

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

March 11, 2002

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY
PRACTICES, ORDER NO. 12340

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") modifies Commission Order No. 12294 that, among other things, directed the parties in this proceeding to attend a March 20, 2002 status conference¹. On January 17, 2002, the Commission, pursuant to Section 129.1 of the Commission's Rules of Practice and Procedure,² ordered the parties in this matter to attend the March 20 status conference to discuss, *inter alia*, procedural and substantive matters relating to the restructuring of the District of Columbia's ("District") electricity market.³ Those procedural and substantive matters included issues relating to regional transmission constraints; distributed generation; the reliable energy trust fund Working Group Report filed July 20, 2001 and the District of Columbia Energy Office ("DCEO") Supplemental Cost-Benefit Analysis; the construction of new electric generating facilities in the District; potentially competitive services; and real-time metering and real-time pricing.

2. The Office of People's Counsel ("OPC") filed a motion to modify the procedural schedule established in Order No. 12294 ("Motion") on February 4, 2002.⁴ In its Motion, OPC argues that the proposed schedule does not allow adequate time to provide the level of input necessary to fully explore the issues.⁵ In the instant Order, the Commission grants, in part, and denies, in part, OPC's motion to modify the procedural schedule set forth in Order No. 12294.

¹ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945, Order No. 12294, rel. January 17, 2002.*

² 15 DCMR § 129.1 (1981). (Upon the motion of any party or upon its own motion, the Commission may convene a status conference.)

³ 15 DCMR § 129.2 (1981). (Participants shall be prepared to discuss procedural and substantive matters involved in the proceeding, and shall be authorized to make commitments with respect to those matters.)

⁴ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945, Motion to Modify Procedural Schedule of the Office of The People's Counsel, filed February 4, 2002.* Issues relating to Order No. 12291 will be handled in a separate Order.

⁵ *Id.* at 1-2.

3. Specifically, the Commission, consistent with its Order, will address issues concerning transmission constraints, Reliable Energy Trust Fund ("RETF"), and potentially competitive services in the March 20, 2002 status conference. The Commission also grants OPC's motion to extend the filing deadlines for filing comments and reply comments concerning construction of new generating facilities, real time metering ("RTM") and real time pricing ("RTP") issues. The Commission, however, denies OPC's motion to suspend addressing the scope of issues concerning the feasibility of distributed generation. Therefore, consistent with Order No. 12294, the Commission directs that the parties be prepared to address the scope of distributed generation issues submitted by the Working Group and any questions the Commission may have in the status conference on March 20, 2002.

A. OPC's Motion

4. In its Motion, OPC requests that procedural and substantive matters pertaining to regional transmission constraints remain the same as directed in Order No. 12294.⁶ OPC also desires, however, that the issues regarding the feasibility of distributed generation be suspended.⁷ OPC also requests that questions concerning the initial RETF Working Group Report filed July 20, 2001 and the DCEO Supplemental Cost-Benefit Analysis Report filed September 7, 2001, and other RETF questions, be addressed at the status conference as ordered.⁸

5. In addition, OPC requests that the rules needed to construct new electric generating facilities in the District and the impact on the District should remain consistent with the deadlines in Order No. 12294.⁹ However, OPC requests that comments and reply comments pertaining to this issue be suspended.¹⁰ OPC further requests that issues regarding potentially competitive services be addressed at the status conference.¹¹ Finally, OPC requests that the Commission suspend addressing any issues the Commission ordered concerning RTM and RTP.¹²

6. OPC expresses its concern that subjects such as future rules governing distributed generation, new generation, and RTM and RTP may be of interest to entities

⁶ *Id.* at 4-5.

⁷ *Id.* at 5.

⁸ *Id.* at 5-6.

⁹ *Id.* at 6. (The Commission did not ask the parties to "submit" new rules concerning construction of new generating facilities, but asked to "address" the need for new rules.)

