

**PUBLIC SERVICE COMMISSION
OF MARYLAND**

C90G00

**RESPONSE TO
ANALYSIS OF THE FY 2013 MARYLAND
EXECUTIVE BUDGET, 2012**

Introduction

Good afternoon.

The Commission thanks Ms. Zimmerman for the excellent analysis that she prepared. As the committee can see from the analysis, the PSC continues to be extremely busy addressing the filings by the public service companies and the ratepayers. The matters before the PSC range from simple routine matters, such as a name change by a public service company, to the more complex cases, such as the recently proposed merger transaction between Exelon Corporation and Constellation Energy Group, Inc. and the development of regulations implementing service quality and reliability standards for electric distribution companies.

Like many other State agencies, the PSC continues to struggle with the increasing work load and the reduced resources, such as staff and travel funds. The PSC has become a recognized leader in applying regulatory oversight over new technologies, such as its decision in the Advanced Metering Infrastructure matters involving Baltimore Gas and Electric Company (Case No. 9208) and Potomac Electric Power Company and Delmarva Power & Light Company (Case No. 9207). Further, the PSC continues to play a visible and active role in proceedings before the Federal Energy Regulatory Commission to ensure that the PJM Interconnection procedures are reasonable and just, and do not have an unintended consequence of increasing the price of electricity supply for retail customers in Maryland, or reducing the reliability or capacity of electricity supply in Maryland.

Unless you have any questions, I will address the questions and comments in the Budget Analysis:

Performance Analysis: Managing for Results

The PSC should describe how the delays in completing ministerial work items within 30 days impact the work of the Commission.

Response:

The PSC sets a goal of completing 80 percent of ministerial matters (*e.g.*, letter orders, uncontested filings) and staff comments on utility filings within a 30 day timeframe.

The difficulty for the PSC for setting this goal is that in many cases, it has no control over a number of factors that will drive the actual results of the MFR goal:

- The volume and type of filings that are submitted to the PSC for review and action fluctuate from year-to-year;

- The complexity of each filing cannot be predicted. The more complex a filing, staff may require additional time to conduct the analysis or more staff resources may need to be devoted to it, including a need for evidentiary hearings conducted by the Public Utility Law Judge Division or by the PSC en banc; and
- The Commission prefers that Staff conduct a comprehensive analysis of an item before it gets placed on a final agenda for Commission review. Forwarding incomplete work actually results in further delays to the applicants. Due to the lack of salary advancement, the Commission is experiencing difficulty retaining experienced Staff and attracting experienced new individuals. New hires with little experience require more time to process the work. The burden of such delays falls more on the applicants than the Commission.

During 2011, however, the Commission has implemented new procedures to streamline the processing of certain high-volume streams of work, most notably applications for certification as a solar energy facility. Those applications are now submitted electronically, reviewed electronically, and approved outside of the formal Administrative Meeting process. We expect this change, which applies as well to solar hot water facility applications submitted under Chapters 407 and 408 of 2011, to improve our MFR performance in the coming years.

Consultant Services:

PSC should explain its new process for estimating consultant services needs as part of the budget process.

Response:

Generally, the need for a consultant occurs when the PSC does not have in-house staff that has experience in a particular discipline that is needed for the analysis of a matter. During this fiscal year, a number of complex cases required consultants due to insufficient Technical Staff to participate as witnesses in all the matters. For example, the analysis of market power resulting from the potential merger between Exelon Corporation and Constellation Energy Group, Inc. required the expertise of an outside consultant to perform an extensive review, as did litigation regarding complex wholesale electricity market rules at the Federal Energy Regulatory Commission and in the federal courts.

The majority of proceedings that are undertaken by the PSC that require consultants are proceedings that the PSC is reacting to, and not proactively planning to initiate. To the best of its ability, the PSC submits its budget request for consulting services based on available information known at the time of the budget submission including any anticipated filings from applicants, as well as the current state of expertise available within the Commission Staff. The PSC will continue to utilize budget

amendments as necessary, to ensure that an application gets the thorough review required, if consultant resources are exhausted during the fiscal year because of unanticipated proceedings at the time of budget preparation. The consulting funds included in the FY 2013 budget should, however, meet the needs we can foresee at this time and reduce our need to seek budget amendments.

