Order No. 89638 is limiting, it remains  
17 important to discuss the merits of NPAs in this proceeding. The Company  
18 did not provide a PIM or performance metrics that were suitable for  
19 modification given the flaws described in my direct testimony and this  
20 surrebuttal testimony. Therefore, the only opportunity to improve PIMs in

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<sup>28</sup> Lane Direct Testimony at 57, lines 1-6 and BGE Response to OPC 49-07.



1 this proceeding is to describe alternative PIMs that the Company could  
2 propose in the future.

3 Furthermore, I do not agree that unknowns regarding Maryland's path to  
4 addressing climate change is a reason to postpone consideration of NPAs.  
5 There are several examples of states moving forward with NPAs despite  
6 ongoing uncertainty surrounding the future of natural gas and its relationship  
7 to climate goals. Regardless of the future of the natural gas system,  
8 reductions in natural gas have an important role in meeting GHG reduction  
9 goals. NPAs can be a cost-effective solution to defer or avoid investments in  
10 gas assets while avoiding GHG emissions, which in turn help "future proof"  
11 the gas system in terms of future unknown climate policy.

12 For example, New York State is currently investigating the future of the  
13 natural gas distribution system in Department of Public Service Docket 20-  
14 00652/20-G-0131.<sup>29</sup> Despite this ongoing investigation, NPAs are being  
15 implemented.<sup>30</sup> Similarly, Rhode Island is investigating the future of natural

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<sup>29</sup> New York Department of Public Service, Matter Master: 20-00652/20-G-013, *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*. Available at: <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=20-G-0131&CaseSearch=Search>.

<sup>30</sup> Lane Direct Testimony at 63, lines 4-15.

1 gas in relation to the state's *Act on Climate*.<sup>31</sup> This has not prevented the  
2 utility from moving forward with the development of an NPA framework.<sup>32</sup>  
3 Lastly, the Company's perceived risk regarding the implementation of an  
4 NPA performance metric is precisely the reason an NPA PIM is needed. A  
5 well-designed PIM should focus on performance areas where a utility lacks  
6 an incentive or has a disincentive to achieve a desired outcome.

7 **IV. Response to BGE Witness Frain**

8 **Q. What is witness Frain's reaction to your recommendation that the**  
9 **Commission deny the Company's proposed regulatory asset treatment**  
10 **of EV program costs?**

11 A. Witness Frain claims that OPC is taking an order that the Commission  
12 issued specifically about the EmPOWER surcharge and is applying it  
13 universally to base rate programs and costs. He also states that a regulatory

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<sup>31</sup> Rhode Island Public Utilities Commission, Docket No. 22-01-NG, *Investigation Into the Future of the Regulated Gas Distribution Business in Rhode Island in Light of the Act on Climate* (6/9/22). Available at: <https://ripuc.ri.gov/Docket-22-01-NG>.

<sup>32</sup> *National Grid's Technical Reference Manual for the Benefit-Cost Analysis of Non-Pipeline Alternatives in Rhode Island* (May 2022). Available at: <http://rieermc.ri.gov/wp-content/uploads/2022/05/appendix-6-ri-npa-bca-model-technical-reference-manual.pdf>.

1 asset provides for the tracking of program costs and a prudency review of  
2 amounts deferred to occur during the next rate case.<sup>33</sup>

3 **Q. Can you explain why it is appropriate to consider the recent**  
4 **Commission order related to the EmPOWER surcharge in this case?**

5 A. Yes. First, I am not applying the Commission's EmPOWER order  
6 universally to base rate program and costs. My recommendations are  
7 specific to non-capital EV program costs. The Company's proposed non-  
8 capital EV program budget represents customer rebates and incentives that  
9 are similar to program incentive expenditures provided through the  
10 EmPOWER programs. In both these cases, the utility's program costs are  
11 not capital assets owned, operated, and maintained by the Company, and as  
12 such would normally be treated as an operating expense.

13 Second, it is important to take the Commission's EmPOWER order into  
14 account in this instant proceeding because it offers a cautionary example of  
15 the increased burden to ratepayers from continued categorization of non-  
16 capital program expenditures as a regulatory asset. The long-term  
17 accumulation of uncollected program costs from capitalizing EmPOWER  
18 expenditures led to an unsustainable rate burden for ratepayers, with a  
19 balance of over \$800 million in unamortized program costs and interest.<sup>34</sup>

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<sup>33</sup> Rebuttal Testimony of John C. Frain at 19, lines 14-19.

