MASSACHUSETTS ENERGY MARKETERS ASSOCIATION

TO: MEMA Membership

FROM: Michael Ferrante | President

DATE: February 3, 2022

SUBJECT: **MEMA's Legal Intervention on the Mass Save Program**

The following summary will require that you dedicate 15-to-20 minutes to digest important industry information pertaining to the order (ruling) handed down by the Massachusetts Department of Public Utilities (DPU) on January 31, 2022, regarding the 2022-2024 energy efficiency plan for the Massachusetts gas and electric utilities who operate the Mass Save program statewide.

Please note: The DPU order is 330 pages long. Despite cursory media reports on the order, including a front-page Boston Globe story on February 2, 2022, the order is complex and requires a thorough review by myself and our attorney Jeff Myers with Lord-Lord. We continue to assess the ruling and its impact on the industry and will provide additional follow-up information.

However, after our initial review of the order, it appears that MEMA has been successful in:

1. Retaining Mass Save equipment rebates for certain heating oil equipment upgrades and energy efficiency "measures" under Mass Save,

2. Demonstrating that electric heat pumps and "widespread "electrification" is costly,

3. Showing that renewable "biofuel" or biodiesel blended with heating oil is a proven source for reducing Greenhouse Gas (GHG) emissions in Massachusetts, and

4. Retaining the zero percent HEAT Loan on qualified Mass Save measures.

We must do further research to confirm our initial review, but I offer the following information at this point in the process.

- **Background on MEMA's Role in the DPU Proceeding**

Massachusetts leads the nation in climate change laws and regulations and, is one of the lead northeast states advocating for widespread electrification (a stated goal of converting 1 million fossil fueled homes to electric heat pumps by 2030) as the solution to stop the adverse impact of carbon emissions and Global Warming.

Every 3 years in Massachusetts the state's investor-owned utilities along with the Energy Efficiency Advisory Council (EEAC) within the Massachusetts Department of Energy Resources must develop a revised energy efficiency plan that must deliver, by law, energy savings and GHG reductions via Mass Save.

I serve as a non-voting member of the EEAC. Since December 2020 I have been fighting to retain Mass Save equipment rebates for heating oil equipment because the voting members of the EEAC were determined to cut Mass Save rebate dollars for heating oil equipment and use those funds (millions of dollars paid annually by heating oil customers via a surcharge on monthly electric bills) to incentivize fossil fuel conversions to electric heat pumps.

The 3-year plans must be approved by the DPU, and after the draft 2022-2024 plan was submitted to the DPU last November, MEMA requested, and was granted, full intervention status by the DPU to intervene in their review proceeding to and try and modify the plan. MEMA's reasons for intervening are summarized below by the DPU in their final order.

Note: The term Program Administrators (PAs) means the gas and electric utilities who operate the Mass Save Program.

<u>The order states:</u>

"Massachusetts Energy Marketers Association

MEMA argues that the Department should direct the Program Administrators to modify the Three-Year Plans to preserve existing Mass Save rebates for efficient heating oil equipment (MEMA Brief at 1, 8). MEMA asserts that the goals for partial replacement heat pumps agreed to in the Term Sheet set a minimum number of fossil-fueled heating systems that will continue to play a role in residential heating during the winter and, therefore, oil boiler replacements will provide substantial savings and should remain eligible for incentives (MEMA Brief at 2-3; MEMA Reply Brief at 2-3).

Second, MEMA urges the Department to consider opportunities for immediate GHG emissions reductions with biofuels and other low carbon fuels, while recognizing the higher costs of heat pumps and marginal grid emissions impacts, rather than an average grid emissions profile (MEMA Brief at 3-5; MEMA Reply Brief at 3-5).

Lastly, MEMA argues that overreliance on heat pumps and higher electricity usage may be particularly harmful to low-income customers and customers living in environmental justice communities and, therefore, preserving rebates for efficient fossil-fuel heating equipment could immediately reduce GHG emissions and grid demand over the next three years (MEMA Brief at 4, 7-9; MEMA Reply Brief at 7-8)."

