

**A Plan for Effective Market Monitoring  
Of the Wholesale and Retail Markets for  
Electricity, Natural Gas, and Telecommunications**

**Prepared for the Committee on Consumer and Regulatory Affairs  
Council of the District of Columbia**

**by**

**The Public Service Commission of the District of Columbia**

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The purpose of this report is to respond to the request of the D.C. Council's Committee on Consumer and Regulatory Affairs ("Committee") for a market monitoring plan by December 31, 2001 as contained in its *Report on FY 2002 Budget Request and FY 2001 Supplemental Budget Request of 2001* issued in April 2001. This report to the Committee describes the considerable progress that the Public Service Commission of the District of Columbia (the "Commission") has made to establish and maintain an effective market-monitoring plan. The numerous market-monitoring activities in which the Commission is currently engaged are identified and important recent accomplishments in developing monitoring information and analysis are described. The current state of competition in the competitive retail markets for electricity, natural gas, and local telephone services in the District is also discussed, as is the impact of Federal regulation at the wholesale level of these markets. As conditions in these markets naturally evolve, appropriate modification will be made in the Commission's market-monitoring plan. Finally, new initiatives that are being planned to improve customer service and, where practicable, to reduce prices still further are identified. Viewed together, these elements signal the Commission's recognition of the increasing importance of developing and executing effective market monitoring to bring the full benefits of free and open competition to District ratepayers.

### **I. Current Market Monitoring Activities of the Commission**

Effective market monitoring requires both the development of a substantial database of relevant information and the expertise to determine from the collected data whether market power is present and has been unduly exercised. In FY 2001, the Commission hired three senior economists to augment its existing market monitoring expertise – one economist is an expert in gas industry issues, another in telecommunications, and the third in antitrust and competitive analysis. In so doing, the Commission has assured the resources necessary to address emerging market issues.

Significant efforts, detailed below, have been made to improve the accuracy and timeliness of information reported to the Commission concerning conditions of supply and demand in the markets that it regulates. Table 1, attached to this report, identifies -- for the electric, gas, and telecommunications markets at both the retail and wholesale levels -- the information gathered by the Commission, its frequency, and its public availability on the Commission's website and in PowerPoint presentations prepared for community outreach purposes.<sup>1</sup> This information provides the Commission with the necessary data with which to evaluate the presence and exercise of market power in the markets regulated by the Commission and to share this information with the public so they can make informed choices. As a result, a comprehensive market-monitoring plan is now in place that has greatly improved the Commission's understanding of the rates, prices, billing practices, and cost savings made possible by instituting customer choice.<sup>2</sup>

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<sup>1</sup> The Commission's website is located at [www.dcpssc.org](http://www.dcpssc.org).

<sup>2</sup> Applicable to all of the markets regulated by the Commission is a Memorandum of Understanding with the incumbent dominant service providers (PEPCO, Verizon DC, and Washington Gas) that they will regularly provide the Commission with tracking information on the status of their minority contracting programs.

### A. Evaluation of Retail Market Competition

Regulation of the retail electric, gas, and telecommunications markets in the District is the responsibility of the Public Service Commission of the District of Columbia. The Commission monitors conditions in these local service markets to inform its regulatory decision-making and to develop useful information to enhance consumer education and, therefore, improve retail customer choice.<sup>3</sup>

#### Natural Gas

Competition in the natural gas industry was introduced through a series of gas tariffs (“GTs”) rather than enabling legislation. In April 1998, the Commission adopted the Residential Firm Delivery Service Pilot Program for a two-year period beginning on January 1, 1999 and ending on January 1, 2001.<sup>4</sup> In subsequent Orders, the Commission expanded the scope of the original authorization, modified enrollment and delivery options, and broadened eligibility to permit all residential customers to receive firm delivery service from alternative suppliers. In February of this year, the Commission authorized the conversion of the pilot program to a full-scale basis.<sup>5</sup>

Working in collaboration with Washington Gas, the Commission now publishes on its website a considerable amount of information to educate retail natural gas consumers about the availability of licensed alternative suppliers, factors affecting the local retail demand for natural gas, and data related to rates and tariffs. This timely, detailed information is presently being monitored by Commission staff to assess the vigor of competitive conditions in the retail market for natural gas in the District of Columbia (the “District”).