¹⁰ *Id.* (OPC did not recommend a substitute date for filing comments or reply comments.)

¹¹ *Id.*

¹² *Id.* at 6-7.

which have not previously participated in this proceeding.¹³ OPC believes that the public at large should be informed of the Commission's intention to consider these matters and be afforded an opportunity to participate.¹⁴ OPC proposes that the procedural schedule established in Order No. 12294 remain the same for issues concerning transmission constraints, RETF, and potentially competitive services.¹⁵ In addition, OPC requests that the Commission suspend all other comments and related obligations set forth in Order No. 12294.¹⁶ OPC suggests that in lieu of those procedures, "the Commission should order the parties to meet and discuss a proposed schedule and procedures for addressing ... distributed generation, new generation, and RTM and RTP."¹⁷ OPC reasons that their proposal will allow the parties to consider and propose a schedule that will address these issues in a prompt and meaningful manner.¹⁸

B. COMMENTS

7. On February 19, 2002, the Potomac Electric Power Company ("PEPCO") filed comments in response to Order No. 12294.¹⁹ PEPCO asserted that it was authorized to state that AES NewEnergy, Inc. joined in recommending the list of RTM and RTP issues.²⁰ Specifically, PEPCO's comments addressed transmission constraints, distributed generation, Demand-Side Management ("DSM") programs, new rules for construction of new generating facilities, and a list of RTM and RTP issues.²¹ On March 4, 2002, PEPCO filed reply comments in response to OPC's comments on transmission constraints and the need for new rules concerning the construction of new generating facilities.²²

¹³ *Id.* at 9.

¹⁴ *Id.*

¹⁵ *Id.* at 10.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Letter and attached comments from Paul Harrington, Associate General Counsel, Pepeco to Mr. Jesse P. Clay, Commission Secretary, filed February 19, 2002.

²⁰ *Id.*

²¹ *Id.* at 1.

²² *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Letter and attached Reply Comments from Paul Harrington, Associate General Counsel, Pepeco to Mr. Jesse P. Clay, Commission Secretary, filed March 4, 2002.

8. On the same date, OPC filed comments addressing local and regional transmission constraints and the impact on current and future reliability in the District.²³ OPC also filed comments addressing the need for new rules governing new generation, asserting that more regulations are needed.²⁴ Specifically, OPC recommends that the Commission institute a separate proceeding to consider the scope and breadth of additional rules concerning the construction of new electric generation facilities in the District.²⁵ OPC suggests that such a proceeding would facilitate an orderly and comprehensive review of the subject, and provide an evidentiary basis to support the Commission's adoption of appropriate rules and regulations.²⁶ Then on March 4, 2002 OPC filed reply comments addressing transmission constraints and the need for new rules concerning the construction of new generating facilities.²⁷

9. Finally, OPC filed comments addressing RTM and RTP issues.²⁸ In its comments, OPC recommends that the final list of designated issues should be addressed in a separate rulemaking.²⁹ OPC opines that this process will give the public and other interested parties notice of the Commission's inquiry and an opportunity to submit comments.³⁰

II. DISCUSSION

10. In exercising its responsibilities under the Retail Electric Competition and Consumer Protection Act of 1999, D.C. Law 13-107 (the "Act"), it is the Commission's

²³ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Comments of the Office of The People's Counsel Concerning Addressing Local and Regional Transmission Constraints and the Impact on Current and Future Reliability in the District of Columbia as Required by Order No. 12294, filed February 19, 2002.

²⁴ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Preliminary Comments of the Office of the People's Counsel Concerning the Need for New Rules Governing New Generation Construction of Electric Generation In the District of Columbia as Required by Order No. 12294, filed February 19, 2002.

²⁵ *Id.* at 1.

²⁶ *Id.*

²⁷ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Reply Comments of the Office of the People's Counsel Concerning Local and Regional Transmission Constraints and the Impact on Current and Future Reliability and Concerning the Need for New Rules Governing New Generation Construction of Electric Generation In the District of Columbia as Required by Order No. 12294, filed March 4, 2002.

