

ORDER NO. 76045

IN THE MATTER OF THE COMMISSION'S INQUIRY INTO THE PROVISION AND REGULATION OF ELECTRIC SERVICE.	*	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND

(ELECTRICITY SUPPLIER FEES – PRE-ENROLLMENT DATA)	*	_____

	*	CASE NO. 8738

Pursuant to the Electric Customer Choice and Competition Act (“the Act”)¹, the Commission approved the restructuring plans of Baltimore Gas and Electric Company (“BGE”), Delmarva Power and Light Company d/b/a Conectiv (“Delmarva”), Potomac Electric Power Company (“Pepco”) and Potomac Electric Company t/a Allegheny Power (“PE”) (collectively referred to as “the Companies”) in separate proceedings.²

On February 15, 2000, BGE filed its Supplier Coordination Tariff, its Supplier Coordination Agreement and its Electronic Data Interchange/Trading Partner Agreement. (“compliance filings”).³ The other Companies, Delmarva, Pepco and PE, submitted their compliance filings on March 2, 2000. The Companies’ compliance filings are based on the

¹ Section 7-501 *et. seq.*, Public Utility Companies Article, Maryland Annotated Code.

² See Order No. 75757 (November 10, 1999), Case No. 8798/8804 (relating to BGE); Order No. 75680, Case No. 8795 (October 8, 1999) (relating to Delmarva); Order No. 75850 (December 22, 1999), Case No. 8796 (relating to Pepco); and, Order No. 75851 (December 23, 1999) (relating to PE).

³ On March 13, 2000, BGE filed utility specific terms to each of its previously filed proposed tariffs and agreements.

Model Tariff and sample agreements developed by the Rules and Tariff Development (RTD) subgroup of the GTIWG – submitted to the Commission on October 29, 1999.⁴

BGE's compliance filing came before the Commission at the Commission's Administrative Meeting on March 22, 2000.⁵ The compliance filings of Delmarva, Pepco and PE came before the Commission on March 29, 2000.⁶ During both hearings, electricity supplier fees were discussed.

The Companies proposed a number of coordination services along with corresponding supplier fees, including fees for registration; account management; energy; capacity and transmission coordination; system testing and re-testing; customer switching; Company consolidated billing; Supplier consolidated billing; dual billing; meter reading; meter testing; meter removal; active load management services; and, consumption history services. Some fees, such as the registration fee and the system testing fee, are non-recurring. Others, such as account management fees, billing fees, meter-related fees and fees for providing consumption history services, (pre-enrollment data fees),

⁴ By Order No. 75890 (January 12, 2000), the Commission adopted (with modifications) the Model Tariff, sample Supplier Coordination Agreement (or "SCA"), and sample Electronic Data Interchange (or "EDI") Trading Partner Agreement (or "TPA") recommended by the Generic Technical Implementation Working Group ("GTIWG") and the Retail Tariff Development ("RTD") subgroup. On February 11, 2000, the Commission directed the Companies to file compliance tariffs to implement the terms of their approved restructuring stipulations and settlements.

⁵ Administrative Meeting Agenda Item No. 22, March 22, 2000 Tr. at 30. Following an extensive discussion, the matter was taken under advisement in order for the Commission to consider the appropriateness of electricity supplier fees, indemnification terms and other matters. At the conclusion of the meeting, the parties were divided with regard to the appropriate procedural schedule for handling the various aspects of BGE's tariff.

⁶ At the hearings, appearances were entered by Andrew P. Mosier, Jr., Esq., Daniel P. Gahagan, Esq., Odogwu O. Linton, Esq., and Sheldon Switzer, Director of Marketing & Sales for BGE, Chantel Ornstein Freedman, Esq. on behalf of the Mid-Atlantic Power Supply Association ("MAPSA"), Thomas C. Gorak, Esq. on behalf of the Maryland Retailers Association and Baltimore Office Managers Association ("MRA/BOMA"), Mindy L. Herman, Esq. on behalf of Pepco, Sander L. Wise, Esq. on behalf of the Maryland Industrial Group ("MIG"), Lewis Jann, Executive Director on behalf of FirstEnergy Services Corp. ("FESC"), Randall V. Griffin, Esq. on behalf of Delmarva, Philip J. Bray, Esq. on behalf of PE, Sandra Minch Guthorn, Esq. on behalf of the Office of People's Counsel ("OPC"), Sarah R. Lazarus, Esq. and Calvin Timmerman, Director of Rate Research and Economics on behalf of the Commission Staff.

are recurring. This Order will focus on consumption history services (or pre-enrollment data fees) only.⁷

During the hearings, BGE argued that fees for such services or data should be permitted because the cost for providing the services or data to electricity suppliers is not reflected in current rates.⁸ The Companies, particularly Delmarva and Pepco, agreed.⁹ Staff, however, argued that many, if not all of the fees – possibly including the fees for pre-enrollment data services proposed by the Companies – are related to costs already included in rates or approved as part of the transition costs associated with the Commission’s approval of the Companies’ restructuring plans.¹⁰

