

**Independent Power Producers and  
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**Rajnish Barua, Ph.D.**

Director, Integrated Resource Planning Division

**Maryland Public Service Commission**

6 St. Paul Street

Baltimore, MD 21202

Tel: 410-767-8024

E-mail: [rbarua@psc.state.md.us](mailto:rbarua@psc.state.md.us)

# Maryland's Electric Customer Choice and Competition Act of 1999

- Restructured the electric utility industry in Maryland

## **Goals of the Act -**

- Foster development of competition in Maryland's retail electric supply market by providing price stability through utility-supplied generation service option
- Promote reliability and protect customers
- Provide economic benefits to all customer classes
- Treat stakeholders fairly
- Avoid violation of federal and state regulations

# Restructuring Settlements

- After passage of Act, the Commission approved restructuring settlements for each investor-owned utility and cooperative.
- The settlements set forth framework for retail competition in each service territory.

# Framework of Settlements

- Deregulated electricity supply and pricing of electricity.
- Initial sign-up by customers for choice of electric suppliers as early as April 2000, with service beginning July 1, 2000.
- If customers did not choose electric supplier, utility companies offered Standard Offer Service (SOS) for a period not less than 4 years.
- Established rate caps.
- SOS rates were 6.5% lower for residential customers than those in effect prior to restructuring settlements.
- Electric choice envisions that customers may save more money by switching to alternative supplier.

# SOS Obligations for Each Electricity Distribution Company

## **EDC “A”**

- Non-Residential: December 2004
- Residential: December 2008

## **EDC “B”**

- Industrial: June 2001/2002
- Commercial: June 2004
- Residential: June 2006

## **EDC “C”**

- Residential and Non-Residential : June 2004

## **EDC “D”**

- Non-Residential: June 2003
- Residential: June 2004

## SOS Statutory Requirements §7-510 (c)

### **Commission must act promptly to:**

- Determine competitiveness of electricity supply market in Maryland;
- If not competitive, provide for ongoing availability of SOS to ensure stable transition for residential and small commercial customers;
- Ensure reliable service for all customers.

# SOS Proceeding

- Case No. 8908 established in Dec.2001.
- 21 parties intervened, including the Office of People's Counsel, electricity suppliers, electricity generators, electric distribution companies.
- Parties articulated five threshold questions for Commission to answer before SOS proposal could be crafted.

# Five Threshold Questions

1. Can the Commission make a finding that the electricity market is not competitive without first conducting a competitive bid process?
2. Whether the power to delay implementation of the SOS selection process can be exercised for reasons other than, and independent of, the findings set forth in §7-510(c)(3).
3. Whether the phrase “competitive selection of electricity suppliers” can be interpreted to mean a competitive selection for wholesale contracts to meet the needs of retail customers.
4. What is the energy supply obligation of an electric distribution company to a customer without a supplier?
5. After July 1, 2003, is SOS under PSC Article Section 7-510 (c) to be provided for all customers, and if not, for which customers?

# Chronology of Events in CN8908

**May 2002:** Commission issued Order 77806 addressing threshold questions.

**September 2002:** Two days of hearings; Commission directed parties to achieve a settlement or alternatively it would resolve SOS issues by January 2003.

**November 2002:** Parties filed Settlement Agreement.

**December 2002:** three days of hearings on Settlement.

**January 2003:** Parties filed initial and reply briefs.

**April 2003:** Settlement Agreement approved by Commission (Order No. 78400).

# Standard of Review for Analyzing Settlement Agreement

**Key question:** *Whether Settlement is in public interest and supported by substantial evidence on the record as a whole.*

Other factors include:

- Economic evidence;
- Desirability of avoiding costly and time-consuming rate proceedings;
- Whether settling parties represent abnormal and adverse interests of other settling parties; and,
- Reasonableness of effects of settlement upon particular customer classes.

# Standard of Review for Analyzing Settlement Agreement

- Complying with the goals envisioned by Legislature when it enacted the 1999 Act.

## Goals of Commission

- Desire to continue evolution of competition.
- Wish for suppliers to evolve in their line of business.
- Minimize costs to suppliers.

# The Settlement Agreement

## 20 Settling Parties to Settlement

- Broad-based support from electric suppliers, electric distribution companies, OPC, Commission Staff, other government entities, and commercial trade groups

## Three main components of the Settlement

1. Sets forth terms and procedures for provision of SOS to customers through competitive selection of wholesale supply for various periods of time (2004-2012) and for various service areas.
2. Provides for a true Default Service, known as Hourly-Priced Non-Residential Service.
3. Provides for technical details to be determined in Phase II of the proceeding.

