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Terry J. Romine, Esq.
Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 St. Paul Street
Baltimore, MD 21202-6806

- Re: PSC Case 9117 – In the Matter of the Commission’s
Investigation of Investor-Owned Electric Companies’
Standard Offer Service for Residential and Small
Commercial Customers in Maryland
- Re: PSC Case 9214 – In the Matter of Whether New
Generating Facilities are Needed to Meet Long-Term
Demand for Standard Offer Service

Dear Ms. Romine:

Enclosed please find the comments of the PJM Power Providers Group in response to the comments filed by the Maryland Energy Administration on December 18, 2009 in the above-referenced dockets.

If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,



Todd R. Chason

cc: Parties of record – Case 9117
Parties of record – Case 9214

THE P³ GROUP

January 11, 2010

Dear Chairman Nazarian and Members of the Public Service Commission,

Competing legislative and regulatory proposals over the last several years, while perhaps well-intentioned, have left Maryland with the unfortunate distinction of being one of the least attractive states in the nation in which to consider an investment in the electricity sector. Maryland is one of the few states in the country that continues to actively consider fundamentally changing its electricity market structure. Conversely, competitive markets in other states have attracted significant investments and several projects that benefit Maryland have been built in other states.

As policymakers struggle to examine the intricacies of the electricity market, it is not always easy to explain the nuances of this market to voters. Naturally, policymakers will be drawn to positions that are easy to explain. However, as this Commission knows and appreciates, the easy answers are not always in the best long-term interest of consumers.

The Maryland Energy Administration's (MEA) December 18 submission to the Commission advocates a move towards re-monopolizing Maryland's electricity market. The proposal is grounded on a narrow set of information and misperceptions that do not square with the many economic and environmental benefits provided to Maryland consumers through the competitive market. Such proposals are neither necessary in the short-run, nor beneficial in the long run. Regrettably, the MEA's submission would lead Maryland down a path that may:

- make market-stifling regulatory uncertainty worse,
- lead to uneconomic development and thus higher costs to consumers over time,
- shift risk from competitive entities back to Maryland consumers,
- compromise the right of Maryland consumers to choose an alternative supplier; and,
- chill investments that would promote reliability.

P3, which represents the bulk of Maryland's electricity suppliers, as well as the vast majority of the electricity suppliers in the mid-Atlantic region, respectfully urges this Commission to exercise its statutorily independent authority, as it has in the past, and pursue a different

course.¹ P3 firmly believes that the long-term public interest is best served by a market structure that relies upon competition among supply resources to meet consumer demands. Such a market structure should be supported by a properly-designed and well-functioning wholesale market that provides transparent prices and liquid supply to enable retail opportunities for consumers. Educated and empowered consumers with opportunities to access vibrant wholesale and retail markets will drive the marketplace while maintaining the electric system reliability our modern society demands.

Re-monopolization is not in the best long term interest of Maryland consumers

Last session, the General Assembly appropriately declined to pass a mandate to require all new generation be rate-based in Maryland, and the Commission would be well-served to follow this lead. There were many compelling reasons for the rejection of this mis-guided effort last session, but, in general, Marylanders will not benefit from further debate about whether to re-monopolize as much as they would from a strong focus on real solutions to their energy challenges.

Simply stated, the re-monopolization or “re-regulation” of Maryland’s electricity industry is a poorly-conceived idea that will worsen Maryland’s energy concerns and impose unnecessary costs and risks on consumers.² “Re-regulation” is a misnomer designed to persuade policy-makers to dictate monopoly control of supply instead of relying on market principles subject to close regulatory scrutiny. Proponents of returning to a state regulated monopoly in Maryland ignore the regional nature of the electricity grid; local, regional and global environmental policy that has evolved over the last century; and the basic rationale for restructuring in Maryland – that monopoly supply had proven more economically inefficient than market-based competition. The idea that the clock can be turned back to monopoly regulation is not realistic and certainly not in the long term interest of Maryland consumers. Consider these facts:

1. There is more than enough power available to meet Maryland’s short and near term needs. Ample resources plus an additional 20% reserve margin have been secured in

¹ P3 is a non-profit organization dedicated to advancing federal, state and regional policies that promote properly designed and well-functioning electricity markets in the PJM region. Combined, P3’s eleven member companies own over 75,000 megawatts of power and over 51,000 miles of transmission lines in the PJM region, serve nearly 12.2 million customers and employ over 55,000 people in the 13-state and District of Columbia PJM region. The views expressed in this letter do not necessarily reflect the views of individual P3 members with respect to any specific issue. For more information on P3, visit www.p3powergroup.com.