Assuming, for the sake of argument however, that the costs for providing pre-enrollment data services to electricity suppliers are not already included in existing rates or covered by Commission-approved transition costs (or otherwise incorporated as part of the Commission’s approved restructuring plans for the respective Companies), the parties vary with regard to a procedure for determining such costs. Initially, Staff recommended evidentiary hearings with regard to all electricity supplier fees.¹¹ BGE, however, urged the Commission to direct Staff to consider the possibility of interim fees. OPC and MAPSA strongly opposed interim fees. OPC was opposed to interim fees as potentially having a chilling effect on competition.¹²

Echoing OPC’s sentiments, MAPSA argued that “an interim fee is no different than a permanent fee [with regard to its] impact on the competitive market.”¹³ MAPSA stated that “[w]e

⁷ Other fees and charges and other aspects of the Companies’ compliance filings will be addressed in future orders of the Commission.

⁸ See Tr. at 42-43.

⁹ *Id.* at 64 (Delmarva).

¹⁰ *Id.* at 71.

¹¹ See March 22, 2000 Tr. at 39.

¹² *Id.* at 56.

¹³ *Id.* at 59.

are not opposed to reasonable fees. However, those fees should be cost-based. They should not be fees BGE (or other Companies) [have] already received recovery for, they should possibly be receiving reimbursement [from] suppliers for new services that aren't currently performed"¹⁴ The Commission took the matter under advisement and urged the parties to continue to discuss the issues in an effort to reach resolution.¹⁵

At the Commission's Administrative Meeting on March 29, 2000, Staff informed the Commission that discussions among the parties had yielded progress with regard to procedural steps.¹⁶ Staff proffered that electricity supplier fees could be "tracked and deferred, and at the conclusion of [a] hearing, a regulatory asset could be created that would take care of the fee situation."¹⁷ The parties, including OPC, MAPSA and MRA/BOMA supported Staff's position.¹⁸ Delmarva, PE and Pepco also agreed with Staff's proposal.¹⁹ BGE did not join in agreement at that time, but, agreed to continue discussions on the matter.²⁰

The Commission has reviewed and given careful consideration to the Act and the parties' positions with regard to this matter. One purpose of the Act is to create competitive retail electricity supply and supply services markets.²¹ The Commission determines that consumption history services or pre-enrollment data must be provided by Companies now.

¹⁴ *Id.* at 52. MAPSA recommended a moratorium on fees during the first year of competition.

¹⁵ *Id.* at 246.

¹⁶ *See* March 29, 2000 Tr. at 76.

¹⁷ *Id.* at 77.

¹⁸ *Id.* at 78- 106.

¹⁹ *Id.* at 106.

²⁰ *Id.* at 107.

²¹ Section 7-504(2).

The cost for such services, if any, shall be deferred. The Companies, therefore, shall track electricity suppliers' pre-enrollment data requests. As part of a future "Schedule F" hearing process, the Commission will review the cost basis for the Companies' proposed pre-enrollment fees as well as determine whether any of these costs are currently recovered as part of a tariffed service, or are contained in existing rates or are a part of transition costs that were resolved in each Company's restructuring plan settlement. In order to preserve options for treatment of regulatory assets that may be created by the deferral of pre-enrollment data request fees, the Companies shall track electricity supplier pre-enrollment data requests on a customer class-specific basis.

Further, the Commission acknowledges that the Companies have raised a concern that no fee could result in excessive requests from some electricity suppliers. There is no evidence on the record that suggests that such a concern is warranted at this time. If, however, a Company believes a pattern of abuse exists, the Company may petition the Commission for appropriate relief.

This decision is intended to ensure that competition can begin on time. As a result of this decision no party should presume that these findings are indicative of the Commission's position with regard to electricity supplier fees, their appropriateness, whether or not they are included in transition costs, rate base or should be charged to suppliers, or any other outcome.

IT IS, THEREFORE, this 4th day of April, in the year Two Thousand, by the Public Service Commission of Maryland,

ORDERED: (1) That the Companies shall provide consumption history services or pre-enrollment data to electricity suppliers as requested.

(2) That the Companies shall not be permitted to charge electricity suppliers for consumption history services or pre-enrollment data at this time.

(3) That the Companies shall track the pre-enrollment data requests made by electricity suppliers on a customer class-specific basis.

(4) That cost recovery for providing electricity suppliers with pre-enrollment data beginning on April 3, 2000 shall be in accordance with the Commission's Order on "Schedule 1" fees.

/s/ Glenn F. Ivey

/s/ Claude M. Ligon

/s/ Susanne Brogan

/s/ Catherine I. Riley

/s/ J. Joseph Curran, III

Commissioners