## Types of Electric Service: Residential SOS

Available for 4 years to all customers

- EDC “A” (Jan.2009)
- EDC “B” (July 2006)
- EDC “C” (July 2004)
- EDC “D” (July 2004)

# Types of Electric Service: Non-Residential SOS

- ***Type I (small businesses)***
  - Available for 4 years to all customers.
  - No customer switching rules.
  - Example: local dry cleaners and flower shops.
- ***Type II (mid-large size businesses)***
  - Available for 2 years.
  - Available to all N-R customers using less than 600 kW.
  - No customer switching rules.
  - Example: Larger grocery stores.
- ***Type III (large industrial)***
  - Available for 1 year.
  - No customer switching rules.
  - Available to all N-R customers who consume over 600 kW.
  - Examples: Sugar factory, Chicken farms.

## Types of Electric Service:

### Hourly-Priced Non-Residential Service (HPS)

- HPS is a “true default” service. Essentially, one receives the service if one does not have a contract or is purchasing electricity pursuant to a tariff. The Distribution Company must purchase power at the spot market price (in our case PJM) and bills the cost to the customer. There are no discounts.
- Generally, only Type III customers are eligible.
- No minimum stay, exit fees or penalties, or switching rules

# Policy Reviews

- Commission will docket a proceeding for a major policy review for each service type except Type III.
- This will occur during the second half of the second program year of each utility's service period and for each customer class (except Type III), when procurement and price results for the second year are known and there are some second year enrollment experience.
- Initiated by the Commission Staff.
- Allows Commission to analyze and make recommendations to determine whether and how SOS programs will be continued.

# Model Bid Plans (MBP)

- Electric supply obtained using utility specific bid plans based on model bid plans.
- Use of competitive wholesale procurement process.
- Does not apply to HPS.
- Presumption is that process will use Requests for Proposals (RFPs) to solicit supply offers.
- Developed in Phase II and submitted to Commission for approval.
- Utilities will solicit offers for Full Requirements Service.

# Model Bid Plans (MBP)

- Contracts for supply will be:
  - Type I: 1 and 2 years.
  - Type II and III: 1 year.
  - Residential SOS: 1, 2, and 3 years.
- Total supply load may be divided into load blocks (tranches) for supply diversity and reliability.

# The Wholesale Bidding Process

- Electric supply for SOS obtained pursuant to competitive wholesale procurement process.
- Model Bid Plans will be developed in Phase II, and submitted to Commission for approval; presumption process will use RFPs to solicit supply offers.
- Utilities solicit Full Requirements Service (to be worked out in Phase II); includes, but not limited to provision of electric energy, energy losses, generation capacity, ancillary services, and other PJM and FERC-approved services and associated costs relative to utilities' SOS load obligation.

# The Wholesale Bidding Process

- Each utility solicit offers for contracts for supply for the following terms:
  - Residential – 1, 2, and 3 years.
  - Type I – 1 and 2 years.
  - Type II and Type III – 1 year.
- Total load may be divided into load blocks to promote diversity of supply and reliable contract performance.
- Each load block will be a certain % of the total SOS load and each supplier will be obligated to supply that % of the load at all times.

# The Wholesale Bidding Process

- Utilities select length of contract to meet percentage targets in accordance with MBP.
- Residential
  - 1 Year: offers must comprise at least 50% of the year's requirements
  - 2 Year: 25%
  - 3 Year: 25%
- Type I
  - 1 Year – 50% load
  - 2 Year – 30% load

# The Wholesale Bidding Process

- Each utility submits specific forms of bid requests, evaluation plan, and standard form contracts -- known as Utility Bid Plans (UBP) -- to Commission for review of compliance with Commission-approved MBP.
- Each utility submits final bid results, bid awards and proposed contracts to Commission for review and determination of compliance with UBP.
- Commission has 48 hours to determine if contracts are in compliance with UBP; contracts are considered approved unless Commission orders otherwise.
- Winning bidders receive actual prices in their offers for each year of the term of their supply contract; winning bidders not able to revise prices or terms and conditions of their supply contracts

# Retail Prices

- Consist of seasonally-differentiated, and if applicable, time-of-use differentiated load weighted average of the supply contracts for each year
- FERC-approved transmission charges and any other PJM charges and SOS related costs
- Administrative Charge
- Applicable taxes

# Administrative Charge

Composed of:

- Utility return component; not reflected in a utility's distribution rates;
- Incremental costs component;
- Uncollectibles;
- Administrative charge component; and,
- Not applicable to generation supply provided by competitive retail suppliers.

# Misc. Provisions and Reservations

- Does not apply to most electric cooperatives

## Technical Consultant for the Commission

- Utilities obtain and pay for independent consultants as part of their incremental costs
- Consultant will monitor procurement of SOS services and Type III Large-Customer Service
- Consultant will be selected by and will work at direction of Commission or its Staff
- Consultant costs will be included in the incremental costs that utilities will recover through Administrative Charges

## Other Issues

- Not precedent for any future case
- Settling parties stipulate not to seek judicial review of a Commission order approving Settlement without modification
- Provisions are not severable
- Nothing abrogates any existing or future contract or competitive retail electric supply

# Phase II Settlement

- Contains other crucial details of the competitive procurement determined in the Phase II Settlement.
- Provided all the documents which constitute the Utility Bid Plan:
  - Model Request for Proposals (RFP); Expression of Interest (EOI) Form; Confidentiality Agreement; Credit Application; Bid Form Spreadsheets; Residential Price Anomaly Threshold (PAT) procedure; and the Binding Bid Agreement Form.
  - Model Full Requirements Service Agreement (FSA) including key contract terms such as that addressing volumetric risk and default provisions.

