

PUBLIC SERVICE COMMISSION OF MARYLAND

2009 ANNUAL REPORT

For the Calendar Year Ending December 31, 2009

Pursuant to Section 2-122 of the Public Utility Companies
Article, *Annotated Code of Maryland*



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I. MEMBERSHIP OF THE COMMISSION

The Public Service Commission (“PSC” or “Commission”) consists of the Chairman and four Commissioners, each appointed by the Governor with the advice and consent of the Senate. The term of the Chairman and each of the Commissioners is five years and those terms are staggered. All terms begin on July 1. As of the December 31, 2009, the following persons were members of the Commission:

	Term Expires
Douglas R. M. Nazarian, Chairman	June 30, 2013
Harold D. Williams, Commissioner	June 30, 2012
Susanne Brogan, Commissioner	June 30, 2011
Lawrence Brenner, Commissioner	June 30, 2010 ¹
Therese M. Goldsmith, Commissioner	June 30, 2014

II. OVERVIEW OF THE COMMISSION

A. General Work of the Commission

In 1910, the Maryland General Assembly established the Commission to regulate public utilities and for-hire transportation companies doing business in Maryland. The jurisdiction and powers of the Commission are found in the Public Utility Companies Article, *Annotated Code of Maryland*.

The Commission regulates gas, electric, telephone, water, and sewage disposal companies. Also subject to the jurisdiction of the Commission are

¹ Commissioner Brenner’s term has been extended for an additional 5 years, and currently expires on June 30, 2015.

certain common carriers such as bus, railroad companies and passenger motor vehicle carriers engaged in the transportation for hire of persons within the State. The PSC's jurisdiction also extends to taxicabs operating in the City of Baltimore, Baltimore County, Cumberland, and Hagerstown.

The categories of regulated public service companies and other regulated or licensed entities are listed below:

- ◆ electric utilities;
- ◆ gas utilities;
- ◆ combination gas and electric utilities;
- ◆ electric suppliers;
- ◆ gas suppliers;
- ◆ telecommunications companies;
- ◆ water, and water and sewerage companies;
- ◆ bay pilots;
- ◆ docking masters;
- ◆ passenger motor vehicle carriers;
- ◆ railroad companies;
- ◆ taxicab companies;
- ◆ hazardous liquid pipelines; and
- ◆ other public service companies.

The Commission is empowered to hear and decide matters relating to: (1) rate adjustments; (2) applications to exercise or abandon franchises; (3) applications to modify the type or scope of service; (4) approval of issuance of securities; (5) promulgation of new rules and regulations; and (6) quality of utility and common carrier service. The Commission has the authority to issue a Certificate of Public Convenience and Necessity in connection with a person's

application to construct or modify a new generating plant or an electric company's application to construct or modify transmission lines designed to carry a voltage in excess of 69,000 volts.

The Commission has broad authority for supervision and regulation of activities of public service companies. In addition to setting rates, the Commission collects and maintains records and reports of public service companies, reviews plans for service, inspects equipment, audits financial records, handles consumer complaints, promulgates and enforces rules and regulations, defends its decisions on appeal to State courts, and intervenes in relevant cases before federal regulatory commissions and federal courts.

The Commission's jurisdiction is limited to intrastate service. Interstate transportation is regulated in part by the U.S. Department of Transportation; interstate and wholesale activities of gas and electric utilities are regulated by the Federal Energy Regulatory Commission; and interstate telephone service and cable services are regulated by the Federal Communications Commission.

III. MAJOR ACTIVITIES AND SPECIAL PROJECTS

A. Transaction between Constellation – EDF (Case No. 9173)

In early December 2008, Constellation Energy Group (“CEG”) received an unsolicited offer from Electricité de France Group (“EDF”) to acquire a 49.99% interest in CEG’s Constellation Energy Nuclear Energy Group (“CENG”). After evaluating the offer, CEG determined the offer to be in its best interests and terminated an earlier, still pending, contract with Mid-American Energy Company to acquire CEG in its entirety. CEG filed a petition with the PSC, and asked for the Commission to find that the transaction was not subject to approval. After the Commission determined that it had jurisdiction because EDF could influence BGE upon completion of the transaction, EDF filed an application with the PSC for approval under § 6-105 of the Public Utility Companies Article, *Annotated Code of Maryland*, (“PUC”) to allow CEG to proceed with the sale of 49.99% interest in CENG.

