ORDER NO. 81019

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO DEFAULT SERVICE FOR TYPE II STANDARD OFFER SERVICE CUSTOMERS.	* * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND CASE NO. 9056

I. Introduction

This proceeding addresses the provision of Standard Offer Service ("SOS"), for Type II SOS customers beginning June 1, 2007. The Public Service Commission ("Commission") finds that it is appropriate to take the next step in developing competitive electricity markets. Consequently, the Commission directs that two modifications to the Type II service described in Order Nos. 80272 and 80342[1] be adopted: Type II A and Type II B SOS customers shall be reunited into a single customer class and electric supply shall be procured for all Type II SOS customers on a quarterly basis beginning with service provided June 1, 2007.

The Commission rejects the proposals to maintain the status quo and to make hourly priced service the default service for Type II customers. The Commission also rejects the proposal to implement a monthly bidding regime. The former proposal does not comport with the statutory direction to proceed with an orderly transition to competitive markets. The latter proposals represent a radical departure from the orderly transition that the Commission has been pursuing for several years.

[1] Re: In the Matter of Default Service for Type II Standard Offer Service Customers, Case No. 9037, hereafter "Case No. 9037."

This decision continues the evolutionary process of creating a stable sustainable, competitive retail electric market in Maryland. It adheres to the statutory requirement that an orderly transition to competitive markets occur.[2] The changes ordered herein represent a moderate adjustment as Type II customers transition from annual to semi-annual to quarterly procurements for electric supply. Moreover, these adjustments will not occur until June 1, 2007, providing customers and market participants with ample time to prepare for the next phase of market development.

In Case No. 9037 the Commission established the procedures for the provision of Type II SOS for the period June 1, 2006 through May 31, 2007. In that case the Commission accepted a non-unanimous settlement, with two modifications. First, the Commission rejected the two-year term proposed for the SOS regime and directed the parties to develop further alternatives that would advance the development of competitive markets beyond the one-year term accepted by the Commission. Second, the Commission rejected the proposal to take a step backward and move smaller Type II customers to Type I-like service. The Commission did agree to split Type II customers into two new subclasses, Type II A and Type II B, with semi-annual supply procurements for the larger Type II A customers and annual procurements for the smaller Type II B customers. However, because Type II B customers represent only a small amount of load for The Potomac Edison Company d/b/a Allegheny Power ("AP") and Delmarva Power & Light Company ("Delmarva") the Commission found that it would be preferable to order that both Type II A and Type II B customer load be combined and procured on a semi-annual basis for AP and Delmarva Type II SOS. In this order the Commission

[2] Section 7-505(a) of the Public Utility Companies Article ("PUC Article"). All statutory references are to the PUC Article, unless otherwise stated.

directs that Type II A and Type II B customers of Baltimore Gas and Electric Company ("BGE") and Potomac Electric Power Company ("Pepco"), as well as those of AP and Delmarva, be reunited into one Type II customer class. This will avoid the complexities that resulted from acceptance of the non-unanimous settlement in Case No. 9037.

II. Parties' Positions

The parties in this proceeding generally advocate one of three proposals. The Utilities (AP, BGE, Delmarva and Pepco) as well as the customers participating in this case, the Maryland Energy Administration ("MEA") and the Apartment and Office Building Association of Metropolitan Washington ("AOBA") support continuing the Type II services approved in Case No. 9037 for at least another year, through May 31, 2008.[3] This means that Type II SOS would continue to be provided for AP and Delmarva customers employing bi-annual bidding for electric supply. BGE and Pepco would continue to use annual bidding for Type II B customers and bi-annual bidding for their larger, Type II A customers. The retail suppliers, Washington Gas Energy Services ("WGES"), the National Energy Marketers Association ("NEMA") and the Retail Energy Supply Association ("RESA", including members Amerada Hess Corporation, Direct Energy Services, LLC, Reliant Energy Solutions, LLC, and Select Energy, Inc.) generally advocate Type II SOS based upon monthly bids or bids adjusted monthly, expansion of Hourly Priced Service ("HPS") as the only default service, and the timely discontinuance of Type II SOS. The Commission's technical staff ("Staff") offers a proposal that is in between the other two. Staff recommends applying the twice-yearly bidding procedures

[3] The Maryland Office of People's Counsel, the residential customers' representative, also submitted Reply Testimony.

to all Type II customers for the period June 1, 2007 through May 31, 2008. Additionally, Staff offers for future consideration proposals to expand HPS, implement monthly pricing adjustments for Type II SOS and closing out Type II SOS when the market becomes competitive.