² Absent from the MEA’s submission is any discussion of how consumers would be required to pay for new rate based generation. As the Commission knows, the debate about “who pays” and “how much” was the source of significant legislative debate last session.

Maryland through May of 2013 with numerous competing resources available to enter the market should they be required.³

2. Beyond 2013, PJM is considering numerous transmission and generation investment proposals that will benefit Maryland.⁴
3. The current PJM capacity construct is promoting reliability-sustaining investments throughout the PJM region and in Maryland specifically.⁵
4. Maryland is part of a regional market and benefits enormously from being a member of a multi-jurisdictional power pool. According to the PJM value proposition, Maryland shares in the \$2.3 billion benefit that PJM provides to the region it serves.⁶
5. As a result of Maryland's pro-competition policies, Maryland consumers no longer bear the financial risks associated with financing, operating, building and owning generation.
6. More Maryland consumers than ever are shopping for their electricity services in the competitive market. Over 40% of Maryland's total load is purchasing electricity from a supplier other than the traditional utility and residential shopping has increased 40% the last year.⁷
7. For those consumers who did not choose alternative suppliers, Standard Offer Service has resulted in stable, competitively-priced default service typically offered via several competing wholesale suppliers.
8. As P3 has already commented upon in this docket, the Levitan Study, which the MEA uses as a basis for its position, was conducted at a time of record high energy prices (e.g., Henry Hub natural gas price forecasts of \$9.88/MMBtu in 2009 and \$8.41 in 2014), assumed that major transmission upgrades would be delayed or not completed at all, and assumed higher capacity prices than were reflected in the most recent PJM capacity auction (as well as the ability to affect capacity prices in an area that was not constrained in that auction). Clearly, there have been significant changes since this 2008 study was completed that the Commission should consider rather than rely upon this outdated research.

³ See: www.pjm.com/markets...operations/rpm/.../media/markets-ops/rpm/rpm-auction-info/2012-13-base-residual-auction-report-document-pdf.ashx at page 5.

⁴ To view the current PJM queue see: <http://www.pjm.com/planning/generation-interconnection/generation-queue-active.aspx>

⁵ The notion that capacity charges are new and that consumers have never paid for capacity is simply false. Marylanders have always paid for capacity resources; however, now as a result of RPM more resources, such as demand response and energy efficiency, are able to compete with generation to provide that capacity product with the results being more transparent than ever.

⁶ See: <http://www.pjm.com/~media/documents/presentations/pjm-value-proposition.ashx>. Maryland represents about 10% of the overall PJM peak load.

⁷ See, http://webapp.psc.state.md.us/Intranet/CaseNum/submit_new.cfm?DirPath=\\Coldfusion\Electric Choice Reports\2009 Electric Choice Enrollment Reports&CaseN=Electric Choice Enrollment Monthly Reports

Moving Forward: A Framework for Success in Maryland

The Commission should resist the call for a retreat to monopoly regulation, and instead should seize the opportunity to move forward and create a sustainable electricity market for Maryland consumers. P3 respectfully suggests that the Commission be guided by the principles below:

1. Do not intervene in the market unless reliability is clearly threatened

P3 has consistently maintained that the Commission should only exercise any authority it may have to intervene if a reliability crisis exists that can only be addressed through state regulatory intervention.⁸ Rate-based generation is likely to cost more than existing market-based supply. If Maryland returned to a monopoly market structure, captive ratepayers would bear all the risk of new construction cost overruns and delays, fuel price swings, environmental compliance costs, and plant outages for the life of the asset, which may extend to 30 years or more. Throughout history, regulators have proved much more inefficient than markets at making the decisions necessary to deal with these complex investments. The market is capable of managing these various factors without imposing this substantial investment risk on consumers (it has thus far proven it can), so governmental intervention should be resisted.⁹

Since electric generation is not a natural monopoly in Maryland, there is no compelling reason why consumers and the Public Service Commission should reassume the risks associated with the large, capital-intensive activity of deciding what generation should be built and then requiring electric distribution companies, and in turn Maryland consumers, to take on the risks of building, owning and operating generating stations. Such a move would only slow the implementation of technological advances, shift risks to Maryland consumers and promote inefficient choices of electricity supply.