<sup>34</sup> Order No. 90456, at 3.

1 This detrimental situation for ratepayers can be avoided for EV program  
2 costs if my recommendations are adopted. As described in my direct  
3 testimony, the regulatory asset treatment of BGE's proposed EV program  
4 budget as filed in the MYP 2 would cost customers 21 percent more over the  
5 amortization period due to the additional costs associated with including  
6 these programs in rate base.<sup>35</sup> With BGE continuing to propose additional  
7 EV programs, the continued use of regulatory asset treatment for non-capital  
8 costs will compound the accumulation of carrying costs, which is exactly  
9 what occurred with the EmPOWER program.

10 **Q. What is your response to witness Frain's statement that a regulatory**  
11 **asset can provide for the tracking of program costs?**

12 A. It may be appropriate for extraordinary, non-recurring expenses and those  
13 outside of the control of the utility to be classified as a regulatory asset. This  
14 aligns with the Commission's policy determination related to the recovery of  
15 COVID-19 related incremental costs in Order No. 89542.<sup>36</sup> As noted by  
16 witness Frain, "regulatory assets are, by their very nature, appropriate to use  
17 for unusual, extraordinary and/or non-recurring costs."<sup>37</sup> However, the  
18 Company's proposed budget for EV programs represents recurring costs to  
19 ratepayers and is no longer considered "unusual" or "extraordinary." Unlike

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<sup>35</sup> Lane Direct Testimony at 85, lines 10-15.

<sup>36</sup> Order No. 89542, *Authorizing Establishment of a Regulatory Asset for Covid-19 Related Incremental Costs* (CN 9639, Apr. 9, 2020).

<sup>37</sup> Frain Rebuttal Testimony at 6, lines 11-12.

1 COVID or a natural disaster, these program costs are proposed, approved,  
2 and managed by the Company. The Company has been implementing EV  
3 programs since 2019.

4 Furthermore, the creation of a regulatory asset for non-capital expenses  
5 should not necessarily qualify the expenses for amortization and recovery of  
6 the utility's authorized rate of return on those assets. For example, in Order  
7 No. 89542, the Commission approved the creation of a regulatory asset for  
8 COVID-19-related expenses as a tracking mechanism to facilitate the  
9 recovery of those costs. However, the Commission stated that it would  
10 review a utility's request for recovery in future proceedings, where it would  
11 consider issues such as the appropriate period of recovery, any amount of  
12 carrying costs, and other related matters.<sup>38</sup>

13 **V. Response to BGE Witness Warner**

14 **Q. What is witness Warner's response to your recommendation that BGE**  
15 **should conduct a BCA for the Charger Rebate program?**

16 A. Witness Warner indicates that performing a BCA on individual program  
17 elements would not reflect how the programs are actually used. He states  
18 that there is no scenario under which a customer receives a charger rebate

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<sup>38</sup> Order No. 89542, at 3, para. 3.

1           only since receipt of that rebate automatically triggers enrollment in the  
2           Home Charging Incentive (HCI) program.<sup>39</sup>

3   **Q.    Is witness Warner's response correct?**

4    A.    No. There is a scenario where a customer only receives a charger rebate. The  
5           HCI program was not implemented until early 2022.<sup>40</sup> That year is after the  
6           Company issued all of its approved Charger Rebates to customers.<sup>41</sup>  
7           Therefore, it is not possible for receipt of the charger rebate to be contingent  
8           on enrollment in the HCI, as the HCI program was not available at the time  
9           customers received charger rebates. It is therefore appropriate to conduct a  
10          BCA for the Charger Rebate program.

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<sup>39</sup> Rebuttal Testimony of Mark Warner at 7, lines 24-28.

<sup>40</sup> Case No. 9478, BGE Semi-Annual Progress Report, August 1, 2023, at 10.

<sup>41</sup> Lane Direct Testimony at 96, lines 13-14.