BGE states that the current provision of SOS reflects hard negotiations and carefully balanced compromises among a diverse group of stakeholders; was approved only after lengthy consideration by the Commission; and has been tested and fine tuned over nearly three years of operations. Therefore, BGE concludes that changes to the SOS model should be made very carefully based upon practical experience and only to the extent absolutely necessary. If changes are deemed necessary by the Commission, BGE says that the fundamental constructs of the SOS model developed in Case No. 8908, which has worked well, should be maintained. Finally, BGE emphasizes that SOS model enhancements adopted in Case No. 9037 should be given a chance to work before they are changed. According to BGE, time is needed to gauge the effectiveness of SOS improvements already adopted before evaluating whether other changes are necessary.

BGE asserts that the proposals of retail suppliers, should be rejected. BGE says that SOS prices should not be adjusted more frequently because: this would shift risks to customers, customers need to budget energy expenses, SOS processing costs would increase, market confusion will result, and frequent price changes will tend to force up wholesale prices. BGE supports the gradual installation of more interval meters, however, BGE says forcing customers onto HPS is not consistent with customer choice. Finally, BGE says it is premature to consider the elimination of Type II SOS, noting that the current procurement program has not completed its first full year of operation.

Delmarva and Pepco (altogether "PHI") say that the Commission should support a stable and market-based supply for Type II SOS beyond May 2007. Based on the testimony of customer representatives, PHI asserts that Type II customers want a SOS backstop product that is priced through a wholesale competitive procurement process overseen by the Commission. For the foreseeable future, they want the process and prices to be reliable, transparent and fixed. PHI concludes that rules should be consistent year to year and avoid changes. This encourages wholesale providers to participate in the SOS process, reduces their costs, and encourages competitive bids. Moreover, avoiding drastic changes will provide assurance that retail choice is proceeding in a thoughtful, managed way. Finally, PHI states that it expects this season (summer, 2006) to provide favorable circumstances for retail suppliers, which will allow them to offer lower prices to customers.

According to PHI, the alternative proposals of the retail suppliers and Staff add complexity and confusion to the SOS process. In addition to administrative complications and customer communication difficulties, the alternative SOS proposals for monthly bids or HPS will add uncertainty to pricing, margins and volumes for SOS suppliers. PHI says this may result in a lack of interest in bidding by wholesale suppliers and higher prices for customers. PHI also opposes the expansion of mandatory hourly pricing. PHI says that it is inconsistent to argue for HPS as a proper market signal for customers and then use it to promote fixed price service from suppliers. PHI argues that the Commission should seek evidence by those recommending dramatic changes in processes that such changes will result in real quantifiable benefits to customers. PHI also opposes Staff's proposal to use twice-yearly bids for all Type II customers because this conflicts with customer preferences and because the current bidding process already incorporates seasonal bidding through the existing rate structures. PHI concludes that commercial customers should have several stable price options, including a utility-provided default service that varies seasonally, not monthly.

AP supports the continued bi-annual procurement of Type II generation because it is a fair procedure for customers and suppliers. AP notes that the bi-annual procurement procedure is a compromise approach, balancing the costs and complexity of acquiring SOS supply with the desire of retailers to have SOS more closely reflect current market costs of wholesale power. With customers free to switch between retail suppliers and SOS, AP notes that customers can take advantage of the lower cost alternative regardless whether wholesale supply prices rise or fall. AP concludes that the proposals by the retail suppliers are self-serving, limit customer choice and are not in the best interest of Type II customers because they add to customer confusion.