More specifically, the Commission website now provides the following extremely useful information and data relating to competitive conditions in the local retail market for natural gas:

- (a) quarterly data on the number and market shares of retail natural gas suppliers, for both the number of customers and the gas usage of customers, identified separately for residential and commercial customers;
- (b) similar quarterly data comparing supplier participation and penetration in the District with that in Maryland and Virginia;

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<sup>3</sup> Through direct and frequent contact with the customer service representatives of the alternative residential suppliers, staff develops and maintains an up-to-date database of pricing and other terms of service within the local markets regulated by the Commission.

<sup>4</sup> GT96-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, for Authority to Establish a New Rate Schedule No. 1A*, Order No. 11153 (April 2, 1998).

<sup>5</sup> GT96-3, *In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, for Authority to Establish a New Rate Schedule No. 1A*, Order No. 11928 (February 21, 2001).

- (c) monthly data showing the number and usage of customers participating in the District's Residential Customer Choice and the Commercial Customer Choice Programs and the respective market shares of alternative suppliers in each program;
- (d) quarterly data comparing the market penetration rates of alternative suppliers after equivalent intervals of operation of the Customer Choice Programs in the District, Maryland, and Virginia;
- (e) monthly gas cost comparisons among alternative suppliers and calculation of the savings realized by the average residential customer as a result of customer choice;
- (f) the rates charged by alternative retail natural gas suppliers in the most recent month for which data is available; and
- (g) charts depicting the monthly gas savings available to the average customer under the Customer Choice Programs of the District, Maryland, and Virginia.

These data have been collected and displayed on the Commission's website for the period January 1999 (when the Residential Firm Delivery Service Pilot Program went into effect) to the present. While confidential company specific data is, of course, not disclosed, the collection and evaluation of such information can nevertheless be quite useful to staff members engaged in tracking and assessing market competition.

The up-to-date data and information concerning supply and demand conditions that the Commission collects and publishes provides, in addition to its important consumer education role, a strong foundation for effective monitoring of the local retail market for natural gas. A review of the website information shows the following. Since Residential Customer Choice was initiated in 1999, as many as five alternative suppliers have participated in the program and as much as 14 percent of local residential natural gas consumption has been supplied by them. Since the advent of Commercial Customer Choice, as many as fourteen alternative suppliers have participated in the local commercial market, accounting for slightly more than a third of the total commercial consumption.

Interestingly, the pace of switching to alternative residential suppliers in the District is quite similar to that observed in Virginia, but both have achieved a significantly lower rate of market penetration than that which has been achieved in Maryland.<sup>6</sup> The data, furthermore, demonstrate that commercial customer choice in the District has attracted more participants with much greater market penetration than has residential customer choice in the local market.

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<sup>6</sup> The Maryland program began in November 1996 – more than two years before the District's Customer Choice Program. Measured in comparable time intervals since program inception, participation in the Maryland residential program actually lagged both the District and Virginia programs until the third year of each program's existence. It will be interesting to see whether market participation in the District will continue to grow at a rate similar to that observed in Maryland's third and fourth years.

The comparison of gas costs is central to the decision of a local residential customer to switch between retail suppliers of natural gas (or even to alternative energy sources). Such information is also extremely useful to the Commission in dispatching its market-monitoring responsibilities. To assist consumers in making such comparisons, the Commission provides sufficient information on its website to allow consumers to make comparisons of gas costs among suppliers and to compute the gas cost savings available to the average residential customer.<sup>7</sup> With this information, Commission staff is able to assess the vigor of competitive price offerings among suppliers and monitor the effectiveness of customer choice.

Displayed in Table 2 is the complete monthly history of natural gas prices (variable and fixed) charged to new residential customers by all suppliers (with and without the balancing charge<sup>8</sup>) that have participated in the District retail market since the advent of competition in January 1999. The table reflects that three firms have unsuccessfully attempted entry into the retail natural gas market in the District.<sup>9</sup> Another new entrant, EconEnergy, initiated service in September of this year and remains an active rival to Washington Gas, Washington Gas Energy Services, and Pepco Energy Services.