⁸ P3 has also maintained that if any such new resources are ordered by the PSC, they should be competitively procured, contracts should be for the minimal term necessary and not discriminate against existing or out of state resources. Costs should be imposed directly upon the load that benefit from the new resources, and the new resource must not undermine wholesale market rules, appropriate principles of cost allocation, capacity or energy pricing, or existing contracts.

⁹ The wholesale marketplace employs market-based mechanisms to assure adequate supply at the lowest cost while respecting reliability mandates. The market mechanisms accommodate the lead time necessary to respond to imminent reliability threats, thereby avoiding "boom and bust" costs to consumers. Because Maryland benefits from all the resources within the entire PJM grid, it currently has no reliability threats, an excess of supply available to it, and burgeoning demand side response resources. New generation supply in MD is currently neither necessary nor economic. Should circumstances change, the market has proven its ability to respond through sufficient competitive supply offers.

2. Allow competition to work in Maryland

Competition can and does work. Many states with market structures similar to Maryland's are enjoying remarkable success by promoting consumer choice. There are numerous examples that could be cited, but perhaps the most compelling example is unfolding for consumers of PPL in Pennsylvania. Rate caps expired in PPL's service territory on December 31, 2009 and alternative suppliers are actively competing for consumers by offering lower priced competitive alternatives to PPL's default rates.¹⁰

The Pennsylvania Public Utility Commission took numerous steps over the past year to foster retail competition in the state. It pushed electric utilities to change practices in order to promote greater access to information that will foster competition. It required utilities to change consumer interface mechanisms, share customer information databases, establish purchase of receivables programs, develop consumer education programs and explore time-of-use rates.¹¹ All these steps were done administratively by the Pennsylvania Commission and all have affirmatively promoted competition in Pennsylvania.

Consumers would be well-served if this Commission similarly took affirmative steps to encourage retail competition. Consumers will also benefit if wholesale markets are allowed to work and continue to deliver value to consumers. The economic, environmental and reliability benefits for Maryland consumers from PJM membership are enormous. Maryland should continue to work with PJM and FERC to further enhance these markets and ensure that they continue to maintain reliability and attract the lowest cost generation available into Maryland's market.

3. End the regulatory uncertainty

Finally, and perhaps most importantly, it is time to bring to a close the questions about Maryland's electricity future that have clouded the state's investment climate for several years. Consumers, utilities, investors and other market participants need certainty regarding the regulatory environment in which they will make decisions. It is particularly difficult to commit capital to long-lived generation projects in Maryland given an enhanced level of regulatory uncertainty over re-monopolization.

As the MEA submission referenced, this Commission has the tools available to define Maryland's electricity future. The Commission has the opportunity to move Maryland forward with policies that have been proven to increase competition and provide opportunities for Maryland consumers. The alternative is to return Maryland to a monopoly structure that

¹⁰ Unofficial media reports state that 13% of residential consumers switched to an alternative supplier prior to the expiration of the rate caps. See: <http://articles.lancasteronline.com/local/4/247134>

¹¹ See, http://www.puc.state.pa.us/General/press_releases/Press_Releases.aspx?ShowPR=2312

saddles consumers with long term commitments to potentially uneconomic investments and denies these same consumers the ability to manage their own destiny.

P3 strongly encourages this Commission to take an independent look at all the facts and recognize the promise that competitive markets represent for Maryland's consumers and the state's economy.

Respectfully submitted,

On Behalf of the PJM Power Providers Group

By

/s/ Glen Thomas

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