According to AP, the orderly development of Maryland's energy market would benefit from a period of stability in SOS procurement practices. AP notes that SOS is not meant to compete with retail alternatives, rather it is a safety net service for customers who do not receive service from an alternative supplier due to non-delivery, or inability to get service, as well as for those customers not interested in choosing an alternative supplier. However, if supplier recommendations are adopted it would allow them to transfer risks to the utilities and customers while simultaneously eliminating a viable choice of supply for customers. Finally, AP stresses that there is limited time to implement any radical changes to the SOS procurement procedures.

MEA concludes that now is not the time for major Type II program changes, which could increase customer uncertainty and rate instability. Moreover, circumstances have changed significantly since last summer, which was unforeseen. SOS rates will be much higher beginning in June 2006 due to changes in wholesale market conditions. MEA says this will provide an important marketing opportunity for retail suppliers. MEA asserts that the upcoming higher SOS prices and the presently available retail cost advantages can work together synergistically within the current SOS framework to facilitate further retail market development. MEA recommends that possible SOS program changes await experience with the Type II SOS program approved last year.

MEA criticizes the retailers' recommendations and recommends deferring Staff's proposals. MEA asserts that there is no reason to impose on SOS customers the extreme price volatility from either monthly or hourly pricing just to avoid the SOS migration risk premium. MEA says SOS customers can choose another retail service if they so desire. Furthermore, an hourly pricing option is available to customers on a voluntary basis so there is no benefit from making HPS mandatory. MEA also argues that monthly pricing will increase rate instability at a time when prices are already unstable, without any clear advantages over semi-annual pricing. Moreover, MEA says quarterly pricing would have to be integrated with the utilities seasonal delivery service pricing, which could cause additional complexity. MEA concludes that forcing Type II customers to take HPS as their only default option does not foster economic efficiency and is contrary to the concept of customer choice.

According to AOBA, the primary interest of Type II customers is a fixed set of rates to budget future energy costs. Furthermore, most of them prefer multi-year contracts. AOBA also emphasizes that competition among suppliers is frequently found as much in the terms of the services that are offered as in the pricing of such services. This makes simple price comparisons inappropriate and misleading. AOBA says SOS must serve as a transparent benchmark so that customers can evaluate competitive alternatives, which often lack pricing transparency. According to AOBA, the inherent attraction of SOS is that the terms and conditions of the service are readily accessible and have been reviewed by regulators.

AOBA asserts that HPS has several major pitfalls, which make it inappropriate as the only SOS default option. Most customers lack the resources to monitor hourly price changes and therefore will not know the HPS price until after the fact. In contrast, AOBA notes that SOS currently provides an alternative where price changes are known in advance of consumption. Further, without appropriate personnel, consumers cannot implement usage changes in response to HPS price changes. Verification of bill accuracy is also a practical impossibility. Moreover, AOBA asserts that HPS does not provide a reasonable or reliable basis to budget monthly electricity costs. AOBA also notes that the costs of utilizing HPS are large compared to Type II customers' annual electric charges. Finally, AOBA asserts that most Type II customers are not sophisticated energy users and will require additional education and training to comprehend and economically utilize HPS. Therefore, it is doubtful that Type II customers would benefit from HPS.

AOBA is critical of the retail suppliers' proposals. AOBA says customers are not limited to intermittent opportunities to shop for supply; they have an array of future service requirements and suppliers are free to make offers at any time for any portion of those requirements. Furthermore, customers are not well equipped to engage in frequent, energy procurement activities and it is costly to do so. Frequent price changes are also confusing. Finally, AOBA says Pepco's seasonal periods do not coincide well with bidding at three or four month intervals.