Commission staff is also involved in other market-monitoring activities relating to natural gas supply. The newly hired gas industry expert monitors all of the FERC's actions concerning natural gas and attends hearings and public conferences on matters affecting District ratepayers. Several staff members have participated, with members from Washington Gas and the Office of the People's Counsel ("OPC"), periodically since September 1991 in meetings of the Natural Gas Procurement Working Group established by the Commission in Formal Case No. 874. In addition, to ensure just and reasonable rates, Commission staff conducts an annual audit of the Purchase Gas Charge ("PGC") charged by Washington Gas to determine that appropriate gas commodity charges have been passed through to consumers.

### **Electric Power**

The Commission has instituted numerous programs to implement the Retail Electric Competition and Consumer Protection Act of 1999 ("the Act"). Among other things, Section 112(a) of the Act states that the Commission and OPC "shall monitor the District of Columbia retail markets for electricity supply and services declared by the Commission to be potentially competitive services to ensure that the markets are not being adversely affected by anticompetitive conduct and anticompetitive conditions."<sup>10</sup> Substantial progress has been made to date on this mandate by the Council.

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<sup>7</sup> See [www.dcpsc.org/ci/cch/gas/gas.html](http://www.dcpsc.org/ci/cch/gas/gas.html).

<sup>8</sup> The balancing charge represents the cost between actual and scheduled consumption.

<sup>9</sup> The three firms are ACN Co., Powertrust, and AGF. United Energy was poised to enter in October 1998, but its prices were higher than the other competitors and hence they never had any customers.

<sup>10</sup> Section 101(4) of the Act defines "anticompetitive condition" as "a condition which would allow a party to: (A) Exercise vertical or horizontal market power; (B) Use the ownership or control of a regulated facility to favor an unregulated affiliate or subsidiary or to discriminate against a non-affiliated entity; (C) Erect a barrier of

Customer choice was made available to all of PEPCO's customers on January 1, 2001, one year ahead of the statutory requirements. As part of divestiture savings, PEPCO's retail rates were reduced in three stages for a total of 7.0 percent for residential customers and 6.5 percent for commercial customers and were capped until January 2005.<sup>11</sup> Although 11 suppliers have applied for and received certification over the past year, the establishment of retail competition in the District's markets for electric power has yet to attract many significant alternative suppliers, particularly for the residential customer class. Currently, PEPCO is facing local distributor competition from only two rivals -- Washington Gas Energy Services, an unregulated affiliate of Washington Gas, and its own unregulated affiliate, Pepco Energy Services.<sup>12</sup>

The Commission, in addition to tracking the number of suppliers, collects a considerable amount of information concerning the District's demand for electricity and the rates, prices, and cost savings available to District ratepayers. The Commission staff regularly gathers information, for both the residential and commercial retail electric power markets in the District, to track the number of customers, the energy usage (in kWh) and customer demand (in MWs), and the market shares by customer class and by supplier.<sup>13</sup> These data, except for the company specific data which are designated to be confidential, are published on the Commission's website. Participation in the RAD (lifeline) program is also tracked and the results displayed on the Commission's website.

Another important category of retail electric market data that is obtained and published on the Commission's website concerns the monthly and seasonal rates, prices, bills, and cost savings (if any) that District customers experience. Generation and transmission rates charged to residential and small commercial customers are identified by company; PEPCO's distribution, transmission, and generation rates are reported; retail electric distribution rates charged in the District, Maryland, and Virginia are compared; average revenue per kilowatt hour is disaggregated by each of the five retail rate classes; and average monthly residential and large commercial bills are compared for the District and neighboring jurisdictions. Additionally, within just the last few months, the Commission has instituted two extremely important new programs to improve its ability to monitor the retail electric markets in the District. These programs are described more fully below.

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entry; or (D) Compete unfairly or deny effective competition to consumers.” Section 101(5) of the Act defines “anticompetitive conduct” as “an activity which would: (A) Violate any applicable antitrust law; (B) Constitute favorable treatment of an affiliate; (C) Discriminate against a non-related entity; (D) Constitute a barrier of entry; or (E) Confer an unfair competitive advantage on an entity.”

<sup>11</sup> The cost-based rate reductions and rate caps were the result of a settlement approved by the Commission in Formal Case No. 945, Phase I, Order No. 11576 (December 30, 1999).