- **DPU Seems to Support Continued Rebates for Heating Oil Equipment**

The order states:

"Excluding certain heating measures from these Three-Year Plans, particularly when participants would realize energy and cost savings, as well as lower GHG emissions from the cost-effective measures, calls into question whether the Program Administrators are fulfilling their statutory obligation to pursue all cost-effective energy efficiency resources (Exh. DPU-Comm 10-12). Cost-effective savings for limited fossil fuel heating are still available (Exh. DPU-Comm 10-12). A participant upgrading from a baseline condensing unit to a high-efficiency condensing unit could experience one MMBtu to 2.5 MMBtu in annual savings, in addition to thermostat savings of 2.1 MMBtu to 2.8 MMBtu, with incremental costs up to $1,034 (Exh. DPU-Comm 10-12). In addition, the savings associated with upgrading condensing fossil fuel heating systems to new condensing fossil fuel heating systems do not result in non-cost-effective core initiatives or programs.

Further, G.L. c. 25, § 21 contemplates the continuation of conversions from fossil fuel heating and cooling to fossil fuel heating and cooling, if the measure lowers energy consumption, lowers GHG emissions, and is cost effective without including social value of GHG emissions reductions in the calculation of benefits."

- **The DPU Cites Operating Costs of Heat Pumps**

The order states:

"The Department fully supports the Program Administrators prioritization of heat pumps and encouraging adoption of low-carbon technologies through market transformation. However, as the Program Administrators have explained, some customers may face significant technical and financial hurdles to electrification of heating systems (Statewide Plan, Exh. 1, at 13). In addition, the Program Administrators have demonstrated that, at this time, fully displacing oil heat with a mini-split heat pump or a central heat pump, regardless of the installation cost, may actually increase lifetime operating costs by about $4,000 (see, e.g., Exh. NSTAR-Electric-2, Att. A). Pursuant to G.L. c. 25, § 1A, the Program Administrators must prioritize safety, equity, and affordability in implementing their programs."

- **DPU Supports "More Familiar" Heating Measures**

The order states:

"Accordingly, it is imperative that the Program Administrators ensure the subset of customers facing significant technical and financial hurdles to electrification are encouraged to adopt the most efficient, affordable heating system.

This subset of customers should not be faced with costly home modifications and potentially higher energy costs if they prefer to install a more familiar heating measure and it is still cost effective to encourage the customer to adopt a higher efficiency, lower GHG-emitting heating system (Exh. DPU-Comm 10-1). Accordingly, the Department directs the Program Administrators to continue offering incentives for these cost-effective heating systems to participants so long as savings opportunities remain."

- **MEMA Fights to Save Residential Oil-fired Boiler Rebates**

The order states:

"The Program Administrators argue that the program-efficiency level for oil boilers is the same as the code requirement; resulting in removal of oil boilers from the program entirely, given there are no claimable savings or opportunities for program intervention (Program Administrators Brief at 35-36, citing Exh. DPU-Comm 10-12). In response to MEMA's argument that existing Mass Save rebates for efficient heating oil equipment that use low-carbon biofuels should be preserved, the Program Administrators argue that the use of biofuels, on its own, does not lead to a reduction in customer energy consumption or demand and would, therefore, not qualify as an energy efficiency measure (Program Administrators Reply Brief at 8-9, citing Tr. 1, at 77). Therefore, the Program Administrators recommend the Department approve their proposal to remove this incentive from the Three-Year Plans (Program Administrators Reply Brief at 9)."

On oil-fired boilers the order further states:

"The Program Administrators propose to eliminate the residential oil-fired boilers measure, stating that it is no longer cost-effective because of the increase in efficient baselines (Statewide Plan, Exh. 1, at 79; Exhs. DPU-Comm 13-10; DPU-Comm 13-15(a); Tr. 1, at 89). Conversely, MEMA argues that heat pumps will not fully replace fossil-fueled heating systems in the next three years and, therefore, preserving existing rebates for high-efficiency oil boilers and furnaces could immediately reduce GHG emissions and grid demand with the use of renewable biofuels (MEMA Brief at 2-4).

The Department notes that the Energy Act of 2018: (1) expanded the energy efficiency programs to include oil and propane measures; and (2) changed the cost-effectiveness analysis for energy efficiency to the sector level. St. 2018, c. 227 §§ _1, 6; see 2019-2021 Three-Year Plans Order, at 111 (Program Administrators expanded their programs to include cost-effective oil heat measures). Accordingly, non-cost effectiveness of an oil boiler measure is not determinative of whether a measure may be offered by a Program Administrator.92
In effectuating the requirements of the Green Communities Act, the Department must continue to ensure that the use of ratepayer dollars to fund energy efficiency programs and measures is justified by the benefits achieved. 2019-2021 Three-Year Plans Order, at 73.

