

**BEFORE THE
PUBLIC SERVICE COMMISSION OF MARYLAND**

**In the Matter of the Commission's Inquiry)
Into the Competitive Selection of Electricity)
Supplier/Standard Offer Service)**

Case No. 8908

**PETITION TO INTERVENE OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION**

This Petition to Intervene is filed by the National Energy Marketers Association (NEM) pursuant to Section 3-106 of the Public Utility Companies Article of the Annotated Code of Maryland and the Notice dated December 18, 2001, in the above-referenced proceeding. NEM requests that this Petition be granted for the reasons set forth below.

I.

Communications and correspondence concerning this matter should be directed to the following:

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II.

NEM is a national, non-profit trade association representing a regionally diverse cross-section of both wholesale and retail marketers of energy and energy-related products, services, information and technology throughout the United States. NEM's membership includes: small regional marketers, large traditional international wholesale and retail energy suppliers (as well as wind and solar power), billing and metering firms, Internet energy providers, energy-related software developers, risk managers, energy brokerage firms, information technology providers as well as suppliers of advanced metering and distributed generation technology. Membership includes both affiliated and unaffiliated companies.

This regionally diverse, broad-based coalition of energy and technology firms has come together under the NEM auspices to forge consensus and to help eliminate as many issues as possible that would delay competition. NEM is committed to working with representatives of state and federal governments, large and small consumer groups and utilities to devise fair and effective ways to implement the competitive restructuring of natural gas and electricity markets. NEM and its members appear before state Public Utility Commissions, the Federal Energy Regulatory Commission and legislative bodies throughout the nation.

NEM members urge lawmakers and regulators to implement:

- Laws and regulations that open markets for natural gas and electricity in a competitively neutral fashion;
- Rates, tariffs, taxes and operating procedures that unbundle competitive services from monopoly services and encourage true competition on the basis of price, quality of service and provision of value-added services;
- Standards of conduct that protect consumers; and
- Policies that encourage investments in new technologies, including the integration of energy, telecommunications and Internet services to lower the cost of energy and related services.

III.

NEM, as a representative of a diverse group of providers of energy and energy-related services, has an interest to advocate the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development and maintenance of efficient and reliable competitive electricity markets, both nationwide and in Maryland. As electricity marketers and

providers of energy-related services and technologies, various NEM members intend to provide service to customers in the Maryland electric market. The ability of NEM members to compete fairly in these markets will be specifically affected by the outcome of this proceeding.

Even if other trade associations or individual marketers intervene in this matter, NEM's interests and position are significant and unique given (1) its industry diversity, (2) its interest in serving Maryland electric customers, (3) its current and past participation in restructuring proceedings in other jurisdictions on similar and related issues, and (4) the substantial business interests of its members in the development of viable electricity markets in Maryland.

As such, the interests of NEM and its members in this proceeding cannot be adequately represented by any other party hereto.

IV.

Retaining the utility as the default provider of energy supply and other competitive services long term in a restructured environment will present a major barrier to the development of competitive markets. The structure and pricing of standard offer service are critically important issues in determining whether consumers will receive the benefits of meaningful price competition. When states mandate the selection of incumbent utilities for all consumers who fail to make timely supplier elections and set a non-competitive price for standard offer service, it perpetuates the same non-competitive energy services that restructuring is designed to replace.

NEM has set forth a number recommendations to guide the development and implementation of standard offer service in its, "National Guidelines for Designing and Pricing Default Energy and Related Services."¹ These recommendations include:

- **Designing standard offer service to maximize customer choice and minimize default service customers.** Simply stated, suppliers are attracted to markets where they can compete successfully with standard offer service on the basis of price. Competitive retail standard offer service prices and the distribution of standard offer service customers to multiple competitive suppliers will encourage customer migration.

¹ The full text of NEM's, "National Guidelines for Designing and Pricing Default Energy and Related Services," is available at <http://www.energymarketers.com/Documents/FinalDefaultPaper.pdf>.

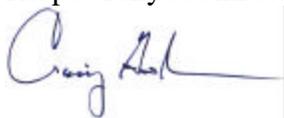
- **Establishing a competitive process for acquiring standard offer service customers.** No one market participant should be granted an unfair competitive advantage in the provision of standard service to customers. State-mandated selection or non-competitive transfers of customers at subsidized energy prices should be avoided at all costs.
- **Designing standard offer service pricing mechanisms that reflect retail prices, and do not produce artificial or cross-subsidized price signals.** All suppliers providing generation service to customers at retail, including standard offer service and competitive suppliers, incur costs to do so in addition to the wholesale cost of the energy commodity. These costs include transmission charges, scheduling and control area services, distribution system line losses, pool operating expenses, risk management premiums, load shape costs, commodity acquisition and portfolio management, working capital, taxes, administrative and general expenses, the costs of metering, billing, collections, bad debt, information exchange, compliance with consumer protection regulations, and customer care. Standard offer service pricing mechanisms that hide the true costs of providing retail energy services, showing instead the wholesale power costs alone as the “price to compare,” do not benefit default service customers, who are getting a false price signal and are still paying the other costs to provide generation service in the distribution component of the bill. They do, however, penalize customers who switch to competitive suppliers since those customers are paying for the retail costs of energy supply services twice. They also have a devastating effect on the competitive market, since competitive suppliers are unable to compete effectively on the basis of price with the subsidized standard offer service option.
- **Pricing standard offer service separately for each customer class.** The costs to provide standard offer service varies by customer group. Properly designed standard offer service prices should reflect these real price differences to encourage competition for all customer classes.
- **Designing standard offer service pricing mechanisms to account for changing market conditions.** There is a huge inherent risk for the retail market in a “price to compare” that does not change over time in response to changes in the wholesale markets. Standard offer service pricing mechanisms that allow prices to change over time in response to wholesale market conditions better reflect real competitive markets, provide more accurate price signals, and help level the competitive retail playing field.
- **Design specific programs to address low-income needs; do not try to utilize standard offer service for this purpose.** Often, concerns that low-income individuals will be unwelcome in the competitive market drives, explicitly or implicitly, the design and pricing of standard offer service. This approach serves neither low-income customers nor the development of a competitive market well. Specific programs should be designed to serve low-income needs and to facilitate the targeting of public benefits funds. Such programs might include aggregation of low-income customers to access lower prices in the competitive market.

NEM urges the Commission to consider and adopt these recommendations in its implementation of standard offer service for the Maryland electric market.

V.

WHEREFORE, NEM respectfully requests that the Commission permit it to intervene in the above-referenced proceeding and be made a party for all purposes.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Craig Goodman", is written over a vertical line that extends downwards to the typed name below.

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