²⁸ *In The Matter Of The Investigation Into Electric Service Market Competition and Regulatory Practices, Formal Case 945*, Comments of the Office of the People's Counsel Addressing Real Time Metering and Real Time Pricing Issues in the District of Columbia as Required by Order No. 12294, filed February 19, 2002.

²⁹ *Id.* at 1.

³⁰ *Id.* at 1-2.

duty to take into consideration the interests of customers, electricity suppliers, and the incumbent electric company.³¹ While performing its duty, the Commission must establish procedural deadlines to ensure a fair, orderly, and effective transition to a competitive retail market. Given that OPC's ability to participate in this proceeding has been hampered by the challenges it faces in over-stretching its resources, the Commission finds good cause for modifying the procedural schedule. This revision will provide OPC ample opportunity to thoroughly address the issues in this matter and it will assure that the Commission develops a complete record upon which to base its decision. Moreover, the Commission finds that no party will be prejudiced by the modification of the procedural schedule.

11. The Commission concurs with OPC that the issue of transmission constraints, as ordered, should be addressed at the March 20, 2002 status conference. To date, the Commission has received comments and reply comments. Therefore, the Commission affirms Order No. 12294 and directs the parties to address any comments and any reply comments filed concerning this matter and prepare to respond to any questions the Commission may have.

12. The Commission also agrees with OPC that the parties should be prepared to address previously filed comments and reports concerning RETF. In addition, the parties should be prepared to address any questions the Commission has with regard to the comments and reply comments on RETF programs and cost/benefit analyses filed between July 20, 2001 and January 9, 2002.

13. OPC's motion to address potentially competitive services at the status conference is consistent with the Commission's direction in Order No. 12294. The Commission has received the Working Group report regarding this issue and parties have had ample time to comment. Therefore, the Commission affirms that the parties should be prepared to address any questions the Commission may have concerning potentially competitive services on March 20, 2002.

14. The Commission denies OPC's motion to suspend discussing the Working Group's proposed list of distributed generation issues. The Commission's intent is to clarify the scope of distributed generation issues for the purpose of establishing a procedural schedule and eventually adopting rules. It is not the Commission's intent to litigate the issues at the March 20, 2002 status conference. Therefore, the Commission expects the parties to be prepared to discuss the parameters of the proposed distributed generation issues and to entertain questions the Commission may have regarding the issues list.

15. Upon consideration of OPC's Motion and comments and reply comments filed by OPC and PEPCO, the Commission determines good cause exists to extend the filing deadlines concerning construction of new generating facilities. The Commission directs the Working Group to propose new or amended rules by April 30, 2002. If the Working Group cannot reach a consensus regarding such rules, the Commission directs the members of the Working Group to submit non-consensus, proposed rules by the same

³¹ See § 107 of the Act. See also D.C. Code, 2001 ed. §34-1504 (a).

date. In addition, the Commission directs members of the Working Group and interested individuals to file comments on the proposed rules by May 30, 2002 and reply comments by July 1, 2002. The Commission determines that the additional time will allow all parties the opportunity to consider proposing new rules or amending the existing rules. The Commission further determines that a more complete response will result in a comprehensive record.

16. Similarly, the Commission extends the deadlines concerning RTM and RTP issues in Order No. 12294. The Commission directs the parties to review the list of Commission designated issues in Appendix A attached to the instant Order and incorporate these issues in comments and reply comments filed by April 30, 2002 and May 30, 2002, respectively.

THEREFORE IT IS ORDERED THAT:

17. OPC's motion to extend the filing deadlines for filing comments and reply comments concerning construction of new generating facilities and RTM and RTP issues is **GRANTED**;

18. The Working Group propose new or amended rules concerning the construction of new generating facilities by April 30, 2002. If the Working Group cannot reach a consensus regarding such rules, the Commission orders the members of the Working Group to submit non-consensus, proposed rules by the same date. In addition, the Commission orders members of the Working Group and interested individuals to file comments on the proposed rules by May 30, 2002 and reply comments by July 1, 2002.

