

ORDER NO. 75401

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

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 8738

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I. BACKGROUND

By Order No. 73834, entered December 3, 1997 *In the Matter of the Commission’s Inquiry in the Provision and Regulation of Electric Service*, Case No. 8738, 88 MD PSC 249 (1997), the Commission directed that a State-wide Roundtable be formed for the purpose of developing specific proposals for universal service in Maryland. *Id.* 262. As directed, the Universal Service Working Group (“USWG”), consisting of representatives from the utilities, community action agencies, the Office of the People’s Counsel, the Commission’s Staff, and industrial and commercial customer groups, met regularly to address universal service issues.*

We directed that “the [Universal Service Program (“USP”) proposal] developed for our consideration should, at a minimum, provide for the continuation of existing customer

* The Universal Service Working Group included representatives of the following entities: Public Service Commission Staff (Staff); Office of the People’s Counsel (OPC); Forvm for Rural Maryland; Choptank Electric Cooperative; Maryland Association of Community Action Agencies (MACAA); Washington Gas; Baltimore Gas & Electric Company (BGE); Maryland Department of Natural Resources; Potomac Electric Power Company (PEPCO); Southern Maryland Electric Cooperative (SMECO); Eastalco Aluminum Company; Montgomery County; the United Methodist Church Association; the Maryland Industrial Group; the Maryland Energy Assistance Program (MEAP); the Potomac Edison Company, d/b/a Allegheny Power; Bethlehem Steel; the American Association of Retired Persons (AARP); the Maryland Department of Housing and Community Development (DHCD); the Fuel Fund of Central Maryland; Delmarva Power & Light Company, d/b/a Conectiv Power Delivery; City of Baltimore; the Maryland Energy Administration; Enron; International Brotherhood of Electrical Workers; Air Conditioning Contractors of America; Apartment and Office Building Association of Metropolitan Washington; Building Owners and Managers Association;

protections and assume the availability of the Low Income Housing Energy Assistance Program (“LIHEAP”) and the Maryland Energy Assistance Program (“MEAP”) funds into the future.”

Id. We instructed further, “that such programs should also include the Utility Service Protection Plan (“USPP”) program, restrictions upon winter termination, dispute resolution procedures for both generation suppliers and the Distco [Distribution Company], supply and Distco service quality requirements and low income weatherization programs.” *Id.*

The USWG met biweekly from May 1998 to February 1999 and weekly thereafter, overlapping the enactment of the Electric Customer Choice and Competition Act of 1999 (“Act”) which became law in April 1999. The USWG filed its final report with the Commission on May 3, 1999. A supplemental report, relating to further efforts with regard to the commercial/industrial customer USP charge, was filed on June 14, 1999.

The parties filed comments on the USWG report on June 23, 1999. On June 30, 1999, the utilities filed comments regarding the allocation of USP charges among commercial and industrial customers. Reply comments were filed on July 7, 1999. The Commission’s hearing on the USWG report and the parties’ comments was held on July 15, 1999.

II. COMMISSION’S ANALYSIS AND DECISIONS

Section 7-512.1(A)(1) of the Act requires the Commission to establish a universal service program to assist electric customers with annual incomes at or below 150% of the federal poverty level. Further, the Act provides that \$34 million shall be collected in each of the three years following the initial implementation date (July 1, 2000), of which \$24.4 million is to be collected from industrial and commercial customers, and \$9.6 million is to be collected from

Catholic Charities; Constellation Energy Source, Inc.; Consumer Protection Division, Office of the Attorney General; Maryland Municipal League; Maryland Retailers Association; Westvaco; and the Towns of Thurmont and Berlin.

residential customers. Under the Act, all customers are required to contribute to funding the universal service program. USP funds are to be used for (i) bill assistance, (ii) low-income weatherization, and (iii) retirement of customer arrearages. Section 7-512.1(A)(5).

In its comments on the USWG final report, filed June 23, 1999, the Department of Human Resources, Maryland Energy Assistance Program (“DHR/MEAP”) submitted a draft USP conceptual design which describes the goals of a universal service program, includes a proposed budget, and outlines, in a preliminary way, the basic components of a functioning USP. DHR/MEAP has offered to continue towards development of a comprehensive USP proposal, and has expressed its willingness to include all stakeholders in its future proposal design discussions. The Commission invites DHR/MEAP to continue its efforts.

