**Sustainable Energy Utility Advisory Board (SEUAB) Special Meeting**

**Thursday, March 23, 2023**

**10:00 AM – 11:00 AM**

# Call to Order

Vice Chair Marshall Duer-Balkind called the meeting to order at 10:02 AM, March 23, 2023. Vice Chair Marshall Duer-Balkind called a quorum of the Sustainable Energy Utility Advisory Board (SEUAB or Board) at 10:03 AM. This was a Microsoft Teams video conference call meeting.

# Roll Call/Instructions

Roll call was taken at 10:04 AM and the following people were in attendance:

# Board Members

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name** | **In Attendance?** | **FY 2023**  **Special Meetings**  **Attendance Record** | **FY 2023**  **Sub Committee Meeting**  **Attendance Record** | **FY 2023 Regular Meetings**  **Attendance Record** |
| Bicky Corman - Board Chair (Mayor’s Designee) | Yes | 5/5 | 1/1 | 4/5 |
| Marshall Duer-Balkind – Vice Chair (Councilmember Cheh) | Yes | 5/5 | 1/1 | 5/5 |
| Sandra Mattavous-Frye (or OPC proxy) | Yes | 5/5 | 1/1 | 5/5 |
| Merancia Noelsaint (PSC) | Yes | 4/5 | 0/1 | 5/5 |
| Donna Cooper (Electric Company) | Yes | 5/5 | 1/1 | 5/5 |
| Eric Jones (Building Management) | Yes | 5/5 | 1/1 | 5/5 |
| Nina Dodge (Environment) | Yes | 4/5 | 0/1 | 5/5 |
| Jamal Lewis (Low-Income Community) | Yes | 5/5 | 0/1 | 4/5 |
| Mishal Thadani (Economic Development) | No | 1/5 | 0/1 | 1/5 |
| Sasha Srivastava (Renewable Energy) | Yes | 3/5 | 1/1 | 5/5 |
| Vacant (Building Construction) | N/A | N/A | N/A | N/A |
| Vacant (Council Chairperson Mendelson) | N/A | N/A | N/A | N/A |
| Manny Geraldo (Gas Utility) | No | 0/5 | 0/1 | 1/5 |

# Other Attendees: Sarah Kogel-Smucker (OPC), Ernest Jolly (DCSEU), Tamara Christopher (DCSEU), Solome Girma (DCSEU), Patti Boyd (DCSEU), Rebecca Foster (VEIC), Lou Hutchinson (VEIC), Katya Botwinick (DOEE), Dave Epley (DOEE), Dr. Lance Loncke (DOEE), Dr. Nick Burger (DOEE), Hussain Karim (DOEE), Thomas Bartholomew (DOEE), Doug Siglin, Danielle Gurkin (PSC)

**Approval of Agenda**

* Vice Chair Marshall Duer-Balkind proposed adding an additional item to the agenda, *Discussion of Mayors FY24 Budget Proposal*.
* Vice Chair Marshall Duer-Balkind moved to approve the agenda and was seconded by Nina Dodge. All were in favor, and none were opposed.

# FC1160 WGL EEDR Programs

* Sarah Kogel-Smucker (OPC) shared the relevant section of the CEDC Act that pertains to WGL’s EEDR working group:

***TITLE II. ENERGY EFFICIENCY.***

*Sec. 201. The Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1773.01 et seq.), is amended as follows:*

*(a) Section 202 (D.C. Official Code § 8-1774.02) is amended as follows:*

*Amend* [*§ 8-1774.02*](https://code.dccouncil.gov/us/dc/council/code/sections/8-1774.02)

*(1) Subsection (h) is repealed.*

*Amend* [*§ 8-1774.02*](https://code.dccouncil.gov/us/dc/council/code/sections/8-1774.02)

*(2) Subsection (i) is repealed.*

*Amend* [*§ 8-1774.02*](https://code.dccouncil.gov/us/dc/council/code/sections/8-1774.02)

*(3) Subsection (j) is repealed.*

*(b) Section 207 (D.C. Official Code § 8-1774.07) is amended by adding new subsections (g) and (h) to read as follows:*

*Amend* [*§ 8-1774.07*](https://code.dccouncil.gov/us/dc/council/code/sections/8-1774.07)

