

PUBLIC SERVICE COMMISSION OF MARYLAND

**REPORT TO THE GOVERNOR AND THE MARYLAND GENERAL ASSEMBLY ON
THE STATUS OF STANDARD OFFER SERVICE, THE DEVELOPMENT OF
COMPETITION, AND THE TRANSITION OF STANDARD OFFER SERVICE TO A
DEFAULT SERVICE**

December 31, 2018



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The Commission's Report on Standard Offer Service and the Status of Retail Electric Competition.

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Introduction and Executive Summary

Pursuant to statute,¹ the Public Service Commission of Maryland (the “Commission”) submits this report to the Governor and General Assembly every five years regarding the status of Standard Offer Service (“SOS”), Maryland’s Competitive Retail Electric Market, and the transition of SOS to a default service.²

Maryland’s investor-owned utilities (“IOUs”) procure wholesale power for SOS through competitive bid solicitations, which are held four times per year. The participating electric cooperatives either purchase power through long-term wholesale contracts (Choptank Electric Cooperative, Inc. (“Choptank”)), or use a managed supply portfolio to procure power (Southern Maryland Electric Cooperative, Inc. (“SMECO”).

In Maryland, SOS in its current form was established through formal proceedings before this Commission.³ The Commission also recently reviewed and modified the SOS form for the

¹ Public Utilities Article §7-510(c)(3)(iii)(1).

² In 2008, the Commission provided the information required by the PUA in the annual report on Case Nos. 9056 and 9064, 99 MD PSC, pp. 163, 220, 231. The 2013 report was filed by the Commission on January 9, 2014. See <https://www.psc.state.md.us/wp-content/uploads/2013-Report-on-the-Status-of-SOS-the-Development-of-Competition-and-the-Transition-of-SOS-to-a-Default-Service-1.pdf>.

³ The initial form of SOS was established in 1999 through settlements in the IOU restructuring cases: Case Nos. 8974, *Re Baltimore Gas & Elec. Co.*, 90 Md. P.S.C. 137 (1999) (BGE), Case No. 8975, *Re Delmarva Power & Light Co.*, 90 Md. P.S.C. 115 (1999) (DPL); Case No. 8976, *Re Potomac Elec. Power Co.*, 90 Md. P.S.C. 329 (1999) (Pepco); and Case No. 8797, *Re Potomac Edison Co.*, 90 Md. P.S.C. 439 (1999) (PE). The form of SOS used by the cooperatives SMECO and Choptank was established through their own later restructuring settlements, Case No. 8985, *Re Southern Maryland Elec. Co-op*, 95 Md. P.S.C. 294 (2004) (SMECO), and Case No. 8987, *Re Choptank Elec. Co-op, Inc.*, 96 Md. P.S.C. 115 (2005) (Choptank). The SOS provided by the IOUs was modified in two cases that were opened after the steep rate increases that occurred when the initial price freezes ended, respectively, *Re Default Service for Type II Standard Offer Service Customers*, 99 Md. P.S.C.163 (2008), and *Re Competitive Selection of Electricity Supplier/Standard Offer or Default Service for Investor-Owned Utility Small Commercial Customers*, 99 Md. P.S.C 220 (2008).

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Baltimore Gas and Electric Company (“BGE”) in Case No. 9221, while the SOS form for each of Delmarva Power & Light Company and Potomac Electric Power Company are currently under consideration in Case Nos. 9226 and 9232.⁴

Overall, commercial and industrial customers have always been more active in seeking non-utility electricity supply. However, residential participation in the competitive electricity market rose steadily until the winter of 2013-2014, when Maryland experienced an extended cold weather climate phenomenon, known generally as the Polar Vortex.⁵ Due to increased heating demand, which laid bare several unforeseen capacity market issues at the regional grid operator level (PJM),⁶ customers on variable rate electricity supply offers saw their rate increase dramatically, and a large number of complaints were filed with the Commission. But even before the Polar Vortex and in the years since 2014, the percent of residential customers electing to receive their electricity from competitive suppliers has followed a “boom or bust” cycle reflective of energy prices and SOS rate performance, and has fallen from approximately 26% to 19% as of 2018.