1 **Q. What is Mr. Warner’s response to your recommendation that the costs**  
2 **associated with the Level 2 smart chargers should be included in the**  
3 **BCA for the two charger-related residential programs (“Charger**  
4 **Rebate & HCI” and “Charger Rebate & EV-Only TOU & HCI”)?**

5 A. Mr. Warner explains that these two programs are intended to modify  
6 customer charger behavior, either through the EV-Only time-of-use (TOU)  
7 rate and/or the HCI. He states that this was the scenario envisioned in the  
8 “Residential Managed Charging” offer as described in the EV-BCA  
9 Whitepaper.<sup>42</sup> He states that the baseline for the “Residential Managed  
10 Charging” offer is defined as “EV Owner, Natural Charging,” which means  
11 a customer that has purchased an EV and is already charging using natural  
12 charging behaviors without the influence from either EV-only TOU or the  
13 HCI. Mr. Warner indicates that if a customer already owns a charger, then  
14 those charger costs are part of the baseline and are netted off in the EV-BCA  
15 calculation.<sup>43</sup>

16 **Q. Does witness Warner’s response address your concerns?**

17 A. No, it does not. As I indicated in my direct testimony, I do not agree that the  
18 “Charger Rebate & HCI” and “Charger Rebate & EV-Only TOU & HCI”

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<sup>42</sup> In the Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio, *Electric Vehicle Benefit/Cost Analysis Methodology by the Maryland Joint-Utilities, prepared by Mark Warner, Gabel Associates Inc., in support of the EV-BCA Work Group (EV-BCA Whitepaper)*, ML No. 238013 (CN 9478, Dec. 1, 2021) (approved by the Commission via letter order, ML No. 238539 (Jan. 13, 2022)).

<sup>43</sup> Warner Rebuttal Testimony at 9, lines 12-23.

1 combined offerings align with the “Residential Managed Charging” offer  
2 class BCA methodology as defined in the EV-BCA Whitepaper.

3 As noted by Mr. Warner, the “Residential Managed Charging” offer class  
4 assumes a customer already owns a charger.<sup>44</sup> This assumption is not  
5 consistent with the fact that BGE’s Charger Rebate program was to  
6 incentivize EV owners to purchase a smart EV charger over a “dumb”  
7 charger.<sup>45</sup>

8 Participants in this program presumably do not have the eligible Level 2  
9 smart charger and therefore require a rebate. If participants in the Charger  
10 Rebate program already have an eligible Level 2 charger, then the rebate is  
11 unnecessary and is not a good use of ratepayer funds.<sup>46</sup> Nowhere does Mr.  
12 Warner explain how a customer can simultaneously already own a charger  
13 and require a \$300 incentive to purchase one. Due to this fact, it can only be  
14 assumed that customers do not already have the eligible Level 2 charger, in  
15 which case the cost of the charger should be included in the BCA. However,  
16 Mr. Warner ignores this contradiction when he combines the Charger Rebate  
17 program with the HCI and EV-TOU offerings to conduct the BCA.

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<sup>44</sup> *Id.*, at 9, lines 22-23.

<sup>45</sup> Lane Direct Testimony at 99, lines 12-13.

<sup>46</sup> In this case, the participants in the Residential Charger Rebate program should be considered “free riders.” Free riders and free ridership are terms used to describe customers that would have taken an action (i.e., purchased a charger) absent the utility incentive or program.



1 The baseline for the “Charger Rebate & HCI” and “Charger Rebate & EV-  
2 Only TOU & HCI” combined offerings should be either no charger or a non-  
3 networked “dumb” Level 2 charger, which indicates that the participant  
4 share of the Level 2 charger costs, net of the utility rebate, should be  
5 included in the BCA.

6 **Q. Why is it important that the BCA account for the cost of Level 2 smart**  
7 **chargers?**

8 A. The costs associated with the purchase and installation of Level 2 smart  
9 chargers are real costs related to the Charger Rebate program, regardless of  
10 whether it is combined with the EV-Only TOU rate or the HCI. When these  
11 costs are excluded from the BCA it inflates the resulting cost-effectiveness  
12 of the program. This in turn provides inaccurate information to regulators  
13 and stakeholders. Accurate information is critical to assess the merits of a  
14 utility investment and to determine whether a program’s design should be  
15 modified to improve cost-effectiveness and maximize net-benefits to  
16 ratepayers.

17 **Q. Does this conclude your surrebuttal testimony at this time?**

18 A. Yes, it does.



## Courtney Lane, Principal Associate

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### PROFESSIONAL EXPERIENCE

**Synapse Energy Economics, Inc.**, Cambridge, MA. *Principal Associate*, September 2022 – Present, *Senior Associate*, November 2019 – September 2022.