AOBA argues that the WGES proposal to use monthly pricing based on market indices is not reasonable. AOBA says efforts to index retail prices for Pepco and BGE customers to the PJM Western Hub price are likely to provide greatly distorted indications of market prices for these customers.[4] Furthermore, factors such as generation capacity charges and congestion charges are not necessarily uniform across the months of a season, quarter or year, yet WGES's proposal does not provide for recognition of variations in these costs. Lastly, AOBA says the schedule WGES proposes for establishing and publishing monthly rates will not provide customers the information they need to make informed decisions until it is too late to enroll or change service for the month for which the rates are published. AOBA claims that the objective appears to be to prevent customers from making useful comparisons between SOS and supplier services. AOBA concludes that the utility service option should not be made so unpalatable as to be no real option at all.

WGES argues that it would be best to structure Type II SOS as a monthly priced service. As a result of customer migration to and from Type II SOS, WGES notes that the increment/decrement ("inc/dec") provisions of the wholesale SOS contracts have recently been triggered. This has resulted in large portions of power being purchased at locational marginal prices ("LMP"), which has caused large variability in the month-to-month SOS pricing. Even so, WGES notes that large risk premiums associated with

[4] PJM is a Regional Transmission Organization.

customer migration are being added to Type II SOS. WGES concludes that Type II SOS can no longer be considered a market priced, fixed price service. Therefore, WGES argues that the Type II SOS structure should be modified to be a monthly priced service, which will relieve SOS prices of the excessive migration premiums and eliminate any customer misunderstanding that it represents a fixed price alternative to competitive supply. WGES admits that there is significant detail to be worked out in implementing monthly pricing.

WGES says an alternative to its proposal would be to use the current Type II model based upon quarterly bidding to procure supply, which would be an interim improvement for the reasons noted above. WGES says this approach could be implemented until the mechanics of monthly pricing were established. WGES says the Commission should also consider the extension of HPS as the default service for customers with interval meters. Finally, WGES endorses the Commission's goal to standardize all Type II service once again.

WGES opposes extension of the approved Type II SOS programs because they do not facilitate competition. Responding to AOBA, WGES says that its monthly pricing proposal is transparent and that customers will know the SOS price in advance of consumption because it will be based on a market index that is posted 45 days before the delivery month. The same is true for a SOS price that is adjusted quarterly. Moreover, WGES argues that customers will not be confused by more frequent pricing, noting that Type II customers are accustomed to making frequent purchases of different commodities, including natural gas.

WGES says that Staff's proposal to expand bi-annual bidding to all Type II SOS customers will better reflect the seasonal cost of energy compared to an annual bid. However, WGES says this would only be a minimal improvement. Furthermore, WGES says that by not recommending adoption of a monthly adjusted SOS price in this case, Staff is being overly cautious.

RESA says the current SOS structure sends the wrong price signal to consumers because the SOS price is often "disconnected" from prevailing market prices for an extended period of time. In addition, it distorts consumer decisions because it makes it hard for customers to determine if market supplied, value-added services are efficient options. Moreover, it puts the utility and Commission in the roll of portfolio manager. RESA asserts that customers currently only have intermittent opportunities to shop because the twice per year bidding process results in sustained periods where the SOS price could be below market depriving retail suppliers of the ability to compete against SOS. RESA concludes that retail electricity suppliers will not enter the market and that customers will be left with only one product, utility supplied SOS, unless the SOS procurement structure is changed.

RESA supports a monthly priced Type II SOS because it will develop a sustainable competitive market, assure that SOS customers receive a competitive market based price, and allow customers to manage electricity procurement decisions in the most economic manner. Although monthly priced SOS will increase price variability, it will not contain the same risk adders that fixed price SOS contains and while prices will vary, they will vary upward and downward. RESA offers three alternatives for implementing its proposal, a monthly auction structure, a floating monthly index structure, and a fixed price plus index structure. RESA emphasizes that under all three proposals the new SOS price would be determined 45 days prior to the delivery period, which will allow customers time to evaluate the price before it becomes effective. RESA says no new metering would be required to implement its proposal and that all three alternatives could be implemented in Maryland in the very near term.