Lengthy hearings were held on EDF’s proposal before the PSC, which is statutorily mandated to consider whether the proposed transaction is “consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers” of Baltimore Gas and Electric (“BGE”), the regulated utility.² Testimony was offered, cross examination was rendered, and questions were posed by the PSC Commissioners. Although the parties took different positions on what conditions or qualifications were needed for the transaction to comply with the statutory standards for approval, no witness filed testimony recommending that the transaction should be flatly denied, except a witness for the Office of People’s Counsel. This witness testified that there were no

² PUC § 6-105(g).

benefits for consumers, and that therefore, the requirements of the statute had not been met and the transaction should not be approved. Additional follow-up hearings were held to consider newly revised transaction documents. Post-trial Memoranda of Law were filed by all interested parties.

The PSC considered all the evidence, and the many nuances and ancillary effects that the transaction would have on the status of BGE, in rendering its decision.³ The Order issued by the PSC approving the CEG-EDF transaction, Order No. 82986,⁴ found that with the conditions imposed, approval of the transaction will be “consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers”, as required by PUC § 6-105(g). The six conditions imposed follow:

Condition 1: CEG shall make a \$250 million cash capital contribution to BGE by no later than June 30, 2010. CEG and BGE also shall report BGE's debt/equity ratio to the Commission on a quarterly basis, on the 15th of the month following each calendar quarter.

Condition 2: Until further order of the Commission, BGE shall not pay dividends to CEG if, after the dividend payment, BGE's equity level would fall below 48%, as equity levels are calculated under this Commission's ratemaking precedents. BGE also shall not make any distribution to CEG if BGE's senior unsecured credit rating, or its equivalent, is rated by two of the three major credit rating agencies below the generally accepted definition of investment grade. In the event that the

³ The PSC considered more than 70 hours of testimony, 2500 pages of hearing transcript, and voluminous deposition excerpts and exhibits in rendering its decision.

⁴ A complete copy of the PSC's decision can be found at <http://webapp.psc.state.md.us>, by entering the case number 9173, and clicking on line 218.

BGE Board resolves to pay dividends to CEG, BGE shall file with the Commission, within 5 business days after payment of the dividend, the calculations that it used to determine its equity level at the time the Board considered payment of the dividends and the calculations to demonstrate that the equity ratio after the dividend payment will not fall below 48%.

Condition 3: BGE may file an electric distribution rate case at any time beginning in January 2010. BGE may not file a subsequent electric distribution rate case until January 2011. The timing of any gas distribution rate filing will also occur no earlier than the electric cases. CEG's allocation of a portion of its costs to BGE under the four-factor formula shall be limited to 31% until the Commission reviews cost allocation in the context of BGE's next rate case.

Condition 4: Immediately upon the close of the Transaction, CEG and BGE shall begin to implement the ring-fencing measures set forth in the Rebuttal Testimony of Constellation's witness Charles Atkins to ensure the bankruptcy protection and credit rating separation of BGE from CEG.

Condition 5: At the same time BGE files its annual ring-fencing report with the Commission, BGE and the special purpose entity ("SPE") to be created to hold all BGE stock shall each file a compliance report with respect to the requirements set forth as specific conditions in the subsections of Condition 4. (See Commission Order approving the transaction for specifics.)

Condition 6: At the time the SPE is formed and every year thereafter, CEG shall provide the Commission a certificate from an officer of CEG certifying certain specified facts, as enumerated in the Commission's Order approving the transaction.

On November 6, 2009, CEG and EDF closed the transaction, and accepted the conditions set forth in the Order.