Notwithstanding the cyclical nature of supplier rate performance as compared to SOS rates, the competitive electricity market in Maryland has come under increased scrutiny because of concerns that residential customers are not saving money when compared to the SOS default rate. Recently, consumer advocates have issued reports alleging abuses by suppliers, particularly

⁴ Respectively, *In the Matter of a Request by Baltimore Gas and Electric Company for Recovery of Standard Offer Service Related Cash Working Capital Revenue Requirement* 107 Md. P.S.C. 773 (2016); Case No. 9226, *In the Matter of the Review of Delmarva Power & Light Company Standard Offer Service Administrative Charge*; Case No. 9232, *In the Matter of the Review of Potomac Electric Power Company Standard Offer Service Administrative Charge*.

⁵ A polar vortex is a large pocket of very cold air, typically the coldest air in the Northern Hemisphere, which sits over the polar region during the winter season. The frigid air can find its way into the United States when the polar vortex is pushed farther south, occasionally reaching southern Canada and the northern Plains, Midwest and northeastern portions of the United States. <https://www.accuweather.com/en/weather-news/what-is-a-polar-vortex/21793077>.

⁶ The PJM Interconnection capacity market issues contributed to the increase of commodity on the spot markets during the Polar Vortex and suppressed anticipated supply.

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toward low-income customers.⁷ It is important to note that although the Commission has not verified the assertions or calculations in these reports, and (by statute) does not regulate suppliers' rates, the Commission has taken steps to prevent abuses, increase market transparency, and facilitate a competitive environment.

In the five years since the Commission's previous Report on SOS, the Commission has engaged in a number of enforcement and market development activities intended to enhance the development of Maryland's competitive electricity market. Enforcement activities most often occur on a case-by case basis through response to consumer complaints, which are typically resolved by the Commission's Consumer Affairs Division ("CAD").⁸ In the wake of the Polar Vortex, the Commission conducted several broader enforcement cases against suppliers suspected of systematic abuses. As a result, the Commission issued substantial civil penalties to those suppliers the Commission found had engaged in abusive practices.⁹

In addition to enforcement activities, the Commission engages in efforts to improve the rules governing the functioning of the competitive market, including the provision of better market data to suppliers, requirements to speed customer switching from SOS to competitive supply or competitive supply to SOS, and facilitating supplier entry into the market. The Commission's enforcement and market enhancement activities have occurred through a series of rulemakings, public conferences, and working groups. Currently, the Commission's Competitive Market and

⁷ Applied Public Policy Research Institute for Study and Evaluation. (2018). *Maryland Low-Income Market Characterization Report* (Rep.).

Baldwin, S. M., & Bosley, S. M. (2018). *Maryland's Residential Electric and Gas Supply Markets: Where Do We Go from Here?* (Rep.).

Peltier, L., & Makhijani, A., Ph.D. (2018). *Maryland's Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies* (Rep.). Baltimore, MD: The Abell Foundation.

⁸ Previously known as the Commission's Office of External Relations. As before, the Consumer Affairs Division serves as a troubleshooting liaison between customers and utilities working to resolve disputes regarding billing and service quality.

⁹ Case Nos. 9346(a) XOOM Energy Final Order December 5, 2016, 9346(b) Major Energy – Final Order February 2, 2016, 9346(c) Blue Pilot – Final Order December 12, 2016.

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Customer Choice (“CMCC”) Work Group is reviewing a number of additional supplier enhancements. The activities of this Work Group are described more fully below.