<sup>12</sup> The AOBA Alliance supplies its members as an aggregator for Pepco Energy Services.

<sup>13</sup> A kilowatt-hour (kWh) is the amount of energy equal to that expended by one kilowatt (*i.e.*, 1000 watts) in one hour. One megawatt (MW) is equal to one million watts. A watt is a unit of measure of electric power.

*(a) The Interim Market Monitoring Program*

By Order No. 12071, issued July 31, 2001, the Commission adopted an interim market monitoring program (the "Interim Program").<sup>14</sup> The primary monitoring mechanisms of the Interim Program consist of: (1) an Interim Retail Electric Choice Monthly Report Form, and (2) an Interim Retail Electric Choice Yearly Report Form to be filed by PEPCO beginning with the September 2001 period. The Commission will re-evaluate and modify, as necessary, the Interim Program beginning on December 31, 2002, after 16 months of historical data have been collected and more becomes known about the nature of competition within the local retail market for electric power.

The Interim Monthly Report Form filed by PEPCO includes information for PEPCO and the other licensed electricity suppliers in the District of Columbia, including the number of customers and the customers' demand and usage. The Interim Yearly Report Form will include revenue-billed information for PEPCO and the other licensed electricity suppliers in the District. The Interim Reports submitted by PEPCO provide confidential data disaggregated by four classes of residential customer (R, AE, Time of Use, RAD) and two classes of commercial customer (Small Commercial and Other Commercial). To preserve confidentiality, only the aggregated monthly residential and non-residential totals are reported on the Commission's website. Access to the information contained in the Interim Report Forms will provide the Commission and Office of the People's Counsel with much of the data needed to comply with their respective market monitoring functions set forth in Section 112 of the Act.

*(b) The Price-to-Compare Program*

By Order No. 12186, issued September 19, 2001, the Commission approved the listing and publishing of price-to-compare data to facilitate residential consumers'<sup>15</sup> evaluation of competing electricity suppliers' rates and charges. In its Order, the Commission modified the generic price comparison proposal of the Retail Competition Working Group and, based on existing price offerings, established its own market-specific, price-to-compare information tables and worksheets for residential customers.<sup>16</sup>

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<sup>14</sup> The Commission's interim program was established after receiving non-consensus market monitoring proposals and/or comments from members of the Working Group that had been convened pursuant to Commission Order No. 11796 (issued September 18, 2000) to address the following issue: "What are viable procedures or mechanisms for effectively monitoring market power on an ongoing basis?"

<sup>15</sup> The Commission, in discharging its consumer education responsibility under §34-1504(c)(6)(B) of the D.C. Code, 2001 Ed., is required to "develop and maintain information regarding rates charged and services provided by licensed electricity suppliers to small commercial and residential customers." Specific acknowledgment of the application of the Commission's price comparison methodology adopted in Order No. 12186 to small commercial (as well as to residential) customers will soon be clarified in a separate Commission order.

<sup>16</sup> The Working Group had been established a year earlier; see Formal Case No. 945, Order No. 11796 at 41-42 (September 18, 2000).

The approved rate comparison tables and worksheets are published on the Commission's website in the interest of providing uniform, accurate, and timely information to assist retail electric customers in making informed choices.<sup>17</sup> One table compares the generation rates (in both the summer and winter seasons) for PEPCO and, until this month, the only active alternative electric supplier, Washington Gas Energy Services ("WGES"). A spreadsheet posted on the website permits a residential customer to calculate seasonal (winter and summer) savings from using an alternative electric supplier. The price comparison exercise also provides a spreadsheet with which a residential customer can calculate annual savings from exercising retail customer choice. In addition, user friendly Electricity Savings Calculators have recently been added to the Commission's website to facilitate the calculation of monthly rates and savings for each of the residential and small commercial retail rate classes.<sup>18</sup>

Table 3, attached to this report, presents an "apples-to-apples" comparison of average generation and transmission costs and savings for the three providers of residential electric power.<sup>19</sup> Similar information tables and spreadsheets to be used by small commercial customers and low-income discount customers in evaluating savings available through purchasing from alternative suppliers have also been developed and have just recently become available on the Commission's website.<sup>20</sup>

### **Telecommunications**

The federal Telecommunications Act of 1996 amended the Communications Act of 1934 to establish, among other things, the conditions and procedures under which competitive local exchange carriers ("CLECs") are entitled to enter the local telephone exchange markets and to interconnect with the monopoly incumbent local exchange carrier's ("ILEC's") network. The federal Telecommunications Act also requires state commissions to review interconnection agreements between the CLECs and the ILEC and to arbitrate any disputes between them, including disputes over interconnection and the wholesale rates at which CLECs are permitted to purchase local exchange services for resale.

