

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

**In the Matter of the Application of)
Potomac Electric Power Company for)
Authorization to Establish a Demand)
Side Management Surcharge and an)
Advanced Metering Infrastructure)
Surcharge and to Establish a DSM)
Collaborative and an AMI Advisory)
Group)**

Formal Case No. 1056

**COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)¹ hereby submits comments on the Application of Potomac Electric Power Company [hereinafter “Pepco”] dated April 1, 2010, to establish a Dynamic Pricing Rate Design and Dynamic Pricing Plan [hereinafter “Application”]. NEM’s comments are submitted pursuant to the May 7, 2010, Notice of Proposed Rulemaking published in the District of Columbia Register. NEM’s membership is comprised of a diverse group of energy industry participants, including wholesale and retail energy marketers as well as energy technologists. As such, NEM can offer a unique perspective for the record in this proceeding, in particular the role of competitive retail energy marketers as demand response providers to the consumers they serve across multiple utility service territories and multiple

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

states. Competitive retail energy marketers have and will play a critical role in educating consumers about demand response products and in implementing innovative demand response solutions across the country.

NEM and its members are committed to serving as the primary Demand Response (DR) delivery channel to help consumers achieve DR benefits both before and after the smart grid is fully implemented. These comments are intended to highlight the critical role that competitive energy marketers will play in providing smart grid-enabled products and services to consumers and to provide recommendations that can smooth the transition for consumers as they are provided with improved, timely pricing signals. Specifically, NEM's recommendations for "Achieving Significant, Near-Term Demand Response by Residential and Small-Commercial Customers"² through the availability of transitional DR load profiles is attached hereto and incorporated by reference herein. In summary, NEM's comments recommend that:

- Given that Pepco's dynamic pricing implementation timeline does not begin until 2012, the interim time period represents an excellent opportunity to educate consumers about demand response through the availability of transitional DR load profiles.
- Competitive energy marketers and other consumer-authorized third parties must be provided with open, non-discriminatory and real-time access to Pepco's Advanced Metering Infrastructure (AMI) and the data it generates.

² This document is available on the NEM Website at: <http://www.energymarketers.com/Documents/ACF82C.pdf>

I. Overview of Pepco's Dynamic Pricing Plan Application

In its Application, Pepco is specifically seeking approval of: “1) Pepco's proposed dynamic pricing tariff designs; 2) the Company's proposed applicability of its proposed dynamic pricing tariffs; 3) Pepco's currently proposed phase-in timeline for implementing dynamic pricing; and 4) establishment of a District of Columbia dynamic pricing customer education working group to assist in the development of necessary customer communications.” (Application at 3). Under the proposal, dynamic pricing will first be made available to 5,000 residential customers beginning in 2012, with all residential customers becoming eligible in 2013. Dynamic pricing for non-residential customers will be made available to 2,000 customers in 2013, with all non-residential customers becoming eligible in 2014. Customers will have three billing options under the proposal: Critical Peak Pricing; Critical Peak Rebate; or flat Standard Offer Service pricing. (Application at 5). The availability of dynamic pricing is dependent upon the timeline for AMI deployment. This includes, “deployment of the communication network and electric meters, activation of the electric meters prior to dynamic pricing using a set of integrated information technology (“IT”) systems, and rollout of the dynamic pricing programs enabled by an additional functionality from the integrated IT systems.” (Application at 6).

II. First Generation, Transitional Retail Demand Response Load Profiles Should Be Made Available to Encourage Residential and Small Commercial Consumer Demand Response Prior to Pepco's Full AMI Deployment

This Commission has already recognized the significant impact that the implementation of AMI will have on the competitive retail market. In the Commission's February 22, 2010, letter to Retail and Wholesale Suppliers Serving the District of Columbia, it was noted that, “The Commission's decisions regarding AMI could have implications for the SOS procurement

process, retail suppliers and wholesale providers. Among the issues the Commission may consider are the installation schedule, ownership of data, customer privacy, meter functionality, billing issues for SOS and retail providers, and how to get best use of AMI in a retail shopping environment.” NEM appreciates the Commission’s efforts thus far to include the perspective of the competitive energy marketer community in its deliberations on Pepco’s Application. Indeed, it is with these considerations in mind that NEM recommends that the Commission start developing DR capability now with a set of first-generation DR load profiles that will allow energy marketers to educate, mass market and aggregate retail DR customers and prepare consumers for a more-refined approach as full smart-grid implementation occurs. Data captured by utilities and PJM can readily be adapted by state PUCs and utilities to develop one or more first generation, transitional retail DR load profiles to start to encourage DR behavior by residential and small-commercial customers as the full implementation of the smart-grid technology and related infrastructure occurs. After decades of average cost pricing of energy consumption, an abrupt switch to full dynamic pricing before all of the requisite hardware and information-related technologies and applications are both in place and consumer-friendly, could cause an unintended backlash of public sentiment against energy efficiency efforts. It is therefore critical to build consumer acceptance and confidence in participation in DR programs. A transitional approach to pricing Demand Response via retail DR load profiles, may be critical to both educating the public about the benefits of demand response as well as the public adoption of modified consumption behavior.