The utilities have taken issue with the procedural steps that led to the development of DHR/MEAP’s draft conceptual design, asserting that they had not been consulted in that process. We encourage cooperation among all party-participants, where feasible, in the development of a comprehensive USP proposal for the Commission’s consideration. However, any party-participant or group may submit its own proposal which, like that of DHR/MEAP’s, will be subject to comment by all other party-participants.

In any DHR/MEAP or non-utility proposal submitted to the Commission, the proposal must demonstrate reasonable efforts by the proponents to work with the utilities’ billing systems. Likewise, any utility proposal must demonstrate reasonable efforts to modify existing systems to accommodate reasonable USP proposal objectives.

The Commission appreciates the work done by the USWG over the past year, and recognizes that the group developed several consensus principles that should guide the design of

the USP. The Commission agrees that these principles are appropriate and that any proposal submitted to the Commission should:

1. comply with the requirements of the Act;
2. encourage customers to conserve energy;
3. include safeguards to ensure and promote efficient use of funds and accountability for expenditures;
4. provide that local administration of the program should be achieved through the use of a competitive bid RFP process;
5. permit low-income customers, to the extent practicable, to “one-stop shop” for information and applications for services for which they are eligible;
6. provide integrated mechanisms for bill assistance, weatherization and arrearage retirement;
7. describe and delineate DHR/MEAP administrative duties and PSC oversight duties;
8. provide that bill assistance benefits be graduated based on a participant’s income level;
9. provide that USP participants pay a portion of their own funds in order to remain eligible for bill assistance; and
10. cap bill assistance at an appropriate level to ensure fund availability.

As directed in Order No. 73834, any USP proposal submitted for consideration should also provide for the continuation of existing customer protection programs; consider the availability of LIHEAP and MEAP funds; and include USPP program restrictions upon winter termination, dispute resolution procedures, and service quality requirements for low income weatherization programs.

We are also aware that consensus was not reached among the USWG participants on other issues, such as the details regarding one-stop shopping for low-income individuals seeking other services (including ways to insure that USP monies are not used to fund other services), certain elements of arrearage retirement, and the allocation of charges among industrial and commercial customers. The party-participants are encouraged to continue to meet to resolve as many outstanding issues as possible before USP proposal(s) are submitted for consideration.

Particularly, on the subject of the allocation of USP charges among commercial and industrial customers, we urge the parties to continue to work towards developing a funding methodology that results in sets of uniform State-wide fees for commercial and industrial customers that apply irrespective of the service territory in which the customers are located. The use of Statewide fees should not preclude the differentiation of charges by customer size or electric usage, as long as the methodology proposed includes an appropriate cap. A review of the proposals suggests that \$2,500 per month might be a reasonable cap for the largest commercial and industrial customers.

Any proposal relating to the collection of USP charges from commercial and industrial customers should also discuss how to determine into which step a customer falls. The Commission's primary interests in a proposal of this type is (i) to have flat fees that do not vary each month, thereby avoiding customer confusion, and (ii) to ensure that similarly-situated customers that happen to be located in different service territories pay the same charge, thereby avoiding any questions of competitive advantage.

After receiving proposals from DHR/MEAP or any other stakeholder, as well as initial and reply comment(s), the Commission may hold an additional “legislative” type hearing to receive final comments on the USP proposal(s) and to ask questions of those filing comments.

II. PROCEDURAL SCHEDULE

The Commission sets the following procedural schedule in this matter:

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| Filing of DHR/MEAP Proposal and Proposals of any other party | Wednesday, September 15, 1999 |
| Filing of Initial Comments | Monday, September 27, 1999 |
| Filing of Reply Comments | Monday, October 4, 1999 |
| Hearings (Legislative Only) | Thursday, October 12, 1999 |

IV. CONCLUSION

The Commission has given thorough and careful consideration to the Act and its provisions regarding the Commission's role in establishing a universal service program for the benefit of low-income electric customers. In addition, the Commission has reviewed and considered the final report of the Universal Service Working Group ("USWG"), as well as the filed comments and reply comments of the USWG party-participants and their testimony presented in a hearing before the Commission on July 15, 1999. We believe that the process proposed in this Order will lead to the establishment of a universal service program for Maryland's low-income electric customers that will meet both the letter and spirit of the Act.

IT IS THEREFORE, this 3rd day of August in the year Nineteen Hundred and Ninety-Nine, by the Public Service Commission of Maryland,

ORDERED: (1) That the policies set forth herein are adopted.

(2) That the procedural schedule set forth herein is adopted.

By Direction of the Commission

Felecia L. Greer

Executive Secretary