# Commission's Technical Consultant

- To assist the Commission and its Staff with the oversight of the competitive procurement, a Technical Consultant was hired by the Commission and paid for by the four utilities.
- A competitive procurement was issued and, in early October 2003, a Technical Consultant team was hired.
- The Technical Consultant will monitor compliance in all phases of the RFP: (a) advertising the RFP and establishing a web site for communication with potential bidders; (b) conducting a pre-bid conference and following up on issues raised in that conference; (c) pre-qualifying bidders; and (d) conducting the RFP (choosing winning bidders, applying the PAT, and executing the FSAs).

# Key Activities

## **October 2003**

- The utilities (a) jointly distributed a letter to all PJM participants plus a number of other potential bidders at the request of the MPSC, (b) issued a press release to 28 industry publications, and (c) launched their websites.
- The utilities held a joint pre-bid meeting in Baltimore; over 30 interested entities attended.
- Technical Consultant met with one Commissioner and senior Staff members and made a presentation that outlined its understanding of the RFP process, the important technical issues that needed further evaluation, and a list of goals and next steps.

# Key Activities

## **November 2003**

- Technical Consultant met with distribution utilities to discuss (i) its role, (ii) utility's accomplishments to-date, (iii) logistics and specific mechanics for the evaluation of bids and credit applications (iv) implementation of affiliated codes of conduct, (v) other issues and questions, and (vi) next steps.
- Technical Consultant met with the OPC to discuss the Residential Price Anomaly Threshold (PAT).

## **December 2003**

- Technical Consultant and EDCs conducted dry runs of the bid-day evaluation process. The dry runs simulation were successful and provided insights that helped the actual bid day run more smoothly.

## **January 16, 2004**

- All potential bidders submit the FERC, PJM, and financial requirements as required in the RFP in order to receive eligibility approval to participate in the bidding process.

# Key Activities

- ***February 9, 2004***: Bids for 1st Tranche;  
Commission action February 13.
- ***February 23, 2004***: Bids for 2nd Tranche;  
Commission action February 27.
- ***March 8, 2004***: Bids for 3rd Tranche  
Commission action March 12.
- ***March 22, 2004***: Bids for 4th Tranche  
Commission action March 26.
- EDCs post actual “price-to-compare” by end of April
- Increased applications for retail electric suppliers.

## Key Activities

- A competitive wholesale procurement process was used to solicit offers for Full Requirements Service. The contracts for electric supply by type of service were:
  - Residential - 1, 2, and 3 years.
  - Type I Non-residential - 1 and 2 years.
  - Type II and III Non-residential - 1 year.

# Bid Week Activities

- **Monday** - Bids faxed to EDCs by 17:00PM with Commission monitors in sealed bid room and analyzed late night.
- **Tuesday** - Winning bidders notified; preliminary documents signed.
- **Wednesday** - EDCs file winning bids by 17:00PM to the Commission for review.
- **Thursday** - Commission meets with Technical Consultant and select senior Staff for review.
- **Friday** - If Commission finds anomalies in bids, then rejects; otherwise, no action and bids accepted by EDCs.

***Wholesale contract is between EDC and supplier!***

# Key Results

- The utilities conformed to their Bid Plans as required by Commission Orders and there were appropriate security measures on all bid days.
  - Of the 25 bidders in this process, 14 won some portion of the load.
  - There was evidence of robust competition in terms of the number of bidders as well as the number of bids received.
  - The bid prices reflected general economic conditions.

## Key Results

- On average, the number of megawatts (MW) bidders offered was nearly five times greater than the number of MWs awarded. This also demonstrates robust competition in the bidding process.
- Another indication of robust competition is the fact that there was a wide range of bid prices.

# Key Results

For purposes of comparison, the discounted weighted average wholesale bid prices for electricity supply only were (does not include delivery and other applicable charges):

EDC=	“A”	“B”	“C”	“D”
(\$/MWh and rounded)				
<b>Residential</b>	<b>NA</b>	<b>NA</b>	<b>50</b>	<b>52</b>
<b>Small Commercial</b>	<b>49</b>	<b>50</b>	<b>50</b>	<b>54</b>

# Did the bids reflect the electricity market?

- Increase in Consumer Price Index for all good and services since January 2000 is 9.7%.
- Increase in Consumer Price Index for all household fuels and utilities (excluding vehicle fuels such as gasoline) since January 2000 is 20.2%.
- Increase in Consumer Price Index for all household natural gas usage since January 2000 is 50.4%.
- Based on these comparisons, the bids received were appropriate relative to economic conditions.

*More more information, log on to MD-PSC's Web site at*

<http://www.psc.state.md.us/psc/home.htm>