The Status of Standard Offer Service

SOS is electricity supply service sold by electric utility companies to a customer who does not choose a competitive supplier. SOS is the default electricity service and is available to all customer classes. The statute requires that SOS be “designed to obtain the best price for residential and small commercial customers in light of prevailing market conditions at the time of the procurement and the need to protect these customers against excessive price increases.”¹⁰

The investor-owned electric companies provide SOS for residential and small commercial service by purchasing wholesale power (for two-year terms) twice a year, through sealed bid procurements. These procurements take place in the spring and fall; and each procurement covers roughly 25% of the total SOS demand (or “load”). The Commission chose this structure to enable SOS rates to reflect long-term changes in market prices, while still providing a form of price protection by reducing rate volatility and ensuring a degree of gradualism in rate changes. It was a direct response to the hardships customers experienced as a result of the large rate increases that occurred with the expiration of the SOS price freeze in 2006 and the statutory changes that followed these events.¹¹

In contrast, SOS for mid-sized non-residential customers is not intended to stabilize prices over an extended period of time. Mid-sized non-residential SOS is procured through sealed bids for three-month contracts procured four times per year. Thus, the price of SOS at any given time reflects market conditions on the most recent bid day. SOS for the SMECO is procured by the Cooperative through an actively managed portfolio approach, whereas Choptank provides SOS by purchasing long-term power supply contracts.

¹⁰ PUA § 7-510(c)(4)(ii).

¹¹ Senate Bill 1, Spec. Sess. 2006.

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The current version of the SOS bidding process for the IOUs was established in Case Nos. 9064 and 9056, in 2006 and 2007. The Commission engages in an annual Procurement Improvement Process, designed to review the prior year's bid activities and adjust the process as necessary to secure the most favorable outcomes through a competitive bidding process. SOS bids have been successful, as a whole, with only a few instances where a bid was found to be uncompetitive (and thus rejected).¹² For the vast majority of bids, the Commission's consultants have reported competitive bidding conditions with a sufficient number of qualified bidders.¹³

The Development of Retail Electric Competition in Maryland

The Commission began studying the issue of retail electric competition as early as 1994, and a Staff report on the subject was issued in 1995 in Case No. 8678. The Commission ordered a phase-in of retail electric competition in Order No. 73834, issued in Case No. 8738 in 1997.¹⁴ Early in the transition to customer choice, the Commission recognized that the possibility of more supplier choices could result in the introduction of innovative services and lower electric commodity prices.¹⁵ With the Electric Customer Choice and Competition Act of 1999 ("Electric Choice Act"), the Maryland General Assembly ratified the Commission's Order and established the statutory framework for the restructuring of the electric industry in Maryland. The Electric Choice Act altered the Commission's role relative to electricity generation and provided that the retail electric market structure ("Electric Choice") would be available to all customers in the affected service territories. Beginning on July 1, 2000, all retail electric customers of IOUs were given the opportunity to choose their electricity supplier, and since July 1, 2003, customers of

¹² See Order No. 82279, October 24, 2008.

¹³ The Commission retains a consultant to monitor SOS bidding in the utilities' bid rooms and ensure that bidding is conducted fairly according to the rules of the process. The Consultant reports to the Commission after each round of bidding, addressing the competitiveness of the bid round and the results as they relate to market conditions at the time the bid is conducted. The Commission's Staff also takes part in monitoring the bidding and reporting the results.

¹⁴ *Re Provision and Regulation of Electric Service*, 88 Md. P.S.C. 249 (1997).

¹⁵ See e.g. *Re Provision and Regulation of Electric Service*, 88 Md. P.S.C. 249, 257 (1997); *Re Potomac Electric Power Company*, 90 Md. P.S.C. 329, 335 (1999).

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Maryland's large electric cooperatives have had the right to choose suppliers. Additionally, customers of Maryland's municipal electric utilities could theoretically choose a retail choice supplier if their utility elects to make its service territory open to customer choice, and the Commission approves their plan for doing so.¹⁶ However, to date, no municipal electric utility in Maryland has presented the Commission with a plan to implement customer choice in its service territory.