Marketers are the appropriate conduit to bring demand response products to consumers because they perform a number of functions in the marketplace: 1) development of innovative DR products and services; 2) consumer education about DR benefits; 3) enabling consumer

participation in the market, across multiple markets; and 4) providing transparent pricing and incentive behavior changes at the mass market level. Marketers have been making demand response offerings in the marketplace for many years, and the smart grid can enhance the quality and quantity of this type of competitive offerings in the years to come. Marketers will be key contributors to creating demand response consumer awareness. With demand response load profiles, marketers can offer consumers with rates that leverage existing technologies to provide feedback to affect consumption behavior such as providing text messages on peak price events, using smart thermostats, and/or “Google” power meters.³ This transitional approach will serve to educate and acclimate consumers to the future availability of dynamic pricing.

III. The Commission Should Premise Approval of Pepco’s AMI-Related Proposals on the Provision of Open, Non-Discriminatory and Real-Time Access to the Smart Grid Infrastructure for All Market Participants

Of utmost importance as the Commission considers Pepco’s deployment of AMI infrastructure underlying the availability of dynamic pricing is that access to the smart grid infrastructure be provided in a manner that avoids the creation of new information and/or demand or demand response-related monopolies. We urge the Commission to ensure that all authorized market participants have secure, reliable, non-discriminatory (non-proprietary), open access to the information “pipeline(s)” (IT infrastructures) that will be created to facilitate the “smart grid.” This will entail the use of “open standards” to implement new generations of smart meters and smart IT infrastructures needed to “interoperably” handle a virtual tsunami of near real-time usage and pricing data. Open standards and non-discriminatory (non-proprietary) access to smart grid infrastructure will serve to incent a new critically-needed generation of services, application

³ The Google PowerMeter shows consumers their electricity consumption in a secure Google gadget. See <http://www.google.org/powermeter/index.html>

developers and information technologies, to securely, reliably and interoperably collect (meters), process (analyze), store and provide secure access to the substantial increase of data needed to develop new demand response-related products, services, information technologies and price offerings. NEM urges the Commission to premise approval of Pepco's Application upon its provision of open, non-discriminatory access to the smart grid infrastructure to competitive energy marketers and other third parties authorized by consumers to receive and manage their energy usage information. The data should be provided by Pepco to market participants on a real-time basis.

In other retail choice jurisdictions that have considered the issue of utility smart grid implementation, it has been recognized that prohibiting the creation of utility information monopolies will do much to ensure a competitively neutral playing field when the new generation of smart meters and other smart grid technologies are deployed. For instance, the New York Public Service Commission found on this issue,

We acknowledge NEM's concerns regarding the creation of an information monopoly through the deployment of AMI that is proprietary and closed to outside providers. We do not support the creation of an information monopoly through our approval of these smart grid projects, and thus, require utilities to take all steps appropriate, including adherence to the AMI minimum functional requirements, to prevent such monopoly from being created. Consequently utilities, unless otherwise waived, shall adhere to the AMI minimum functional requirement that customers or their competitive providers will be able to access meter data in an open, standard, nonproprietary format, as both NEM and EnerNOC suggest.⁴

More recently, when the Federal Communications Commission released its National Broadband Plan, it similarly recommended that, "Consumers, and their authorized third parties, must be able

⁴ New York Public Service Commission, Cases 09-E-0310 and 09-M-0074 – Order Authorizing Recovery of Costs Associated with Stimulus Projects, issued July 27, 2009, at pages 39-40.

to get secure, non-discriminatory access to energy data in standardized, machine-readable formats. Customers should have access to their data in the same granular form in which it is collected, and in as close to real-time as possible.”⁵ FCC went on to suggest that, “PUCs should mandate data accessibility as a part of Smart Grid rate cases, especially smart meter deployments. Consistent with EISA [The Energy Independence and Security Act], these policies should mandate secure consumer accessibility to real-time energy consumption data, time-series consumption and billing data and dynamic pricing data.”⁶ NEM urges this Commission to adopt a similar requirement with respect to Pepco’s Application. Coincident with the availability of real-time access to data, marketers will also require access to Pepco’s bill ready billing system.⁷ By offering bill ready billing, Pepco’s system will permit marketers to offer time-of-use and real-time pricing options, just as Pepco is proposing to offer itself in its dynamic pricing Application.

IV. Conclusion

Marketers can and should be valued contributors to ensure that a diverse and valuable array of smart-grid enabled products and services can be brought to consumers. By providing a transitional path to real time pricing signals, through the availability of demand response load profiles, the Commission will enable competitive marketers to play a key role in educating consumers about their energy usage. Moreover, as Pepco deploys its AMI infrastructure in the coming years, to enable its own dynamic pricing proposal, competitive energy marketers and other consumer-authorized third parties

⁵ FCC, National Broadband Plan, Energy and the Environment, Chapter 12, at page 274.

⁶ Id.

⁷ Bill ready billing refers to a billing process wherein the utility provides the marketer with the meter readings and the marketer applies the contracted for billing rate and calculates the customer bill. The marketer transmits this information to the utility for inclusion on the customer bill.

must be provided with open, non-discriminatory and real-time access to the infrastructure and the data it generates.

Respectfully submitted,

Craig G. Goodman, Esq.
D.C. Bar Number 946319
President
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Tel: (202) 333-3288
Fax: (202) 333-3266
Email: cgoodman@energymarketers.com

Dated: June 4, 2010.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document via electronic or U.S. Mail upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 4th day of June 2010.

Craig G. Goodman, Esq.
D.C. Bar Number 946319
President
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Tel: (202) 333-3288
Fax: (202) 333-3266
Email: cgoodman@energymarketers.com