B. Verizon Settlement Offer (Case Nos. 9072, 9114, 9120, 9121, 9123, 9133)

Case Nos. 9072, 9114, 9120, 9121, 9123 and 9133, noted in prior Annual Reports, cover a wide range of telecommunications issues involving Verizon Maryland Inc. (Verizon), the State's predominant Incumbent Local Exchange Carrier (ILEC): reclassification of regulated bundled services to the competitive basket (Case No. 9072); Verizon's service performance and standards for service quality (Case No. 9114); Verizon's legal and regulatory relationships with its affiliates (Case No. 9120); the appropriate local calling area boundaries and related issues (Case No. 9121); investigation into Verizon's provision of local exchange telephone service over fiber optic facilities (Case No. 9123); and the overall best manner of regulating telephone companies (Case No. 9133). A settlement in principle was reached and a Joint Petition for Approval of Settlement Agreement was filed on December 9, 2008, to include all the referenced cases (except Case No. 9123) as well as various judicial proceedings.

Following hearings on the proposed settlement held in February 2009, by Order No. 82584 issued April 6, 2009, the Commission declined to approve the settlement as proposed, particularly noting the lack of connection between future price increases and ongoing service quality performance. The parties were directed to review the

Commission's concerns and attempt to see if a revised agreement could be reached. Accordingly, on August 28, 2009, Verizon submitted a new offer of settlement, which proposed settlement also included Case No. 9123. Hearings on the revised offer of settlement were held in November 2009, and post-hearing briefs were submitted. A decision on the new proposed settlement offer was rendered in early 2010.⁵

C. EmPower Maryland (Case Nos. 9153, 9154, 9155, 9156, 9157)

In 2009, the EmPower Maryland initiative kicked into high gear, with the five largest utilities⁶ (hereinafter “utilities”) launching their Commission approved EmPower Maryland Energy Efficiency and Conservation (“EE&C”) portfolios⁷ and four utilities

⁵ On February 2, 2010, the Commission issued Order No. 83137 potentially resolving these pending cases. The Commission made several changes to Verizon’s proposal. As Verizon had reserved the right to withdraw its proposal if the Commission made any changes, the Commission gave Verizon 20 days to decide whether it would accept the proposal as modified by the February 2 Order. On February 22, 2010, Verizon filed its response, indicating that it would accept the proposal as modified by the Commission.

Under the terms of the February 2 Order, Verizon will be subject to a new Service Quality Plan that will make available up to \$6 million per year in credits for customers who experience out-of-service conditions or missed repair or new installation appointments when Verizon misses an agreed-upon out-of-service metric or the COMAR repair or installation missed appointment metrics. Verizon will remain subject to the Plan until it meets the out-of-service and missed appointment metrics for four consecutive quarters. Verizon will file an operational plan describing how it intends to meet the service quality metrics, and will file monthly reports allowing the Commission to track its progress.

The February 2 Order also created a new link between Verizon’s service quality and its ability to increase the price of residential basic local service. The lack of such a connection in the preexisting Alternative Form of Regulation was the primary reason the Commission opened Case No. 9133, to establish a new Alternative Form of Regulation for Verizon.

The Order will allow Verizon to reclassify bundled services as competitive, and will provide Verizon with the ability to make its competitive tariffs effective more quickly—on one day’s notice—although Verizon agreed to provide the Commission’s Technical Staff with 2 weeks’ prior notice to give them time to review the tariffs.

Finally, the Order will give foreign exchange subscribers the opportunity to reduce their monthly rates from \$14 to \$4 if they also subscribe to unlimited intraLATA toll service, and will resolve copper retirement issues by implementing a new notice to residential basic local exchange customers whose service is switched from copper to fiber/FiOS.

The utilities are: The Potomac Edison Company d/b/a Allegheny Power (“AP” or “Allegheny Power”); Baltimore Gas and Electric Company (“BGE”); Delmarva Power & Light Company (“DPL” or “Delmarva”); Potomac Electric Power Company (“Pepco”); and Southern Maryland Electric Cooperative, Inc. (“SMECO”).