Customers shopping for electricity in Maryland may choose to buy electricity from a competitive supplier or to take SOS from their local electric company. This framework was established by the Electric Choice Act. The Act deregulated the pricing of electric generation and opened retail markets to competitive suppliers, which in turn, has attracted competitive suppliers to Maryland. The number of active suppliers for 2008, 2013, and 2018 is shown in the tables below.¹⁷

Number of Electricity Suppliers Serving Enrolled Customers as of Dec. 2008				
Distribution Utility	Residential	Small C & I	Mid C & I	Large C & I
Allegheny Power	5	14	17	13
Baltimore Gas and Electric	15	22	23	19
Delmarva Power & Light	10	18	20	13
Potomac Electric Power	9	18	21	18

¹⁶ PUA, § 7-510(a)(2).

¹⁷ http://webapp.psc.state.md.us/intranet/ElectricInfo/enrollmentrpt_new.cfm - Dec. 2008, and Aug. 2018 Reports.

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Number of Electricity Suppliers Serving Enrolled Customers as of Nov. 2013				
Distribution Utility	Residential	Small C & I	Mid C & I	Large C & I
Allegheny Power	22	25	28	13
Baltimore Gas and Electric	53	54	50	23
Delmarva Power & Light	34	41	37	20
Potomac Electric Power	42	43	44	21

Number of Electricity Suppliers Serving Enrolled Customers as of Aug. 2018				
Distribution Utility	Residential	Small C & I	Mid C & I	Large C & I
Potomac Edison	35	39	34	16
Baltimore Gas and Electric	65	71	59	18
Delmarva Power & Light	45	52	45	18
Potomac Electric Power	60	53	48	27
Southern Maryland Elec. Coop.	7	5	3	1

Customer Participation in Electric Choice

An examination of the number of customers using a competitive supplier indicates that, in the transition from utility-supplied generation service to electric competition in Maryland, a smaller percentage of residential customers have switched to retail suppliers than non-residential customers. As of August 2018, 19% of residential customers, 33% of small commercial customers, 53% of mid-sized commercial and industrial customers and 83% of large commercial and industrial customers were served by retail electricity suppliers. In terms of total electricity supply, just under half of the load (46%) was served by retail electricity suppliers as of August, 2018.

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From 2008 to 2018, the number of residential choice customers increased by over 400% statewide, however over the last five years, enrollment has decreased by 20% (approximately 90,000 accounts less), leaving about 440,000 Maryland households receiving electricity supply from a competitive supplier.

The implementation of utility purchase of retail supplier receivables (“POR”) in 2010 (for those suppliers that use utility billing) likely played a significant role in the increase in the number of residential customers served by retail electricity suppliers. Prior to POR, suppliers either received payment directly from customers or billed customers in a consolidated bill with the utility with payment made to suppliers by the utility according to a payment posting schedule. Under both retail billing methods, suppliers were exposed to the risk of non-payment from customers, while lacking the ability to terminate electric service to those customers.¹⁸ However, POR directs utilities to collect the amount due to the supplier from the customer, and then remit payment to the supplier at a slight discount. The utilities keep the discounted portion of the supplier receivables to cover billing, collections, and system costs. The utility is required to pay the discounted amount to the supplier within five days after its customer’s due date, regardless of the timing or amount of the customer’s payment. The POR discount rate is typically on the order of 0-2%.

Between December 2008 and August 2018, the total number of customers statewide served by electricity suppliers increased from 112,000 to 538,000 customers.¹⁹ During the same time, the number of residential customers served by electricity suppliers in BGE’s service territory increased from 27,000 to 279,000.²⁰ However, between November 2013 and August 2018, the total number of customers served by electricity suppliers statewide decreased 17% from 629,000

¹⁸ COMAR does permit utilities to pay suppliers through a pro-rata option, under which the utilities would divide customer payments between the utility and the supplier. Utilities were given both choices, but none chose to use pro-rata payment to suppliers.