Using the federal Telecommunications Act as a guide, the Council of the District of Columbia enacted the District of Columbia Telecommunications Competition Act of 1996. The D.C. Telecommunications Act contained provisions, similar to the federal law, which required, among other things, that Verizon Washington, D.C., Inc. ("Verizon DC") unbundle its network elements, interconnect its network with CLECs, and permit its services to be resold by CLECs.

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<sup>17</sup> See [www.dcpsc.org/ci/cch/elec/calculators/calculate.html](http://www.dcpsc.org/ci/cch/elec/calculators/calculate.html).

<sup>18</sup> See [www.dcpsc.org/ci/cch/elec/elec.html](http://www.dcpsc.org/ci/cch/elec/elec.html).

<sup>19</sup> Table 3 compares the average monthly, seasonal, and annual costs and savings from using PEPCO, Pepco Energy Services, or Washington Gas Energy Services as one's residential supplier of electric power in CY 2001.

<sup>20</sup> See [www.dcpsc.org/ci/cch/elec/calculators/commallclass.html](http://www.dcpsc.org/ci/cch/elec/calculators/commallclass.html).

The federal Telecommunications Act of 1996 authorizes the offering by Bell Operating Companies (“BOCs”) of long distance (interLATA) services that originate in states outside its service regions. But to offer interLATA services originating in its region, a BOC must receive approval under Section 271 of the Act. Approval is granted on a statewide basis only after the FCC, with input from the Department of Justice and the relevant state public service commission, determines that the local markets are irretrievably open to competition. While no such request for Section 271 authority to offer in-region interLATA services originating in the District has yet been made by Verizon, it is anticipated that the company may file for such authorization in the near future. Anticipating such an occurrence, the DC Public Service Commission is informally monitoring Verizon DC’s compliance with the “competitive checklist” requirements that it must meet to gain FCC approval of its application.

The Commission staff maintains a substantial database of information relating to the nature of competition in local retail telecommunications markets. Among the supply-side statistics and other information that the Commission collects and evaluates are the following: the tracking of all CLECs that are certificated to provide service and of those that later request withdrawal of their certification; the tracking of CLECs with tariffs on file with the Commission; and the tracking of CLECs with interconnection agreements with Verizon DC.

To help the Commission better understand the demand side of the local retail telecommunications market and how it interacts to establish rates, staff conduct annual surveys of Verizon and all certificated CLECs to collect the following information: the identity of companies providing service and relevant facts about their operations; the number of lines, revenues billed, and market shares by customer class – for both residential and business accounts by company. On a monthly basis, staff also tracks the telephone penetration rates (in the District, all Central Cities, and the U.S. average); participation in the Economy II (lifeline) service program; and Verizon DC’s retail residential prices by rate class. The average residential and business rates and bills for DC, Maryland, and Virginia are tracked and compared on an annual basis or, more frequently, if rates change in the interim.

The Commission is currently tracking the marketing plans and prices of Verizon and Starpower (the second largest provider) in the local market for residential telephone services. Unfortunately, because Starpower’s local residential telecommunications services are bundled with unregulated services such as cable television and/or high-speed internet access via cable modem, it is presently not possible to make a direct comparison between the costs of providing local telephone service for these rivals.

### **B. Evaluation of Wholesale Market Competition**

The monitoring of the wholesale electric, gas, and telecommunications markets is the responsibility of federal agencies rather than the District of Columbia Public Service Commission. More specifically, the Federal Energy Regulatory Commission (“FERC”) has jurisdiction over the wholesale electric and gas markets while the Federal Communications Commission (“FCC”) has jurisdiction over interstate telecommunications services. In addition, electricity utilized in the District is generated and dispatched through the

Pennsylvania-Jersey-Maryland (“PJM”) region and PJM has established its own independent market-monitoring unit that, unlike any state public service commissions, has access to the real time pricing activities of the wholesale electricity market. FERC is currently considering plans to expand PJM to include the New York and New England regions in the hope larger size will enhance competition.