⁷ The five utilities with approved EE&C programs are BGE, Pepco, DPL, AP, and SMECO.

offering Demand Response (“DR”) programs.^{8 9} The Commission expects that the utilities will continue to revise or enhance their plans to provide additional resources, especially the deficient energy savings, to meet their 2011 and 2015 goals.

In 2009, the EmPower Maryland programs achieved the following results:

- Combined, the utilities are on target to achieve the 2011 EmPower Maryland energy savings and demand reduction goals, which appears attributable, in large part, to the economic downturn.¹⁰
- The utilities’ EmPower Maryland programs have saved a total of 92,666 MWh and 132 MW, and either encouraged the purchase of or installed approximately 3,037,456 energy-efficient measures.
- In 2009, 1,943 low-income customers participated through the Residential Low-income Programs.
- As of the end of 2009, the utilities have spent over \$100 million on the EmPower Maryland programs, including approximately \$29.1 million on EE&C programs, \$66.1 million on DR programs and \$5.1 million for general awareness, or approximately 47% of their estimated 2009 budgets.
- The average monthly residential bill impact of EmPower Maryland surcharges (as opposed to savings)¹¹ for 2009 were as follows:
 - BGE: \$1.15 (EE&C) and \$0.38 (DR), totaling \$1.53
 - Pepco: \$0.04 (Fast Track)¹²
 - DPL: \$0.03 (Fast Track)¹³
 - AP: \$1.09 (EE&C)
 - SMECO: \$0.47 (DR)¹⁴

⁸ The four utilities with approved DR programs are BGE, Pepco, DPL, and SMECO.

⁹ AP: Case 9153 Order No. 82825 dated August 6, 2009; BGE: Case 9154 Order No. 82384 dated December 31, 2008; DPL: Case 9156 Order No. 82835 dated August 13, 2009; Pepco: Case 9155 Order No. 82836 dated August 13, 2009; SMECO: Case 9157 Order No. 82834 August 13, 2009.

¹⁰ These estimations only include energy and demand savings from EE&C and DR programs.

¹¹ Assuming an average monthly usage of 1,000 kWh.

¹² Pepco and DPL did not have a surcharge for EE&C or DR Programs in 2009.

¹³ Ibid.

¹⁴ SMECO did not have a surcharge for their EE&C Program in 2009.

Energy Efficiency and Conservation

As mandated by the EmPower Maryland Act of 2008, the utilities are responsible for achieving a 10% reduction in the State's energy consumption and a 15% reduction of peak demand by 2015. To generate a portion of this savings, the five utilities each developed EE&C portfolios, based on a three-year planning cycle beginning with the Program Planning Year ("PY") 2009 – 2011, followed by 2012-2015.

The EmPower Maryland portfolios were similarly designed, but include variation in execution based upon the demographic of the service territory. Residential EE&C programs include discounted compact fluorescent lamps ("CFLs") and appliances, heating, ventilating, and air conditioning ("HVAC") rebates, home energy audits, weatherization, and low income programs.¹⁵ Commercial EE&C programs are designed to encourage businesses to upgrade to more efficient equipment, such as lighting, HVAC or motors, or improve their building performance through weatherization or building shell upgrades. For larger commercial buildings or industrial facilities, the utilities can customize incentives for cost-effective improvements.

The following table summarizes the actual electric consumption reduction numbers achieved by each utility and calculates that reduction as a percentage of the 2009 interim benchmark and as a percentage of the 2011 EmPower Maryland goal.

¹⁵ Other than the surcharge amount charged to ratepayers, low income programs are offered at no additional cost for those who qualify.