¹⁹ An increase of 380%.

²⁰ 934% Increase.

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to 538,000. In 2008, residential participation in retail choice was 3% of customers. Switching increased to 26% in 2013, and then decreased in 2018 to 19%. Large commercial and industrial (“C&I”) customers chose retail suppliers by margins of 87% in 2008, 89% in 2013 and 83% in 2018. The reduction in accounts may be attributed, in part, to the experiences of customers during the 2013-2014 Polar Vortex heating season during which the Commission logged an unusually high volume of billing complaints, but also in part to declining energy prices leading to lower electricity prices. In response to the billing complaints, the Commission opened Case No. 9346 and subsequently held Public Conference 35, which initiated rulemaking RM54 to address issues related to customer protections.²¹

Since 2013, the amount of total retail choice peak load obligation has decreased, with a majority of the decrease coming from residential customers. The large commercial electricity market has stabilized at about 85% of customers and 95% of load. Thus, the change in industrial customer retail participation since 2013 has been small relative to the residential market because the majority of commercial and industrial customers have already selected a supplier other than the default SOS.²²

As of November 2013, 52% of the total peak load in Maryland’s four largest utilities was provided by retail choice suppliers. As of August 2018, this number has decreased slightly to 46% of peak load being served by retail choice suppliers. As noted previously, much of the industrial and large commercial load switched during the previous years of competition. Residential and small commercial markets made significant gains in percent of competitive peak load from 2008 to 2013, moving from 3% to 28% and 21% to 40%, respectively. However, these figures have dropped in the period between 2013 and 2018 from 28% to 20% and 40% to 36%, respectively.

²¹ *In the Matter of the Current Status of Protections for Customers in Connection with Competitive Retail Gas Supply and Competitive Retail Electricity Supply.*

²² The only SOS still available to customers whose peak load contribution is greater than 600 kW is Hourly-Priced Service, in which the price paid by the customer tracks the hourly locational marginal prices (“LMP”) charged by the PJM Interconnection LLC.

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Number of Customers Served by Competitive Electricity Suppliers						
Dec. 2008	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	26,944	15,791	12,610	605	29,006	55,950
DPL	1,039	3,375	2,072	85	5,532	6,571
PE	40	3,671	2,540	106	6,317	6,357
Pepco	27,001	7,852	7,636	491	15,979	42,980
Total	55,024	30,689	24,858	1,287	56,834	111,858
Nov. 2013						
Nov. 2013	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	336,684	39,622	17,477	609	57,708	394,392
DPL	30,938	9,672	3,033	79	12,784	43,722
PE	32,709	7,807	3,368	100	11,275	43,984
Pepco	126,920	12,229	9,731	469	22,429	149,349
Total	524,971	69,151	33,544	1,252	103,947	628,918
Aug. 2018						
Aug. 2018	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	278,697	37,148	16,271	503	53,922	332,619
DPL	24,755	8,696	3,036	63	11,795	36,550
PE	25,555	7,962	3,719	102	11,783	37,338
Pepco	104,483	11,347	10,031	480	21,858	126,341
SMECO	4,538	146	118	1	265	4,803
Total	438,028	65,299	33,175	1,149	99,623	537,651