In this context, the Commission’s key role is to participate in regional activities and to monitor activities of the regional and federal regulatory agencies for impacts on the District. For example, changes in wholesale gas prices, as we learned last winter, almost immediately impact retail ratepayers’ bills. Although District ratepayers are currently insulated from wholesale electric market fluctuations because of existing retail price caps and contractual relationships between PEPCO and Mirant, changes currently underway at the federal and regional levels will ultimately impact us all.

### **Natural Gas**

Natural gas retail supply prices are directly impacted by changes in wholesale natural gas prices. Wholesale natural gas supply prices reached alarming levels in the Winter of 2000-2001, prompting the Commission to make many outreach appearances throughout the community to explain the cause of these spikes, the Commission’s lack of jurisdiction over wholesale natural gas prices, and the Commission’s actions to address local distribution issues. Wholesale natural gas prices have since receded and it is not anticipated that this winter will repeat last year’s experience.

In FY 2001, the Commission hired an experienced senior-level gas industry economist who, among other duties, prepares a monthly assessment of the outlook for wholesale and retail natural gas prices that appears on the Commission’s website. This expert in natural gas competition and marketing also participates regularly in NARUC’s Gas Subcommittee activities.

Other initiatives undertaken to gain a fuller understanding of wholesale natural gas markets include the following:

- (a) the tracking of NYMEX commodity prices (future wholesale gas prices) and the presentation of the information on the Commission’s website and in consumer slides;<sup>21</sup>
- (b) the tracking of EIA, EEA, and other government and industry forecasts of wholesale gas prices and presentation of this information on the Commission’s website and in consumer slides;<sup>22</sup> and

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<sup>21</sup> NYNEX refers to the New York Mercantile Exchange, the world’s largest commodities market.

<sup>22</sup> EIA and EEA are acronyms for the Energy Information Agency of the U.S. Department of Energy and for the Energy & Environmental Analysis consulting firm.

- (c) the tracking of weather conditions, production and drilling activity, and other supply conditions affecting the wholesale price. This information is also available on the Commission's website and in consumer slides.

### *Electric Power*

In Order No. 12071 establishing an interim market-monitoring program for retail competition among electric power suppliers in the District, the Commission also emphasized the importance of coordinating market-monitoring activities at the regional level. Recognizing that the retail market for electricity in the District is directly affected by activities within a broader regional market for electricity, the Commission has increased its coordination and cooperation with federal authorities, the PJM power pool and other regional organizations, and other state commissions to ensure that the unjust exercise of market power at the regional level is investigated and effectively controlled by those entities with the authority to do so.

The Commission is specifically authorized, under Section 112(d) of the Retail Electric Competition and Consumer Protection Act of 1999, to undertake various actions related to regional systems in order to monitor and prevent the regional exercise of market power. The Commission remains informed of developments in the regional market through participation in the PJM State Liaison Committee and Staff Subcommittee meetings.<sup>23</sup> In addition, the Commission works with the PJM Market Monitoring Unit to identify potential abuses of market power in the PJM market. Finally, the Commission cooperates and coordinates, as necessary, with the PJM, the Federal Energy Regulatory Commission ("FERC"), other federal agencies and entities, and other state commissions in any investigations and/or prosecutions of the exercise of market power in the regional market. It is the Commission's view that regional coordination and cooperation will create a broad information base and provide more effective consumer protection, particularly when combined with a reasonable level of retail market monitoring in the District.

More specifically, the Commission has recently engaged in the following activities to foster and maintain competition in wholesale markets for electricity generation and transmission:

- (a) The Commission's technical staff continually monitors activity at the FERC and regularly attends meetings of the FERC;
- (b) The Commission's staff were directly engaged in the 45-day mediation hearing before a FERC administrative law judge during the period July 24, 2001 to September 7, 2001 to consider the establishment of a broad regional transmission organization ("RTO") in the Northeast;

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<sup>23</sup> The PJM market refers to the independently operated wholesale energy market consisting of the transmission facilities of generating and marketing companies conducting electric power transactions in the mid-Atlantic region.