Provides consulting and researching services on a wide range of issues related to the electric industry including performance-based regulation, benefit-cost assessment, rate and bill impacts, and assessment of distributed energy resource policies and programs. Develops expert witness testimony in public utility commission proceedings.

**National Grid**, Waltham, MA. *Growth Management Lead, New England*, May 2019 – November 2019, *Lead Analyst for Rhode Island Policy and Evaluation*, June 2013 – April 2019.

- Portfolio management of product verticals including energy efficiency, demand response, solar, storage, distributed gas resources, and electric transportation, to optimize growth and customer offerings.
- Strategy lead for the Performance Incentive Mechanisms (PIMs) working group.
- Worked with internal and external stakeholders and led the development of National Grid's Annual and Three-Year Energy Efficiency Plans and System Reliability Procurement Plans for the state of Rhode Island.
- Represented energy efficiency and demand response within the company at various Rhode Island grid modernization proceedings.
- Led the Rhode Island Energy Efficiency Collaborative; a group focused on reaching consensus regarding energy efficiency plans and policy issues for demand-side resources in Rhode Island.
- Managed evaluations of National Grid's residential energy efficiency programs in Rhode Island, and benefit-cost models to screen energy efficiency measures.

**Citizens for Pennsylvania's Future**, Philadelphia, PA. *Senior Energy Policy Analyst*, 2005–2013.

- Played a vital role in several legislative victories in Pennsylvania, including passage of energy conservation legislation that requires utilities to reduce overall and peak demand for electricity (2009); passage of the \$650 million Alternative Energy Investment Act (2008); and important amendments to the Alternative Energy Portfolio Standards law vital to the development of solar energy in Pennsylvania (2007).
- Performed market research and industry investigation on emerging energy resources including wind, solar, energy efficiency and demand response.
- Planned, facilitated and participated in wind energy advocates training meetings, annual partners retreat with members of wind and solar companies, and the PennFuture annual clean energy conference.

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**Northeast Energy Efficiency Partnerships, Inc.**, Lexington, MA. *Research and Policy Analyst*, 2004–2005.

- Drafted comments and testimony on various state regulatory and legislative actions pertaining to energy efficiency.
- Tracked energy efficiency initiatives set forth in various state climate change action plans, and federal and state energy regulatory developments and requirements.
- Participated in Regional Greenhouse Gas Initiative (RGGI) stakeholder meetings.
- Analyzed cost-effectiveness of various initiatives within the organization.

**EnviroBusiness, Inc.**, Cambridge, MA. *Environmental Scientist*, July 2000 – May 2001

- Conducted pre-acquisition assessments/due diligence assignments for properties throughout New England. Environmental assessments included an analysis of historic properties, wetlands, endangered species habitat, floodplains, and other areas of environmental concern and the possible impacts of cellular installations on these sensitive areas.

## EDUCATION

**Tufts University**, Medford, MA

Master of Arts; Environmental Policy and Planning, 2004.

**Colgate University**, Hamilton, NY

Bachelor of Arts; Environmental Geography, 2000, *cum laude*.

## PUBLICATIONS

Fortman, N., J. Michals, T. Woolf, C. Lane. 2022. *Benefit-Cost Analysis: What it Can and Cannot Tell us About Distributional Equity of DERs*. E4TheFuture, Synapse Energy Economics. Presented at the 2022 ACEEE Summer Study of Energy Efficiency in Buildings.

National Energy Screening Project. 2022. *Methods, Tools and Resources: A Handbook for Quantifying Distributed Energy Resource Impacts for Benefit-Cost Analysis*. E4TheFuture, Synapse Energy Economics, Parmenter Consulting, Apex Analytics, Energy Futures Group.

Woolf, T., D Bhandari, C. Lane, J. Frost, B. Havumaki, S. Letendre, C. Odom. 2021. *Benefit-Cost Analysis of the Rhode Island Community Remote Net Metering Program*. Synapse Energy Economics for the Rhode Island Division of Public Utilities and Carriers.

Lane, C., S. Kwok, J. Hall, I. Addleton. 2021. *Macroeconomic Analysis of Clean Vehicle Policy Scenarios for Illinois*. Synapse Energy for the Natural Resources Defense Council.