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Percentage of Peak Load Served by Competitive Electricity Suppliers						
Dec. 2008	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	2.60%	19.00%	63.90%	94.10%	71.90%	38.30%
DPL	0.80%	23.10%	61.70%	94.50%	64.50%	31.00%
PE	0.00%	19.00%	56.80%	83.90%	63.90%	29.60%
Pepco	6.70%	24.80%	64.80%	88.50%	72.50%	42.50%
Total	3.20%	20.70%	63.30%	91.50%	70.80%	37.90%
Nov. 2013	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	31.60%	40.10%	73.70%	95.00%	79.00%	54.50%
DPL	20.20%	45.20%	71.70%	96.50%	73.50%	44.00%
PE	15.40%	27.60%	66.60%	89.10%	70.00%	41.30%
Pepco	27.20%	45.70%	72.70%	91.10%	79.00%	54.70%
Total	27.60%	40.10%	72.50%	93.30%	77.70%	52.20%
Aug. 2018	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
BGE	24.90%	35.90%	76.50%	97.80%	79.90%	50.60%
DPL	15.60%	42.90%	72.20%	98.90%	74.40%	40.50%
PE	10.70%	31.50%	72.90%	94.60%	76.00%	40.60%
Pepco	20.50%	44.20%	76.70%	94.90%	82.40%	51.00%
SMECO	3.50%	1.40%	1.10%	0.30%	1.00%	2.70%
Total	20.10%	36.00%	72.00%	94.80%	76.70%	46.20%

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Activity Since 2013

The Commission used a series of litigated proceedings and settlements, rulemakings, and working groups to develop Electric Choice. Changes to regulations and tariffs relating to Electric Choice have been implemented using technical working groups and the Commission's administrative and rulemaking processes to address ongoing issues. In the immediate aftermath of the 2013-2014 heating season, the Commission instituted an investigation and, ultimately, rulemaking RM54. The rulemaking resulted in significant market enhancements as follows:

1. Require electric and gas suppliers to provide more information to customers by:
 - Requiring suppliers to make available to customers any rate change at least 12 days prior to the proposed change;
 - Requiring that suppliers provide direct notice to customers switching from fixed to variable rates of substantial rate increases; and
 - Requiring suppliers to provide new customers with a clear contract summary including basic terms such as price structure (fixed or variable), supply price, incentives, contract length, cancellation and early termination fees, and renewal terms.
2. Facilitate more electric customer choice by:
 - Permitting customers to switch to a new supplier in three business days – from a previous switching time of up to one month;
 - Allowing customers unable to reach their supplier to initiate a drop of supplier service via their utility after only three days; and
 - Requiring suppliers to publish an online listing of their available prices and offers.
3. Improve supplier oversight of third-party agents by:
 - Requiring suppliers to develop minimum qualifications for their agents;
 - Mandating that agents selling door-to-door pass a criminal background check;
 - Requiring suppliers to ensure their agents are properly trained in responsible and ethical sales practices;
 - Making suppliers liable for any unlawful fraudulent or deceptive marketing practices of third-party agents; and
 - Requiring supplier marketers to clearly identify themselves and the company they represent.
4. Expand the investigative authority of the Commission's Consumer Affairs Division to allow CAD to investigate allegations of violations when made aware of it and without a consumer complaint to move the investigation.

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The Commission also instituted enforcement investigations into specific actions of electricity and gas suppliers in Maryland. Recent examples of such investigations include Case No. 9324, *In the Matter of the Investigation into the Marketing Practices of Starion Energy Pa, Inc.* By Order No. 86211, issued March 7, 2014, Starion Energy PA, Inc. was issued a civil penalty of \$350,000 for violations of State law and regulations. In Case No. 9346, *In the Matter of the Investigation into the Marketing, Advertising and Trade Practices of American Power Partners, LLC; Blue Pilot Energy, LLC; Major Energy Electric Services, LLC and Major Energy Services, LLC; and Xoom Energy Maryland, LLC*, the marketing practices of four companies were examined. On October 30, 2015, XOOM Energy Maryland, LLC was issued a civil penalty of \$40,000 for violation of Commission regulations and ordered to provide refunds to customers who received improper renewal notices. On October 23, 2015, Major Energy Electric Services, LLC and Major Energy Services, LLC were issued a combined civil penalty of \$300,000 for violation of Commission regulations. Additionally, on May 13, 2016, Blue Pilot Energy, LLC was issued a civil penalty of \$140,000 for violation of the Maryland law. Blue Pilot has since ceased operations in Maryland.