*"(g)(1) Within 90 days of the applicability date of Title II of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904), the Commission shall establish a working group, comprising the electric company and gas company, the SEU, and interested public stakeholders, to recommend long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards to be adopted by the Commission for electric company or gas company energy efficiency and demand response programs.*

*"(2) In addition to the recommendations required by paragraph (1) of this subsection, the working group shall consider recommendations regarding:*

*"(A) Measures the Commission can take to ensure that any energy efficiency and demand response programs offered by the electric company or gas company do not impede District business or nonprofits currently operating in the District that provide energy efficiency and demand response programs; and*

*"(B) Performance incentive mechanisms that are based on quantitative performance indicators.*

*"(3) The working group shall transmit its recommendations to the Commission within 90 days after its first scheduled meeting.*

*"(4) As of the applicability date of Title II of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904), the electric company or gas company, after consultation and coordination with the Department of Energy and the Environment and the District SEU and its advisory board**, may apply to the Commission to offer energy efficiency and demand reduction programs in the District that the company can demonstrate are not substantially similar to programs offered or in development by the SEU, unless the SEU supports such programs.*

*"(5) An application submitted by the electric company or gas company pursuant to this subsection shall meet the long-term and annual energy savings metrics, which shall primarily benefit low- and moderate-income residential ratepayers to the extent possible, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.*

*"(6) Consistent with the provisions set forth in section 8(2) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 977; D.C. Official Code § 34-1101), the Commission is authorized to approve an application by the electric company or gas company of energy efficiency and demand reduction program for their respective customers, including a multi-year program and cost recovery mechanisms to provide full and current cost recovery, including mechanisms to provide for a return on investment on capital and related costs, performance incentives, and surcharge mechanisms to be adjusted on at least an annual basis as approved by the Commission; provided, that the Commission finds the proposed program and cost recovery mechanisms as set forth in the application to be in the public interest and consistent with the District's public climate change commitments as determined by the Mayor, unlikely to harm or diminish existing energy efficiency or demand response markets in which District businesses are operating, and consistent with the long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.*

*"(7) Nothing in this subsection shall be construed to permit the electric company or the gas company to own an energy generation asset, or to otherwise alter the provisions prohibiting such ownership in the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 et seq.).*