PSC should comment on how it would evaluate when the funds for consultants provided in the uncodified language in the Maryland Offshore Wind Energy Act of 2012 (SB 237) would be required.

Response:

Uncodified language in the Maryland Offshore Wind Energy Act of 2012 (SB 237) allows for \$3.0 million to be assessed by the PSC during Fiscal years 2013 through 2016. The Commission may require some of the funds to be used to develop regulations to implement the legislation which would require some to be spent in FY 2013. It is expected, however, that the bulk of the consulting money would be used to review offshore wind energy applications that are more likely to begin in FY 2014. Naturally, it is difficult to predict this with precision as the timing of applications or other events depends on decisions by the United States Department of the Interior and other bodies the Commission does not control.

Issues:

1. Electric Universal Service Program Ratepayer Surcharge Collections Exceed Authorized Levels:

PSC should explain why it has not taken steps to re-evaluate the surcharge to ensure that the level of collections represents only the level allowed under statute.

Response:

The Commission does monitor Electric Universal Service Program (“EUSP”) collections. Devising a rate element which collects an exact dollar amount annually is difficult. Further, in the Joint Chairmen’s Report – Operating Budget, April 2011 (pages 94 -95), the Office of Home Energy Program (“OHEP”) was directed to submit a plan for long-term funding sustainability for energy assistance, including the amount of funds collected from the ratepayer surcharge.

As OHEP’s demand for funds from low income customers has been exceeding OHEP’s annual fund requirements, the Commission determined to await the report from OHEP prior to initiating a proceeding to modify the rate element. The Commission believed that for the interim it was preferable that the EUSP fund have a small over-collection (which represents approximately 5.4% of the total in FY 2011) then be underfunded. The Commission will address this rate element this year.

2. Examination of Power Purchase Agreement - Other Efforts to Increase In-State Generation:

PSC should discuss options for resolving these overlapping options for creating new generation and the concerns expressed by various parties related to the RFP.

Response:

The Public Service Commission elected to define a specific geographic area for new generation to be located in its RFP for New Generation based on the anticipated long-term demand for electricity in the State and the areas of the State that fall within constrained areas of the transmission grid. Existing market rules (called RPM) have failed to attract new generation from the private sector. Since the beginning of the RPM market, the average clearing price in the Southwest MAAC zone (the zone which contains BGE and Pepco) has been about double that of the rest of the PJM RTO (the unconstrained portion of the RTO). Despite this price signal, practically no generation has been built in Maryland. Since 2006, only 202 MW of generation has actually come on-line in Maryland. Southwest MAAC has a significant transmission constraint on east – west transmission, keeping prices high and threatening reliability. If the RFP is to address this transmission constraint and ensure reliability, the Commission concluded the new generation should be located in Southwest MAAC. Since there are Motions pending in 9214 asking for reconsideration of this very question, the Commission is precluded from commenting further on this issue at this time.

The new generation proposed in the pending merger application between Constellation Energy Group Inc. and Exelon Corporation is separate, although that case will be decided before the Commission decides whether to order new generation in Case No. 9214 and may, or may not, bear on that decision. Renewable generation, such as solar and wind, is intermittent and would not substitute for the new natural gas-fired generation called for in the RFP, and may not be in the needed location in any event. The RFP, as issued, calls for proposals for up to 1,500 MW. The Commission heard from numerous parties, including the Independent Market Monitor, at the PSC's January 31, 2012 hearing concerning need for new generation and will give serious consideration to all of the points they raised (including all other options) in reaching its decision on whether new generation is needed and, if so, how much. The Commission cannot comment further on issues pending in an open case.

* * * * *

I will be happy to respond to any other questions that you may have. Otherwise, I thank you for your time and attention.