More recently, the Commission held public proceedings (in Public Conference 44 or "PC44"), and created five stakeholder work groups to explore topics related to the grid of the future, one of which (the CMCC Work Group) is intended to address competitive markets and customer choice. This Work Group submitted two reports that address issues such as data access, companies that act as "energy consultants," customer protections, instant connects,²³ seamless moves,²⁴ modification of offers posted on the Commission website, budget billing, and

²³ "Instant connect" refers to the initiation of a customer's retail choice supply service on the first day of new utility service, without the customer first having to rely on the utility's default standard offer service.

²⁴ "Seamless moves" refers to the ability of a customer's choice of supplier to move with the customer to a new service address within the same service territory, without interruption.

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background checks. Both reports provide proposed rules for the Commission to decide upon.²⁵ Two rulemaking sessions were held on May 8, 2018, and August 23, 2018, which resulted in publication of modified COMAR rules.²⁶ The Commission also considered, but rejected without prejudice, regulations pertaining to: third-party access to customer energy usage data via the Green Button standard (“Green Button Connect”), seamless moves and instant connects, and supplier budget billing. Nevertheless, the Commission indicated interest in the Work Group continuing discussions of these issues and exploring alternative regulatory solutions.

The CMCC Work Group continues its work. Following the August 23, 2018 rule making, the Work Group has focused its efforts in two areas: 1) facilitating Green Button Connect for third-party non-supply service providers, and 2) supplier-related market enhancements.

The CMCC Work Group met on November 8, 2018, and discussed ways to allow a customer to authorize a non-supply service provider to access the customer’s data directly from the utilities. Although discussions on this topic are still evolving, stakeholders have been asked to submit a workable proposal or program priorities in advance of the next CMCC meeting on Green Button Connect, planned for mid-first quarter of 2019.

The CMCC Work Group also recently met to discuss issues relating to supplier market enhancements, including costs of permitting seamless moves and instant connects, e-mail notification of changes in variable rates, and wallet enrollments. Work Group members remain engaged, and the group continues to explore proposals and compromises to the benefit of the supplier market and consumers. At the next meeting, the Work Group will continue its

²⁵ See Maillog# 215930, Request for Rule Making in Public Conference 44, Jun. 30, 2017; Maillog# 218801, Petition to Initiate a Rulemaking Associated with PC44 and Enhancements to the Competitive Markets and Customer Choice Regulations, Feb. 1, 2018.

²⁶ See Maillog# 221955, COMAR Rulemaking Session 126 August 23, 2018 (Minutes of Rulemaking Session).

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discussions of supplier wallet enrollments as well as supplier levelized billing,²⁷ non-residential consumer protections,²⁸ and improvements to the retail choice supplier pages on the Commission's website. In addition, the work group will examine a cost sharing proposal as well as utility cost estimates for implementing seamless moves and instant connects.

In addition to the CMCC Work Group process, suppliers have also directly sought enhancements to improve Maryland's retail market. In September 2017, a group of retail suppliers petitioned the Commission for the ability to engage in supplier consolidated billing. The Commission docketed this request under Case No. 9461 and held hearings on February 20, 2018. This proposal—i.e., supplier billing on behalf of utilities—implicates consumer protection issues and statutory interpretation. Parties have engaged in extensive briefing before the Commission. This Case remains under consideration.

Notwithstanding the ability of customers to shop around and choose an electricity supplier that best meets their needs, the development of the competitive retail markets has not been without difficulties. Similar to complaints against utilities, complaints against retail suppliers are reviewed regularly by the Commission, and the Commission takes action, when appropriate.²⁹ In some instances, the Commission has imposed civil monetary penalties against suppliers.³⁰ The Commission also has the ability to revoke a supplier's license to sell electricity and do business in the State.

²⁷ The Maryland Office of People's Counsel has prepared draft regulations for the Work Group's consideration.

²⁸ The Commission's Technical Staff has prepared draft regulations for the Work Group's consideration.