The Program Administrators state that oil boilers for residential customers do not have savings because the baseline is code.93,94 Where the record does not demonstrate that there is an energy savings opportunity, the Department finds that it is imprudent for the Program Administrators to use ratepayer funds to incent the measure."

- **DPU Finds Utilities Used Inconsistent Data on Oil-Fired Boilers & Orders "Justification"**

<u>The order states in footnote 94:</u>

"The Department notes that the TRM (Technical Reference Manual) uses inconsistent baselines for early replacement measures (Statewide Plan, Exh. 1, App. O). Given the Department has only 90 days to review the Three-Year Plans, we are unable to fully investigate the discrepancies in the baselines. Accordingly, the Program Administrators shall file a detailed report fully explaining the method for the establishment of baselines for early replacement measures, including a detailed justification for any differences in baseline assumptions, by May 2, 2022."

- **Income Eligible Heating Oil Customers Can Receive Mass Save Rebates**

<u>The order states in footnote 93:</u>

"The Program Administrators plan to continue to offer oil boilers to income-eligible customers through the Income Eligible Coordinated Delivery Program (Statewide Plan, Exh. 1, at 79; Exh. DPU-Comm 13-10)."

- **DPU Concludes that Electrification Will be Costly to Consumers**

<u>The order states:</u>

"Strategic electrification is a key component of the 2022-2024 Three-Year Plans and a significant portion of the Program Administrators' proposed budgets.

Even for non-participants, most Program Administrators expect significant bill impacts related to implementing their Three-Year Plans (Exhs. EGMA-6; LU-6 (Non-Participant Bill Impacts); NG-Gas-6, at 10-160; NSTAR-Gas-6; Compact-6; FGE-Electric-6, at 16-20; NG-Electric-6, at 7-22, 26-41, 45-60, 62-77; NSTAR-Electric-6). As discussed in Section VIII, below, to mitigate expected bill impacts, the Department will establish a cap on budgets. More specifically, the Program Administrators will not be permitted to recover any costs in excess of approved program budgets unless the Program Administrator receives approval by the Department to increase the program budget."

- **DPU Finds "Biofuel" Valuable in Achieving GHG Emissions**

The order states:

"Regarding MEMA's argument advocating the use of biofuels to reduce emissions, the Program Administrators maintain that the use of biofuels does not lower energy consumption and therefore MEMA's proposal is inconsistent with the Green Communities Act (Program Administrator Reply Brief at 9, citing Tr. 1, at 76-77). Although biofuel is a potentially low-carbon renewable energy source, the Department agrees that, regardless of whether biofuels lower carbon emissions, the Green Communities Act requires the Program Administrators to pursue energy efficiency measures that lead to a reduction in energy consumption and lowers GHG emissions. G.L. c. 25, § 21(b)(1); Cape Light Compact JPE, D.P.U. 20-40, at 21 (2021).

The Department acknowledges that the availability of alternative low- or no-carbon fuels may affect the calculation of benefits for certain measures. For example, the Program Administrators appropriately take in to account the decarbonization of the electric grid in the calculation of electrification benefits (Statewide Plan, Exh. 1, at 8). The Department does not currently have enough information to conclude whether decarbonization of fuels is likely and consistent with the Commonwealth's energy policies. In this regard, the Governor recently established a special Commission on Clean Heat to develop a framework for long-term GHG emissions reductions from heating fuels. Executive Order No. 596, § 1 (September 9, 2021).[95] The Department expects that the Commission on Clean Heat and the resulting policy framework will provide additional guidance on the role of various resources in achieving the Commonwealth's net-zero emission targets."

- **HEAT Loan Remains in Place with Focus on Electrification**

The order states:

"The Program Administrators also plan to continue to offer residential financing options (Statewide Plan, Exh. 1, at 115). All residential customers are eligible to apply for a HEAT Loan on qualified measures, including HVAC and building envelope improvements (Statewide Plan, Exh. 1, at 115).

The HEAT Loans are offered at zero percent interest to customers, up to a total of $25,000 (Statewide Plan, Exh. 1, at 115). For the 2022-2024 Three-Year Plan term, the Program Administrators plan offer a specific electrification HEAT Loan of up to $25,000, including up to $5,000 for electrification barriers such as electrical panel upgrades, for customers who install heat pumps in their homes (Statewide Plan, Exh. 1, at 116)."