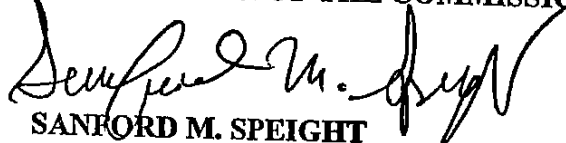
19. OPC's motion to suspend addressing the scope of issues concerning the feasibility of distributed generation at the March 20, 2002 status conference is **DENIED**;

20. The Commission directs all parties to review the list of Commission designated issues in Appendix A concerning real time metering ("RTM") and real time pricing ("RTP") attached to the instant Order and incorporate these issues in comments and reply comments to be filed no later than April 30, 2002 and May 30, 2002, respectively.

A TRUE COPY:

CHIEF CLERK

BY DIRECTION OF THE COMMISSION:


SANFORD M. SPEIGHT
ACTING COMMISSION SECRETARY

APPENDIX A

Real Time Metering and Real Time Pricing

1. What is the definition of RTP?
2. Who should provide RTP and RTM?
3. What are the categories of cost to implement RTP? Who should bear those costs?
4. Who should bear the costs for RTM meter installation and metering?
5. Which customers should participate in an RTM and/or RTP program?
6. Is RTP a competitive service? If RTP is not a competitive service, what is the rate design for RTP?
7. Should customers be permitted to lease equipment (meter, telecommunications, interpretive software and hardware) from the electric company and/or other entities?
8. Should there be a pilot program for RTM and/or RTP? If yes, please describe this program and explain why and who should bear the costs of such a program? What should be the measure for judging the success of a pilot program?
9. What kind of customer communication and education, if any, is required?
10. What is the time frame for implementing RTM and RTP?
11. What are the billing systems implications associated with RTM and RTP?
12. Should RTM/RTP be limited to large customers, at least initially? If the answer is yes, what is the kW threshold for requiring RTM for such customers? If small customers benefit from RTP or dynamic pricing, should they contribute to the costs?
13. What rules and regulations governing the certification, installation, maintenance and reading of advanced meters capable of providing real time metering information are required to ensure the availability of safe, reliable, accurate and non-discriminatory provision of real time metering services to retail customers in the District of Columbia?
14. What are the costs of advanced meter ownership, installation, maintenance and reading for the various classes of retail customers in the District of Columbia?

15. What are the factors affecting the cost-effectiveness of advanced metering for the various classes of retail customers in the District of Columbia, including residential customers?
16. Are RTM and RTP cost effective for both commercial and residential customers? What is the appropriate test for determining cost effectiveness?
17. Notwithstanding the economic deregulation of retail energy services in the District of Columbia, what rules and regulations governing the provision of the RTP services are required to ensure the availability of and non-discriminatory access to RTP for retail customers in the District of Columbia?
18. The economic deregulation of Active Load Management (ALM) and Energy Use Management services in the District of Columbia notwithstanding, what rules and regulation governing RTM, RTP, and ALM and EUM services are required to ensure availability of and non-discriminatory access to ALM and EUM services based on RTM and RTP services for retail customers in the District of Columbia?
19. What should be the role of dynamic pricing (e.g. hour ahead or a set of day-ahead prices) along with RTP?
20. Please compare and contrast implementation of the Puget Sound (Washington State) Time of Use Rate programs with implementation of an RTM/RTP pilot program. Should we implement a widespread TOU program rather than the RTM/RTP pilot for D.C.? Why or why not?
21. What are the implications of implementing a small customer smart meter pilot program in the District as proposed in FC1002, In the Matter of the Joint Application of PEPCO and New RC, Inc. for Authorization and Approval of Merger Transaction?