²⁹ The Commission's process evaluates the number of complaints, both in total and as a proportion of each supplier's number of enrolled accounts, thus identifying prolonged periods of elevated complaint levels or spikes in the number of complaints.

³⁰ Case 9324 - *In the Matter of the Investigation into the Marketing Practices of Starion Energy Pa, Inc.* and Case 9255 *In the Matter of the Complaint of the Staff of the Public Service Commission Against Viridian Energy Pa, LLC.*

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The Commission enforces its regulations and addresses complaints by customers of retail suppliers through a variety of approaches. First, complaints may be filed with the Commission's Consumer Affairs Division. CAD investigates both utility- and supplier-related complaints and has the authority under COMAR to propose a resolution of the complaints. A complainant that is not satisfied by the decision of CAD may file an appeal with the Commission. If a hearing is necessary, these matters are usually heard by the Public Utility Law Judge Division. The Commission balances its consumer enforcement activities with its efforts to create and foster a competitive electricity supply market, as the Public Utilities Article requires.

The Transition of Standard Offer Service to a Default Service

SOS is the default service provided to new customers upon new service activation. SOS is also the service provided when a customer fails to select an alternative retail supplier, or when a retail supplier discontinues general operations or service to a specific customer. There are no current proceedings before the Commission that would significantly alter this arrangement or explore an alternative to SOS as the default service. For the largest industrial electricity customers, SOS is already fully a default service, with pricing linked to the hourly prices posted by the regional grid operator (PJM).³¹ Electric companies continue to have an obligation to provide SOS to residential and small commercial customers.³² The Commission approved electric companies continuing to provide SOS to mid-sized commercial customers in Case No. 9056.³³ The Commission has recently addressed the price structure and Utility compensation for providing

³¹ SOS is already what most people would consider to be a default service, in that it is the service most customers receive when they choose not to seek electricity service from retail suppliers, or when they open an account with their utility at a new address. However, in referencing a transition from SOS to default service, the General Assembly appears to be invoking the concept of a more rigorous "true" default service, under which a customer would only receive SOS service from their utility if no supplier will provide service, generally when the customer in question is a poor credit risk.

³² PUA § 7-510(c)(3)(ii)(2).

³³ *In the Matter of the Commission's Investigation into Default Service for Type II Standard Offer Service Customers*, Order No. 81019, August 28, 2006.

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SOS in Case Nos. 9221, 9226 and 9232. In Case No. 9221, the Commission adjusted the Utility compensation for providing SOS to include both the Utility's costs and a return on providing the SOS service, resulting in a reduced SOS administrative charge. This decision is currently on appeal to the Maryland Court of Special Appeals. Similar reviews for Delmarva Power & Light Company (Case No. 9226) and Potomac Electric Power and Light Company (Case No. 9232) are currently under Commission review.

The Commission considers incremental changes to the SOS bid process through an annual review and report on the Standard Offer Service Procurement Process, docketed in Case Nos. 9064 and 9056.³⁴ At periodic intervals, if the Commission deems it necessary, the Commission can open a major policy review to consider broader changes to the way SOS and default service have been implemented in Maryland.

Conclusion

SOS and the competitive electricity market in Maryland continue to evolve. While the Commission, by statute, does not regulate supplier rates, the Commission takes seriously its responsibility to guide the development of the market, including the vigorous exercise of its enforcement powers. Since the events of the Polar Vortex, the Commission has been particularly active enforcing its existing rules and regulations and creating new ones. This process is ongoing and will also consider the findings of recent reports by ratepayer advocates and other interested parties.

³⁴ *In the Matter of the Competitive Selection of Electricity Supplier/Standard Offer or Default Service for Investor-Owned Utility Small Commercial Customers; and for the Potomac Edison Company D/B/A Allegheny Power's, Delmarva Power and Light Company's and Potomac Electric Power Company's Residential Customers.*