National Energy Screening Project. 2020. *National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources*. E4TheFuture, Synapse Energy Economics, Energy Futures Group, ICF, Pace Energy and Climate Center, Schiller Consulting, Smart Electric Power Alliance.

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Lane, C., K. Takahashi. 2020. *Rate and Bill Impact Analysis of Rhode Island Natural Gas Energy Efficiency Programs*. Synapse Energy Economics for National Grid.

Chang, M., J. Frost, C. Lane, S. Letendre, PhD. 2020. *The Fixed Resource Requirement Alternative to PJM's Capacity Market: A Guide for State Decision-Making*. Synapse Energy Economics for the State Energy & Environmental Impact Center at the NYU School of Law.

## TESTIMONY

**New Mexico Public Regulation Commission (Case No. 22-00058-UT):** Direct Testimony of Courtney Lane regarding the application of Public Service Company of New Mexico's for authorization to implement grid modernization. On behalf of the New Mexico Office of Attorney General. January 27, 2023.

**Illinois Commerce Commission (Dockets 22-0432/22-0442 (Consol.):** Direct and Rebuttal Testimony of Courtney Lane and Eric Borden regarding the petition of Commonwealth Edison Company for Approval of Beneficial Electrification Plan Under the Electric Vehicle Act. On behalf of the People of the State of Illinois. September 22, 2022 and November 16, 2022.

**Illinois Commerce Commission (Docket No. 22-0431/22-0443):** Direct and Rebuttal Testimony of Courtney Lane and Eric Borden regarding the petition of Ameren Illinois Company for Approval of Beneficial Electrification Pursuant to Section 45 of the Electric Vehicle Act. On behalf of the People of the State of Illinois. September 15, 2022 and November 7, 2022.

**New Mexico Public Regulation Commission (Case No. 21-00178-UT):** Direct Testimony of Courtney Lane regarding the application of Southwestern Public Service Company's for authorization to implement grid modernization. On behalf of the New Mexico Office of Attorney General. October 11, 2022.

**Public Service Commission of Wisconsin (Docket 5-UR-110):** Direct and Surrebuttal Testimony of Courtney Lane regarding the Joint Application of Wisconsin Electric Power Company and Wisconsin Gas, LLC for Authority to Adjust Electric, Natural Gas, and Steam Rates. On behalf of Clean Wisconsin. September 9, 2022 and October 3, 2022.

**Maryland Public Service Commission (Docket No. 9681):** Direct Testimony of Courtney Lane regarding the application of Delmarva Power & Light Company for an Electric Multi-Year Plan. On behalf of the Maryland Office of People's Counsel. August 19, 2022.

**New Mexico Public Regulation Commission (Case No. 21-00269-UT):** Testimony of Courtney Lane in Support of Unopposed Comprehensive Stipulation regarding the Application of El Paso Electric Company for Approval of a Grid Modernization Project to Implement an Advanced Metering System. On behalf of the New Mexico Office of Attorney General. May 11, 2022.

**Public Utilities Commission of New Hampshire (Docket No. DG 21-104):** Direct Testimony of Courtney Lane and Ben Havumaki regarding Northern Utilities, Inc.'s request for change in rates. On behalf of the Office of Consumer Advocate. April 1, 2022.

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**Public Utilities Commission of New Hampshire (Docket No. DE 20-092):** Direct Testimony of Courtney Lane and Danielle Goldberg regarding the 2021-2023 Triennial Energy Efficiency Plan. On behalf of the Office of Consumer Advocate. April 19, 2022.

**Maryland Public Service Commission (Docket No. 9655):** Direct and Surrebuttal Testimony of Courtney Lane regarding the application of Potomac Electric Company for a Multi-Year Plan and Performance Incentive Mechanisms. On behalf of the Maryland Office of People's Counsel. March 3, 2021 and April 20, 2021.

**Pennsylvania Public Utility Commission (Docket No. M-2020-3020830):** Direct testimony of Alice Napoleon and Courtney Lane regarding PECO Energy Company's proposed Act 129 Phase IV Energy Efficiency and Conservation Plan. On behalf of the Natural Resources Defense Council. January 14, 2021.

**Maryland Public Service Commission (Case No. 9645):** Direct and Surrebuttal Testimony of Courtney Lane regarding the Application of Baltimore Gas and Electric Company for an Electric and Gas Multi-Year Plan. On behalf of the Maryland Office of People's Counsel. August 14, 2020 and October 7, 2020.