RESA says its monthly pricing proposal meets many of the key principles and policy recommendations for SOS advanced by the utilities including: maintain the fundamental constructs of the Maryland model, make evolutionary changes, assure that retail choice is proceeding without starts and stops, provide a utility backstop service with price stability, and provide competitive wholesale bidding for SOS supply with suitable contract durations to encourage wholesale supplier participation. Moreover, the monthly pricing proposal does not involve major policy changes and uses the current RFP model and procurement system. Finally, RESA says the Utilities' claim that the Type II program adopted in Case No. 9037 has not been given sufficient time for review is inaccurate because RESA has previously identified the problems with the Utilities' flawed proposals. Therefore, it is appropriate to adopt alternatives to evolve the market as the Commission has directed.

RESA also supports the expansion of HPS, which will ultimately provide a competitive end state leading to the most efficiencies for the market and customers. RESA proposes a timetable to expand HPS down to customers with a peak demand of 300 kW and above. According to RESA, where default service prices are market responsive, such as HPS, competitive electric suppliers will enter the market and offer customers numerous alternatives. Finally, RESA says expansion of HPS is consistent with the Commission's directive for utilities to expand deployment of interval meters.

Staff proposes an incremental change, expanding the bi-annual bidding process to all Type II customers. Staff says this will allow the SOS rate to more effectively incorporate pricing that reflects the seasonal impact of energy costs in the market. Bifurcating bids into summer and non-summer periods will better reflect the true costs of energy and should offer customers a better non-summer SOS rate. Staff argues that retail suppliers will also be able to compete more effectively. According to Staff, reuniting Type II A and II B customers into one class will create a more seamless customer base and a larger market context for wholesale suppliers to offer SOS bids and retail products to customers. Additionally, it will simplify the bid process. Staff concludes that its proposal will result in an electricity market that is more efficient, regardless of whether customers choose SOS or a competitive retail supplier.

Staff has also noted issues for future consideration including implementation of a monthly index adjustment as a means for making the SOS rate more reflective of current market conditions. Staff notes that SOS rates that do not vary for extended periods of time will tend to overstate or understate market prices for extended periods. Staff says such a process promotes market instability and retards competitive activity. Staff concludes that if shopping by Type II customers plateaus, then introducing a monthly SOS pricing adjustment may become appropriate. Additionally, Staff notes that interval meters have traditionally only been used by large customers due to the expense and communications requirements. Staff says the appropriate economic service level is an issue for future discussion. Finally, Staff is concerned that implementing too many changes at one time may create more dislocations in the market rather than promote an increase in competition. Staff recommends that in the next SOS process review that the stakeholders examine other alternatives to make Type II SOS a more market-like product.

III. Commission Decision

The purpose of the Standard Offer Service proceedings has been to advance the orderly development of competitive retail electricity markets in Maryland while maintaining reliable electric service and providing an appropriate default service option during the transition process. In so doing, the Commission has implemented a transition process that is fair and provides appropriate recognition for the evolving circumstances of all stakeholders. The Commission's SOS orders implement the statutory requirements of the Electric Customer Choice and Competition Act of 1999 ("Act") in a sensible and consistent fashion.[5]

The Commission finds in this proceeding that the proposals of some parties do not advance the competitive retail marketplace, while the proposals of others, the retail suppliers in particular, represent too rapid a change in procedures. The proposal by the Utilities and others to extend the Case No. 9037 regime for another year, or more, constitutes the reintroduction of the proposal rejected by the Commission in that proceeding. To be specific, the Commission did not accept the proposal for a two-year term for the bi-annual bidding regime proposed in that case and does not accept it here either.[6] Likewise, the Commission rejected the proposals in Case No. 9037 by retail

[5] The Act is found in Sections 7-501 through 7-518 of the Public Utility Companies Article. *See* particularly, Sections 7-504 and 7-505.