- (c) The Commission filed comments with the FERC concerning:
  - (i) the proposed merger of the PJM, NY, and New England Independent Service Operators (“ISOs”) to form a broad Northeast RTO (10/9/01);
  - (ii) reliability issues involving PJM (4/16/01); and
  - (iii) an RTO compliance filing by PEPCO and PJM (11/20/00);
- (d) On August 1, 2001, the Commission filed, jointly with the Maryland PSC, a request for a rehearing of the FERC’s RTO mediation order;
- (e) Commission Chairman Cartagena and Commissioner Meyers testified on RTO issues before the FERC on October 18, 2001;
- (f) The Commission will participate in the FERC’s regional panel with State Commissioners to discuss emerging RTO issues;
- (g) The Commission is participating in the FERC’s Working Group on the Costs/Benefits of an enlarged RTO;
- (h) The Commission recently filed joint comments with the Maryland and Delaware Public Service Commissions with the FERC in Docket No. RT01-99-000 concerning the proper apportionment of wholesale market functions within the regional transmission organization region;
- (i) The Commission filed joint comments this month with the Maryland and Delaware Commissions requesting that the FERC reconsider its decision to develop a Northeast RTO; and
- (j) The Commission is working closely with the FERC to establish market-monitoring rules and procedures for application to geographically expanded regional transmission organizations.

### **Telecommunications**

As part of its mandate from Congress, the Federal Communications Commission (“FCC”) issued regulations to implement the interconnection and unbundling requirements of the federal Telecommunications Act. States were required to follow these regulations in approving interconnection agreements, arbitrating interconnection disputes between ILECs and CLECs, and reviewing statements of generally available terms and conditions (“SGAT”).

The Commission, since 1997, has acted vigorously to implement competition in local wholesale telecommunications markets, ever mindful of the several FCC rulings and court decisions that have impacted the nature and pace of opening local markets to competition. Currently, the Commission has several ongoing proceedings relating to the implementation of the D.C. Telecommunications Competition Act of 1996 at the wholesale level:

- (a) Formal Case No. 962 will establish permanent rates for unbundled network elements, wholesale discounts, and collocation rates. Interim rates are now in effect;
- (b) Formal Case No. 993 is evaluating Verizon's Operation Support System ("OSS") to provide the necessary understanding of how well Verizon meets the competitive checklist requirements of Section 271;
- (c) In Formal Case No. 990, Order No. 12230 (issued November 9, 2001), Carrier-to-Carrier guidelines have been established. Formal Case No. 990 will also set Carrier-to-Customer standards for Verizon and the CLECs;
- (d) A Universal Service Fund will be established in Formal Case No. 988.
- (e) The Commission's Office of Technical and Regulatory Affairs currently reviews quarterly filings by Verizon to track its service quality on the basis of standards previously set by the Commission.

As the pace of opening local telecommunications markets to competition has quickened, in FY2001 the Commission hired an experienced Senior Economist with expertise in telecommunications. Among other responsibilities, this economist reviews industry developments reported in NECA Watch and Telecommunications Reports, regularly attends the Open Meetings of the FCC and monitors activities at the FCC to determine their impacts on District markets, and serves as the Commission's representative on the NARUC Telecommunications Staff Subcommittee.

## ***II. Summary of the Commission's Market Monitoring Efforts***

The Commission has made great strides to put into place an extensive information and data gathering system that tracks market conditions at both the retail and wholesale levels of the natural gas, electric power, and telecommunications markets that are subject to its regulation (see Table 1, attached). This extremely useful information provides insight into factors that affect both the demand and supply – and, thus, ultimately the rates and prices and the costs and savings – of the goods and services subject to the Commission's regulatory oversight.