**Maryland Public Service Commission (Case No. 9619):** Comments of Maryland Office of People's Counsel Regarding Energy Storage Pilot Program Applications, attached Synapse Energy Economics Report. June 23, 2020.

**Public Service Commission of the District of Columbia (Formal Case No. 1156):** Direct, Rebuttal, Surrebuttal, and Supplemental Testimony of Courtney Lane regarding the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia. On behalf of the District of Columbia Government. March 6, 2020, April 8, 2020, June 1, 2020, and July 27, 2020.

**Rhode Island Public Utilities Commission (Docket No. 4888):** Oral testimony of Courtney Lane regarding the Narragansett Electric Co. d/b/a National Grid - 2019 Energy Efficiency Program (EEP). On behalf of National Grid. December 11, 2018.

**Rhode Island Public Utilities Commission (Docket No. 4889):** Oral testimony of Courtney Lane regarding the Narragansett Electric Co. d/b/a National Grid - 2019 System Reliability Procurement Report (SRP). On behalf of National Grid. December 10, 2018.

**Rhode Island Public Utilities Commission (Docket No. 4755):** Oral testimony of Courtney Lane regarding the Narragansett Electric Co. d/b/a National Grid - 2018 Energy Efficiency Program (EEP). On behalf of National Grid. December 13, 2017.

**Rhode Island Public Utilities Commission (Docket No. 4684):** Oral testimony of Courtney Lane regarding the RI Energy Efficiency and Resource Management Council (EERMC) Proposed Energy Efficiency Savings Targets for National Grid's Energy Efficiency and System Reliability Procurement for the Period 2018-2020 Pursuant to §39-1-27.7. On behalf of National Grid. March 7, 2017.

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**Rhode Island Public Utilities Commission (Docket No. 4684):** Oral testimony of Courtney Lane regarding National Grid's 2018-2020 Energy Efficiency and System Reliability Procurement Plan. On behalf of National Grid. October 25, 2017.

**Rhode Island Public Utilities Commission (Docket No. 4654):** Oral testimony of Courtney Lane regarding the Narragansett Electric Co. d/b/a National Grid - 2017 Energy Efficiency Program Plan (EPPP) for Electric & Gas. On behalf of National Grid. December 8, 2016.

**Rhode Island Public Utilities Commission (Docket No. 4580):** Oral testimony of Courtney Lane regarding the Narragansett Electric Co. d/b/a National Grid - 2016 Energy Efficiency Program Plan (EPPP) for Electric & Gas. On behalf of National Grid. December 2, 2015.

**Pennsylvania Public Utility Commission (Docket No. P-2012-2320369):** Direct testimony of Courtney Lane regarding the Petition of PPL Electric Utilities Corporation for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the Period June 1, 2013 through May 31, 2016. On behalf of PennFuture. October 19, 2012.

**Pennsylvania Public Utility Commission (Docket No. P-2012-2320334):** Direct testimony of Courtney Lane regarding the Petition of PECO Energy for an Evidentiary Hearing on the Energy Efficiency Benchmarks Established for the Period June 1, 2013 through May 31, 2016. On behalf of PennFuture. September 20, 2012.

**Pennsylvania Public Utility Commission (Docket No. I-2011-2237952):** Oral testimony of Courtney Lane regarding the Commission's Investigation of Pennsylvania's Retail Electricity Markets. On behalf of PennFuture. March 21, 2012.

**Committee on the Environment Council of the City of Philadelphia (Bill No. 110829):** Oral testimony of Courtney Lane regarding building permitting fees for solar energy projects. On behalf of PennFuture. December 5, 2011.

**Pennsylvania Public Utility Commission (Docket No. M-00061984):** Oral testimony of Courtney Lane regarding the En Banc Hearing on Alternative Energy, Energy Conservation, and Demand Side Response. On behalf of PennFuture. November 19, 2008.

## **PRESENTATIONS**

Lane, C. 2021. "Accounting for Interactive Effects: Assessing the Cost-Effectiveness of Integrated Distributed Energy Resources." Presentation at the 2021 American Council for an Energy-Efficient Economy (ACEEE) National Conference on Energy Efficiency as a Resource, October 27, 2021.

Lane, C. 2019. "The RI Test." Presentation for AESP Webinar: Emerging Valuation Approaches in Cost-Effectiveness and IRPs, October 31, 2019.