* Vice Chair Marshall Duer-Balkind shared the upcoming timeline:
  + Thursday, March 23: SEU AB Special Meeting
  + Thursday, March 30: EEDR Working Group Meeting
  + Thursday, April 6: DOEE Budget Oversight Hearing
  + Tuesday, April 11: SEUAB April Board Meeting
  + Friday, April 28: WGL EEDR Programs due to be filed with DCPSC (FC1160, Order 21564)
  + Tuesday, May 9: SEUAB May Board Meeting
  + Wednesday, May 17: Pepco deadline (requested) for time to file its updated EEDR potential study
  + June, date TBD: DOEE shares draft EM&V report from NMR group with the Board
* Sarah Kogel-Smucker (OPC) suggested the Board focus on the following sections of the CEDC Act:
  + The Advisory Board *may apply to the Commission to* *offer energy efficiency and demand reduction programs in the District that the company can demonstrate are not substantially similar to programs offered or in development by the SEU, unless the SEU supports such programs*.
* Sarah Kogel-Smucker (OPC) also highlighted the below section of the CEDC Act which applies to the PSC, however the Board has the ability to comment:
  + *the Commission is authorized to approve an application by the electric company or gas company of energy efficiency and demand reduction program for their respective customers, including a multi-year program and cost recovery mechanisms to provide full and current cost recovery, including mechanisms to provide for a return on investment on capital and related costs, performance incentives, and surcharge mechanisms to be adjusted on at least an annual basis as approved by the Commission; provided, that the Commission finds the proposed program and cost recovery mechanisms as set forth in the application to be in the public interest and consistent with the District's public climate change commitments as determined by the Mayor, unlikely to harm or diminish existing energy efficiency or demand response markets in which District businesses are operating, and consistent with the long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.*
* Dr. Donna Cooper asked for the DCSEU’s perspective on WGL’s programs and whether the DCSEU team believes there is a conflict.
* Nina Dodge suggested that these documents (specifically the highlighted sections from CEDC Act Sarah shared) and be stored in a single location for the Board to access and review.
* Nina Dodge also raised the question as to whether WGL’s programs undermine DCSEU’s programs.
* Dave Epley (DOEE) highlighted the main questions facing the Board:
  + Narrow view - is there an overlap in DSCEU offerings versus WGLs offerings?
  + Broader view - the Board/DOEE has given the DCSEU a very specific policy direction (in alignment with the Districts goals) with the removal of gas incentives and fossil fuel systems. With WGL now planning to offer the same things that we (the Board/DCSEU) steered away from, does that undermine the goals of the DCSEU and make it harder to achieve its performance contract generally?
* Ernest Jolly (DCSEU) mentioned that DCSEU had a couple of working sessions with WGL and has seen the framework WGL laid out. DCSEU indicated the need for more final program details so that DCSEU can provide an informed response.
* Eric Jones voiced his concern with the term *goals* and highlighted the need to be careful on how the Board uses the term because the Board is supposed to follow the regulatory guidelines. He also mentioned that sometimes the Board go back and forth between personal or idealistic goals as opposed to what has been laid out by the legislature and signed by the Mayor.
* Sarah Kogel-Smucker (OPC) asked Eric Jones to elaborate because she thought the term *goals* is referring to the District’s public climate change commitments, which are statutorily defined ([D.C. Law 24-176. Climate Commitment Amendment Act of 2022](https://code.dccouncil.gov/us/dc/council/laws/24-176)). In the Teams chat, Sarah shared specific text from the Act:
  + *Sec. 109d. Commitment to greenhouse gas emission reductions.*
  + *"(a) The Mayor shall adopt policies to reduce emissions of greenhouse gases from both public and private sources to:*
  + *"(1) Not less than 45% below 2006 greenhouse gas emission levels by 2025;*
  + *"(2) Not less than 60% below 2006 greenhouse gas emission levels by 2030;*
  + *"(3) Not less than 70% below 2006 greenhouse gas emission levels by 2035;*
  + *"(4) Not less than 85% below 2006 greenhouse gas emission levels by 2040; and*
  + *"(5) A level consistent with carbon neutrality by 2045, and in each year thereafter.*
* Eric Jones pointed out that the Board needs to make sure it is using *goals* versus *commitments* and identifying what is meant by that.
* Chair Bicky Corman reminded the group of the Boards statutory requirements from the [Clean and Affordable Energy Act of 2008](https://doee.dc.gov/sites/default/files/dc/sites/ddoe/publication/attachments/CAEA_of_2008_B17-0492.pdf):
  + *Sec. 203. Establishment of a Sustainable Energy Utility Advisory Board. (a) There is established a Sustainable Energy Utility Advisory Board whose purpose shall be to:* 
    - *(1) Provide advice, comments, and recommendations to the DDOE and Council regarding the procurement and administration of the SEU contract described in sections 201 and 202.*
    - *(2) Advise the DDOE on the performance of the SEU under the SEU contract; and*
    - *(3) Monitor the performance of the SEU under the SEU contract.*
* Dave Epley (DOEE) highlighted that the CEDC Act does not say that Washington Gas *shall* create energy efficient programs. WGL has framed that conversation that it is following a PSC mandate. However, this is a voluntary decision by WGL and not mandated by the CEDC Act.
* Katya Botwinick (DOEE) shared language form the CEDC Act:
  + ***4)****As of October 1, 2019, the electric company or gas company, after consultation and coordination with the Department of Energy and the Environment and the District SEU and its advisory board,****may****apply to the Commission to offer energy efficiency and demand reduction programs in the District that the company can demonstrate are not substantially similar to programs offered or in development by the SEU, unless the SEU supports such programs.*
* In the Teams chat, Thomas Bartholomew (DOEE) shared some relevant code text:
  + *provided, that the  Commission finds the proposed program and cost recovery mechanisms as set forth in the application to be in the public interest and consistent with the District's public climate change commitments as determined by the Mayor, unlikely to harm or diminish existing energy efficiency or demand response markets in which District businesses are operating, and consistent with the long-term and annual  
    energy savings metrics, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.*
* Dave Epley (DOEE) emphasized that WGL is not required to provide EEDR programs, this is a choice.
* Vice Chair Marshall Duer-Balkind asked Sarah Kogel-Smucker (OPC) or the PSC if there was an order from the PSC stating that these WGL EEDR programs must be proposed.
* Merancia Noelsaint (PSC) stated that she would need to check the order.
* Nina Dodge reminded the group that because of the acquisition of Washington Gas by Alta Gas because of the merger, one of the conditions was that Alta Gas submit a climate business plan to the PSC. Through the opening of FC 1167, Pepco was required to submit a parallel plan (climate business plan) as well. The climate business plans for both WGL and Pepco include programs, which are separate from the EEDR programs discussed in FC 1160. The utilities have purposefully muddled and the two cases to their advantage.
* Nina Dodge agreed with Eric Jones statement on the importance of distinguishing between statutory requirements versus goals or statements provided by the Mayor.
* Eric Jones noted that although he appreciated the conversation, the Board was 35 minutes into the meeting, and it is unclear where the conversation is leading.
* Dr. Donna Cooper offered background regarding Nina Dodge’s comment on utilities *muddling* FC1160 and FC1167. Dr. Cooper highlighted the importance of working together collaboratively, and ensuring there is no duplication between Pepco and DCSEU efforts. Dr. Cooper emphasized how Pepco is not duplicating the efforts of the DCSEU, nor broadening Pepco’s scope where it's not complimentary.
* Sarah Kogel-Smucker (OPC) shared that it is tricky moment because the PSC has not ruled on any of the proposed pathways towards deep decarbonization. DOEE, Pepco, and WGL have plans however there are contradictory elements of all these pathways towards deep decarbonization. Sarah highlighted that the Board cannot evaluate what is or is not officially consistent with the District's pathway to deep decarbonization, since there has not been a decision. Sarah shared that the group knows the contract was amended and Council has taken certain actions toward endorsing electrification. Sarah continued stating that the group is concerned about spending ratepayer funds on new gas appliances until there is an endorsed pathway that includes and explains how it's consistent with the Districts public climate change commitments. Sarah also raised that if a rate payer invests in a new gas appliance (which has taken time and money), and then the District decides to only invest in electric, then that rate payer is put in a more difficult position where the government needs to convince them to go electric, because they've just gotten a new compliance and that they may be stuck with a disproportionate portion of the costs. She emphasized how there are a lot of concerns in this moment of uncertainty.
* In the Teams chat, Thomas Bartholomew (DOEE) shared:
  + [B24-0420 - Clean Energy DC Building Code Amendment Act of 2021](https://lims.dccouncil.gov/Legislation/B24-0420)
  + *"require the Mayor to issue final regulations, by December 31, 2026, requiring all new construction or substantial improvements of covered buildings to be constructed to a net-zero-energy standard" - by 2026 new buildings will not have gas infrastructure.*
* Chair Bicky Corman offered to compile a list of relevant statutory sections to help guide the Boards decision making process.
* Vice Chair Marshall Duer-Balkind proposed the Board table the decision and during the next Board meeting decide what the group would say in its letter to the PSC:
  + Option one – Board does not provide an opinion (saying anything) because we haven't got enough information from WGL.
  + Option two – Board stated that WGL’s programs do not actually conflict with DCSEU programs.
  + Option three – Board believes WGL’s programs conflict with the District's climate commitments.
* Eric Jones commented on Thomas Bartholomew’s (DOEE) team chat stating that the Construction Code Coordinating Board (CCCB) has introduced the building code amendment, it has been voted down in this code cycle. He highlighted that there has been confusion about if they can vote on it again, and they may not be able to take it up again until next coach cycle. Eric also suggested the Board table the discussion for its final answer until the PSC provides definitive direction.
* Vice Chair Marshall Duer-Balkind noted that the Board will most likely not receive clarity from the PSC before the WGL filing on the April 28th.
* Nina Dodge noted that if the Board needed clarification before deciding a position, then the Board needs to file a request for clarification with the PSC immediately. Nina also shared that it is an important question as to whether the Board needs a definition of decarbonization from the law or if decarbonization is self-explanatory.
* Dr. Lance Loncke (DOEE) encouraged the Board to review WGL’s portfolio of programs prior to the next Board meeting on April 11th because the Board is in alignment with its view on the installation of new gas equipment, however that's not the entirety of WGL’s portfolio. WGL offered other programs such as installing smart thermostats, doing energy audits, and other items that are in alignment with DCSEU’s mission.
* Merancia Noelsaint (PSC) asked if the issue was DCSEU indicating they cannot approve or submit something to the PSC (on WGL’s proposal) until the PSC defines decarbonization?
* Ernest Jolly (DCSEU) explained that the DCSEU would not comment on WGL’s programs until the DCSEU team saw a more fleshed out plan.
* Vice Chair Marshall Duer-Balkind asked if WGL provided a timeline on when DCSEU will receive a more detailed plan.
* Ernest Jolly (DCSEU) shared that WGL acknowledged the request at the last Board meeting, however DCSEU has not received an update. Ernest explained the DCSEU team would be than willing to follow up WGL and keep the Board informed on the timeline.
* Vice Chair Marshall Duer-Balkind proposed the Board discuss its next steps during the April 11th meeting. The motion was seconded by Eric Jones. All were in favor, and none were opposed.