[6] The settling parties in Case No. 9037 proposed that smaller Type II customers receive SOS on the same terms as Type I customers, which is procured based on blended one and two-year contract terms. This step backward was flatly rejected by the Commission, which substituted a one-year contract. Even then, the Commission directed AP and Delmarva to procure all Type II SOS based on bi-annual contracts due to the small amount of load for their Type II B customers.

suppliers to greatly expand HPS or to implement a monthly procurement process for SOS. As noted in the testimony of AOBA witness Oliver, the Type II customer base is not adequately prepared at this time to deal effectively with this type of rate structure.[7] Specifically, most Type II customers do not have interval meters and there is a question whether they could make effective use of the information the meters provide. The record reflects various benefits and detriments associated with hourly or monthly pricing but at this time it appears that the difficulties associated with its implementation outweigh the benefits.[8]

The Commission noted in Order No. 80272 that an SOS product that remains unchanged and disconnected from prevailing market prices for undue periods of time can deter market entry and thus deprive customers of the varied retail products that would be available when more retail suppliers enter the market. Entry will only occur when the opportunity to compete against the SOS product is sustained and continuous, not intermittent. Consequently, it is important that the Commission proceed with the next step in the transition process. Moreover, the record clearly reflects that the SOS price itself has varied monthly in the past year. This price variation has been caused by the increment/decrement provisions of the Standard Offer Service wholesale agreements and by the true-up provisions. Thus, Type II customers have already experienced additional

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[7] However, the Commission rejects any implications in testimony that Type II customers are otherwise unprepared for retail competition. For example, a comparison of Electric Choice Enrollment Monthly Reports for May 2006 (before the Case No. 9037 changes to Case No. 8908) and July 2006 (after the Case No. 9037 changes), shows a more than 100% increase in the number of Type II accounts buying from suppliers. The percentage of Type II customers buying from suppliers increased from 20.2% to 44.1% during those two months. Similarly, the total Type II demand served by suppliers increased from 24.6% in May 2006 to 57.5% in July 2006.

[8] A clear distinction must be drawn between hourly pricing and hourly interval metering. This order is not changing the expansion of hourly metering contained in the Case No. 9037 contested Settlement and adopted in Order No. 80272.

price variability for electric generation service, even as SOS customers. SOS is not quite the fixed price service it has been assumed to be.

All parties agree that price stability is an important public policy goal. The parties differ, of course, on how best to achieve the goal. Some parties believe that price stability is achieved by an SOS product that reflects long term wholesale power contracts; others suggest that longer term contracts cause retail prices to diverge from wholesale market costs and thus, ultimately cause rate shock.

The Commission concurs with the parties that rate stability is an important public policy goal generally, and particularly with respect to SOS. Recent experience suggests that longer term fixed prices do not contribute to that goal; indeed they create a false sense of complacency that costs are in fact stable, followed by a painful transition when rates are finally adjusted to reflect current costs. Specifically, residential rates in the BGE territory were frozen for approximately thirteen years. When the rate freeze finally expired a significant rate increase occurred, accompanied by significant customer, political, and other unrest. The large rate increase and the consequent dissatisfaction are directly attributable to the long period of frozen rates. The upshot is that frequent, albeit small rate changes, are a better vehicle for insuring relative rate stability (and a more gradual reflection of changes in current market prices) rather than longer periods of frozen rates, followed by rate shock.

Based upon the complete record in this proceeding, the Commission finds that it is appropriate, fair and reasonable to proceed with the next step in the transition to fully competitive Type II electricity markets. Therefore, the Commission adopts a quarterly bidding regime, beginning June 1, 2007, for Type II SOS.[9] This regime will shorten the time period during which wholesale suppliers will be at risk to customer migration, which should reduce the SOS risk premiums and consequently hold down SOS prices. Furthermore, SOS will now reflect current market conditions more closely than it has in the past and will no longer be disconnected from market prices for extended periods of time. The Commission also finds that this decision strikes an appropriate market balance, benefiting wholesale suppliers by reducing their SOS contract migration risks, benefiting retail suppliers by making the SOS price more responsive to current market prices, and benefiting consumers by reducing SOS contract risks, which should reduce the pricing pressures reflected in those wholesale SOS contracts.[10] Customers will also benefit in that quarterly bidding will enhance the opportunity for greater entry by retailers.