Lane, C., A. Flanders. 2017. "National Grid Rhode Island: Piloting Wireless Alternatives: Forging a Successful Program in Difficult Circumstances." Presentation at the 35th Annual Peak Load Management Association (PLMA) Conference, Nashville, TN, April 4, 2017.

Lane, C. 2013. "Regional Renewable Energy Policy Update." Presentation at the Globalcon Conference, Philadelphia, PA, March 6, 2013.

Lane, C. 2012. "Act 129 and Beyond." Presentation at the ACI Mid-Atlantic Home Performance Conference, October 1, 2012.

Lane, C. 2012. "Act 129: Taking Energy Efficiency to the Next Level." Presentation at the Energypath Conference, June 28, 2012.

Lane, C. 2011. "Pennsylvania's Model Wind Ordinance." Presentation at Harvesting Wind Energy on the Delmarva Peninsula, September 14, 2011.

Lane, C. 2011. "Electric Retail Competition and the AEPS." Presentation at the Villanova Law Forum, November 4, 2011.

Lane, C. 2009. "Act 129: Growing the Energy Conservation Market." Presentation at the Western Chester County Chamber of Commerce, March 25, 2009.

*Resume updated June 2023*

**Case No. 9692**  
**Baltimore Gas and Electric Co.**  
**Response to OPC Data Request 49**  
**Request Received: August 08, 2023**  
**Response Date: August 15, 2023**  
**Sponsor(s): Mark D. Case**

**Item No.: OPCDR49-01**

Refer to the rebuttal testimony of Mark D. Case, page 49, lines 17-20.

- A. Please provide copies of the presentations and materials shared with the EV Work group.
- B. In how many meetings did the EV Work Group discuss these proposals?

**RESPONSE:**

BGE's Phase II EV programs were on the agendas and discussed at the following PSC EV Work Group meetings:

- April 18, 2023 – OPCDR49-01 *Attachment 1* is the presentation BGE gave on Phase II proposals and OPCDR49-01 *Attachment 2* is the meeting agenda provided to all stakeholders by the EV Work Group Lead, Ben Baker.
- May 18, 2023 – OPCDR49-01 *Attachment 3* is a summary of feedback received on BGE's Phase II proposals which was compiled by the EV Work Group lead and OPCDR49-01 *Attachment 4* is the meeting agenda provided to all stakeholders by the EV Work Group lead.
- June 8, 2023 – OPCDR49-01 *Attachment 5* is the meeting agenda provided to all stakeholders by the EV Work Group lead.

BGE's Electric School Bus Proposal was reviewed by the PSC EV Work Group at the following meetings:

- August 2, 2022 – OPCDR49-01 *Attachment 6* is the presentation BGE gave to facilitate a discussion on electric school bus program design.
- August 3, 2022 – OPCDR49-01 *Attachment 7* is the presentation BGE compiled with the help of industry stakeholders to facilitate further discussion on electric school buses.
- November 3, 2022 – OPCDR49-01 *Attachment 8* is the presentation BGE prepared to review the electric school bus program proposal.



**Case No. 9692**  
**Baltimore Gas and Electric Co.**  
**Response to OPC Data Request 49**  
**Request Received: August 08, 2023**  
**Response Date: August 15, 2023**  
**Sponsor(s): Mark D. Case; John C. Frain**

**Item No.: OPCDR49-02**

Refer to the statement by witness Case on page 50, lines 14-15 of his rebuttal testimony that, “the approved cost recovery mechanism for EV programs is base rates”. Is it the Company’s opinion that Commission Order No. 88997 is intended to apply to all future utility EV filings? If yes, please provide the citation in the Order that establishes the basis for this opinion.

**RESPONSE:**

Commission Order No. 88997 in Case No. 9478 does not specifically address the cost recovery of future utility EV filings. However, Company Witness Case is basing his statement on the Commission precedent set forth in Commission Order No. 88997 whereby the Commission found that recovery through base rates is appropriate for costs related to the EV charging pilot programs.<sup>1</sup> This was later affirmed in Order No. 89678 in Case No. 9645 when the Commission authorized the EV program costs be moved into base rates as proposed, with the prudence questions addressed as part of the prudence review at the conclusion of the three-year MYP rate-effective period.<sup>2</sup>

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<sup>1</sup> Case No. 9478 Order No. 88997 page 77

<sup>2</sup> Case No. 9645 Order No. 89678 page 114, paragraph 239

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**Item No.: OPCDR49-03**

Does the Commission have the authority to change its mind about the manner in which a utility is authorized to recover costs for particular types of programs or projects? Please explain why or why not.