The current status of retail competition in the District residential and commercial markets for electric power, natural gas, and local telephone service is considered workably competitive at this still early stage of restructuring (see the summaries presented in Tables 4a, 4b, and 4c, attached). Two rival companies and at least one aggregator are currently competing with PEPSCO to supply electric power to retail customers, accounting for 1.2 percent of customers and 8.8 percent of MW demand in the residential market segment and serving 17.1 percent of customers and 53 percent of MW demand in the commercial segment. Washington Gas faces residential competition from three suppliers serving 12 percent of the market, while twelve rival suppliers now account for 32 percent of the commercial retail

segment. Verizon DC remains relatively more dominant in the provision of local retail service – CLECs now account for 4.5 percent of residential lines in service and 10 percent of commercial lines in the District. At least one CLEC is providing local telephone service, which is being bundled with other unregulated services.<sup>24</sup>

Nonetheless, the markets for each of the three products/services subject to Commission jurisdiction are constantly in flux – due to changes in federal regulation, court decisions, and adaptation of market participants to the resultant changes in market conditions.<sup>25</sup> One near-term example of this appears to be the FERC’s determined effort to restructure substantially the organization and operation of the wholesale markets for the transmission of electric power. Changes in incentives will also likely occur in local natural gas and telecommunications markets, as firms adapt to ever-changing regulatory environments and strategic opportunities. The Commission, through the data that it gathers and the analytical resources that it possesses, is well positioned to protect the interests of District ratepayers by monitoring competition in the markets that it regulates.

### ***III. Recommendations***

The Commission has made substantial progress in developing and implementing an effective market-monitoring plan. The identification of market participants, their market shares, and their price/service offerings are regularly evaluated by staff to determine anomalous market behavior. At any point in time, the numerous programs that have been established to provide the Commission with up-to-date statistical information concerning the operations of the District’s incumbent regulated monopolists (Washington Gas, PEPCO, and Verizon) and their erstwhile rivals allow Commission staff to discern troublesome trends and suspicious conduct.

New items will be added as the markets evolve. However, very little additional information is currently needed to ensure that competition in the District markets for electric power, natural gas, and local telecommunications services is effectively monitored. The Commission, nonetheless, has still other monitoring initiatives under consideration:

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<sup>24</sup> Since enactment of the D.C. Telecommunications Act of 1996, 122 CLECs have been certificated and 49 have tariffs on file. Currently, 32 CLECs are providing local telephone services in competition with Verizon (see Tables 4a through 4c, attached). The telecom statistics are as of December 31, 2000. The Commission will receive updated statistics from the annual survey conducted early next year.

<sup>25</sup> For example, the FERC recently announced, in an unanticipated order, that it intended to change the manner in which it measures and assesses market power in wholesale markets for bulk electric power. See Federal Energy Regulatory Commission, *Order on Triennial Market Power Updates and Announcing New, Interim Generation Market Power Screen and Mitigation Policy*, Docket No. ER96-2495-015, *et al.*, November 20, 2001. The Commission staff will carefully review this new development to determine its likely implications on District ratepayers.

- (a) a requirement that natural gas suppliers report changes in their prices at least three three days before the effective date so that the Commission can more accurately track these changes and provide up-to-date data to ratepayers;<sup>26</sup>
- (b) a requirement that natural gas suppliers quote all price offers *inclusive* of the balancing charge to minimize ratepayer confusion;<sup>27</sup>
- (c) a practical procedure to permit comparison of the rates for local telephone services that are charged by Starpower and Verizon DC. The Commission needs to clarify its policy concerning the establishment and reporting of charges for local telephone service to account for the bundling of regulated telephone services with unregulated cable television and cable modem interconnects; and
- (d) the establishment of a policy concerning disconnects of regulated local services that are sold together with unregulated services.<sup>28</sup>

With these minimal modifications, the ability of the Commission to track comparative price offers, communicate that information in a timely manner to District ratepayers, and monitor these changes to determine the possibility of abuse of market power would be even further enhanced.

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<sup>26</sup> Suppliers of electric power were ordered to provide similar timely price data to the Commission in Order No. 12186 (issued September 19, 2001).

<sup>27</sup> The balancing charge, which can vary significantly among suppliers, (see Table 2, attached) is currently specified as a separate line item on customer choice participants' bills. The current billing practice makes accurate price comparisons across gas suppliers quite difficult without providing any offsetting monitoring benefit.

<sup>28</sup> Examples include (1) the disconnection of regulated local telephone services for nonpayment of bundled, unregulated cable television or high-speed internet services and (2) the disconnection of regulated gas or electric service for nonpayment of energy services provided by the alternative energy source.