In Case No. 9037 the Commission reluctantly accepted the proposal to split Type II customers into two subclasses. However, the Commission specifically limited the effect of its orders in that proceeding to one year. The Commission finds that it is appropriate to reunite all Type II customers into one class. This will simplify the bidding process to some extent, minimize the costs associated with the bidding process and ameliorate any customer class confusion. The Commission notes in this regard that two of the four utilities conduct joint bidding for Type II A and Type II B customers presently.

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[9] The Commission believes three-month quarters beginning with June-August 2007 as the first quarter are reasonable, however the Commission is willing to accept alternative quarterly definitions in compliance Model Requests for Proposals for 2007 with the guidance that bid-quarters should reasonably reflect the seasonal cost patterns of the wholesale market.

[10] Adoption of quarterly SOS pricing will have a neutral affect for the Utilities since they recover all SOS costs.

Based upon the record herein, the Commission will order: the reunification of Type II A and Type II B customers into a single Type II customer class; the future procurement of Type II SOS based upon quarterly procurements of supply for all Type II customers; the continued use of the SOS procurement procedures adopted in Case No. 8908 as modified in the Procurement Improvement Process orders and as modified herein. The Commission is not specifying an ending date for the Type II service ordered herein. This procurement approach for Type II SOS will continue until changed by the Commission. The Commission will entertain motions for changes in Type II service effective no sooner than June 2009. This limitation on changes in Type II service for June 2007 – May 2009 does not apply to metering or other service option changes (for example demand response programs) that may emerge from other Commission proceedings. The Utilities shall have 10 days from the date of this Order to affirm their willingness to provide Type II SOS as ordered herein, or the Commission will institute further proceedings to consider a retail SOS bidding regime and other options.

Finally, the Commission notes the recent passage of Senate Bill No. 1 of the 2006 Special Legislative Session, now Chapter 5, 2006 Md. Laws, 1st Special Session. Based upon the record in this proceeding, the Commission specifically conditions this order upon a definition of "small commercial customer" to be developed in a future proceeding.[11] Any modification required as a result of developing this definition shall be incorporated into the procurement process for power to be secured for Type II SOS customers beginning June 1, 2007. Additionally, an investor-owned electric company

[11] Based upon the consensus of the parties no hearing will be required on this issue in this proceeding.

shall publicly disclose the names of all bidders and the names and load allocation of all successful bidders 90 days after all contracts for Type II SOS supply are executed.

IT IS THEREFORE, this 28th day of August, in the year Two Thousand Six, by the Public Service Commission of Maryland,

ORDERED: (1) Standard Offer Service shall be provided to Type II SOS customers of The Potomac Edison Company d/b/a Allegheny Power beginning June 1, 2007, according to the provisions of this Order;

(2) The Potomac Edison Company d/b/a Allegheny Power shall notify the Commission, in writing, within 10 days of this order whether it agrees to be the Type II SOS provider in its service territory according to the terms in Paragraph One;

(3) Standard Offer Service shall be provided to Type II SOS customers of the Baltimore Gas and Electric Company beginning June 1, 2007, according to the provisions of this Order;

(4) Baltimore Gas and Electric Company shall notify the Commission, in writing, within 10 days of this order whether it agrees to be the Type II SOS provider in its service territory according to the terms in Paragraph Three;

(5) Standard Offer Service shall be provided to Type II SOS customers of Delmarva Power & Light Company beginning June 1, 2007, according to the provisions of this Order;

(6) Delmarva Power & Light Company shall notify the Commission, in writing, within 10 days of this order whether it agrees to be the Type II SOS provider in its service territory according to the terms in Paragraph Five;

(7) Standard Offer Service shall be provided to Type II SOS customers of Potomac Electric Power Company beginning June 1, 2007, according to the provisions of this Order;

(8) Potomac Electric Power Company shall notify the Commission, in writing, within 10 days of this order whether it agrees to be the Type II SOS provider in its service territory according to the terms in Paragraph Seven;

(9) All outstanding motions not granted herein are denied.

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Commissioner

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Chief Hearing Examiner

Commissioner Williams abstains from this decision.