**RESPONSE:**

The Company objects to OPCDR49-03 to the extent it calls for legal research, legal analysis or legal conclusions. Without waiving this objection, the Commission generally follows precedent when making decisions unless the facts and circumstances at the time are different than those when making its past decisions.

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**Item No.: OPCDR49-04**

Refer to page 69, lines 2-5 of the rebuttal testimony of witness Case, which states, “Despite the Commission’s statement in Order No. 89638 that “interested parties participating in any such rate case may propose modifications to the proposed PIM and present both evidence and argument in support thereof”, parties largely did not follow suit.”

**RESPONSE:**

- A. The latter. As acknowledged by OPC Witness Lane in her Direct Testimony, page 8 at lines 16 – 17, “only the utility filing a rate case may propose a PIM”.<sup>1</sup> Logic follows that the term “modification” can only apply to a PIM proposed by the Company.
  
- B. As set forth in the referenced quote in Order No. 89638, interested parties can propose “modifications” to the Company’s proposed performance incentive metric targets, underlying calculations, and reward/penalty structure – including the individual amounts, the caps that were proposed, and the method of rewards/penalties (e.g., via a monetary amount instead of an ROE adjustment). Company Witness Case’s reasoning that “only utilities may propose performance metrics at this time” is consistent with the Commission’s statement in Order No. 89638 that, “[i]n the Phase II Report, the utilities cautioned, and the Commission agrees, that intervenor-sponsored PIMs within the MRP context would have implications for an MRP overall and the ultimate rates, which could make consideration of the filing difficult.”

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<sup>1</sup> Order No. 89638, paragraph 25

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**Item No.: OPCDR49-05**

Refer to page 100, lines 19-20 of the rebuttal testimony of witness Case, which states, the Commission is “not required to approve any tracking metrics.” Does witness Case dispute that the Commission has the *authority* to approve tracking metrics? Please explain why or why not.

**RESPONSE:**

The Company objects to OPCDR49-03 to the extent it calls for legal research, legal analysis or legal conclusions. Notwithstanding this objection, in his Rebuttal Testimony, Company Witness Case emphasized the fact that the Commission is not required to approve tracking metrics as the Commission itself stressed that very point in Order No. 89868. However, Company Witness Case acknowledges that the Commission has approved tracking metrics in prior cases.

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**Item No.: OPCDR49-06**

Refer to page 70, lines 15-18 of the rebuttal testimony of witness Case.

- A. All else being equal, is it more beneficial to BGE's shareholders for the Company to make investments that are included in rate base or that are expensed? Please explain your response.
- B. Does the Company view a larger rate base as more advantageous to investors than a smaller rate base, all else being equal? Please explain.

**RESPONSE:**

BGE does not view the issue as one as to which form of investment is more beneficial, rather, the issue is which type of accounting and recovery approach is appropriate under Generally Accepted Accounting Principles as well as under FERC and PSC standards and orders. The Company must finance any amounts incurred related to cost of service not fully recovered from customers. Rate base reflects amounts financed by investors upon which the Company is allowed an opportunity to earn a fair and reasonable return. There is a limited amount of financing available to the Company, so it must balance the health of its balance sheet, including cash and rate base. At the referenced part of Company Witness Case's Rebuttal Testimony, he is noting that the opportunity to earn a return on rate base is not an "incentive" like the Company is proposing in the performance incentive mechanism in this proceeding. Instead, the opportunity to earn a return on rate base is part of the overall regulatory compact and is the cost to finance amounts in rate base.

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**Item No.: OPCDR49-07**

Refer to page 84, lines 17-19 of the rebuttal testimony Dawn C. White. Were the two ZEVAC machines paid for by ratepayers or by Company shareholders? Please explain.

**RESPONSE:**

The two ZEVAC machines were recorded as capital, financed by investors and, thus, are included in rate base. Depreciation associated with the ZEVAC machines is included in MYP revenue requirements. The ZEVAC machines are being used to provide safe and reliable utility service and, as such, the cost of these machines is appropriately included in regulated cost of service.