# Mayor’s Proposed FY24 Budget

* Vice Chair Marshall Duer-Balkind began the discussion by reminding the Board of an email he distributed the night prior:
  + *The*[*Mayor's FY2024 Budget,*](https://cfo.dc.gov/page/proposed-fiscal-year-2024-budget-agency-cluster)*released today, the*[*contains an over $33 million cut in funding to DOEE's budget that will majorly impact the DCSEU.*](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/kg_doee_chapter_2024m.pdf)*To quote:*
    - *"Decrease: In DOEE's Local funds, the proposed budget includes a net decrease of $33,985,862, primarily in the Energy division, to reflect reductions in ARPA - Federal Funds for Local Revenue Replacement funding to realize programmatic cost savings in District Recovery Plan initiatives "*
  + *Given that the ARPA funds were the funds used to operate the DCSEU's Affordable Housing Retrofit Accelerator, this represents an effective defunding of the Affordable Housing Retrofit Accelerator, removing the primary support provided to the affordable housing sector to meet the Building Energy Performance Standards. In addition, without those funds, DCSEU will have a significantly smaller budget in FY2024 than the Pepco EEDR program portfolio.*
* Dave Epley (DOEE) mentioned that the Mayor’s budget assumes there is no carryover funding from FY23 into FY24, even though the DCSEU is operating on FY22 ARPA funds in FY23.
* Dr. Lance Loncke (DOEE) explained the reduction in the budget chapter is the delta between the FY24 budget and FY23 budget with respect to ARPA. There were several FY23 specific funding items that are not available in FY24. For example, DOEE gave the Green Bank $10 million and DHCD funding. Dr. Loncke shared that the DCSEU’s budget is not affect by the FY24 reduction.
* Vice Chair Marshall Duer-Balkind inquired if DOEE did not foresee the FY24 budget impacting the DCSEU’s funding.
* Dr. Lance Loncke (DOEE) confirmed that DCSEU’s budget would not be impacted.
* Vice Chair Marshall Duer-Balkind stated that the funding may be specifically impact Affordable Housing Retrofit Accelerator, which is a separate problem.
* Chair Bicky Corman asked if the retrofit accelerator was a pilot program.
* Dr. Lance Loncke (DOEE) explained the retrofit accelerator is a permanent program and came from the CEDC Act which required$3 million of funding, ARPA provided an opportunity for funding. Dr. Loncke confirmed there are no DCSEU funds being swept.

# Board Action Items

* Approval of Special Board Meeting Agenda
* Approval to table the Board’s discussion on its position and letter to the PSC until the April 11th meeting.

# Future Agenda Items

* Discussion of Board position on WGL’s EEDR Programs & overall position
* DCSEU FY23 Q1 Performance
* Approval of March Meeting Minutes
* Tracking bills and legislation

# Adjournment

* Vice Chair Marshall Duer-Balkind adjourned the meeting at 11:01 AM.

# Acronyms used during this meeting

* CAEA - Clean Affordable Energy Act
* CEDC Act – Clean Energy DC Act
* DCSEU - District of Columbia Sustainability Energy Utility
* DOEE - Department of Energy and Environment
* EEDR – Energy Efficiency and Demand Response
* OPC - Office of the People’s Counsel
* PHI – Pepco Holdings
* PSC - Public Service Commission
* WGL – Washington Gas Light

*Minutes prepared by Jennifer Johnston, DOEE*