	2009 Reduction	%age of 2009 Interim Benchmark*	Program- to-Date Reduction	%age of 2011 Goal
AP				
Electric Consumption Reduction (MWh)	66	1%	66	0%
BGE				
Electric Consumption Reduction (MWh)	97,209	35%	97,209	5%
DPL				
Electric Consumption Reduction (MWh)	8,495	27%	8,495	8%
Pepco				
Electric Consumption Reduction (MWh)	49,090	36%	49,090	11%
SMECO				
Electric Consumption Reduction (MWh)	248	1%	248	0%

*Based on preliminary energy savings from quarterly programmatic reports. These savings will be verified through an EM&V process, for which the design is currently in progress.

Demand Response

The EmPower Maryland Act requires the five utilities to implement cost-effective demand response programs designed to achieve a reduction in their peak energy demand (measured in kW) of 5% by 2011, 10% by 2013, and 15% by 2015. In instances of system reliability concerns or high electricity prices during critical peak hours, these programs commonly involve the use of a switch or thermostat for a central air conditioning or an electric heat pump to briefly curtail usage. The Commission approved

four residential Demand Response programs in early 2008 (BGE's DR program was approved in December of 2007), with all of them operational by the end of 2009.¹⁶

BGE, Delmarva, Pepco, and SMECO all have bid demand response resources into the 2011/2012 PJM Reliability Pricing Model ("RPM") Capacity Auctions and cleared 852 MW of demand reduction. Legacy Demand Response Initiative ("DRI") programs also remain in place for BGE and SMECO.

D. Deployment of Advanced Meter Infrastructure/Smart Grid (Case Nos. 9207, 9208)

On March 26, 2009, Pepco and Delmarva each requested expedited approval of creation of a regulatory asset to enable the deployment of Advanced Meter Infrastructure (AMI) in their respective service territories (Case No. 9207). The Companies contended the deployment of AMI will enable customers to manage their usage consistent with Maryland's energy efficiency and conservation goals, and creation of a regulatory asset will provide assurance that the Companies will recover their prudently incurred costs associated with the development of AMI. Expedited approval was requested to enhance the ability to obtain federal funding for AMI under the American Recovery and Reinvestment Act of 2009 ("ARRA"), which provides for matching federal funding up to a maximum level of 50 percent of the cost with a cap up to \$200 million of a smart grid project, according to the applicants.

Following comment on the proposal and discussion at various Administrative Meetings, by Order No. 82824 issued August 5, 2009, the Commission declined to grant the request for regulatory asset treatment at that time, noting that nothing in the federal

¹⁶ The Commission did not approve a DRI program for AP similar to those implemented for BGE, Pepco, DPL and SMECO because AP's program was not cost-effective.

program requires such extraordinary treatment to be eligible for the awarding of grants under the federal program. However, the Commission further determined its intent to review the Companies' AMI proposals on an expedited, but feasible, schedule and instituted Case No. 9207 to consider the joint proposal by Pepco and Delmarva to deploy AMI in Maryland, and will consider the manner of cost recovery from ratepayers in conjunction with the proposals. Hearings in this matter were held in November and December 2009, and the case remains pending before the Commission.

On July 13, 2009, BGE filed an application for authorization to deploy a Smart Grid Initiative and establish a surcharge for cost recovery, in which the Company seeks Commission approval for smart grid deployment (Case No. 9208). The Company applied for federal funding from the Department of Energy Smart Grid Investment Grant Program under ARRA. The Company's proposal also seeks to establish a smart grid funding mechanism for the recovery of incremental costs through a surcharge on customer bills. By Order No. 82823 issued August 5, 2009, the Commission instituted Case No. 9208 to consider the BGE application, and hearings were held in November and December 2009. The case remains pending before the Commission.

E. Potential Short-Term Reliability Problems in the State of Maryland (“GAP”) (Case No. 9149)

The Commission instituted Case No. 9149 on August 13, 2008 to address a potential reliability “gap” beginning in 2011. On November 6, 2008, the Commission recognized that securing demand response from existing or readily installable emergency load response was the lowest risk and likely lowest cost solution to the potential reliability shortfall. The Commission ordered the four investor-owner utilities (“IOUs”)

to develop and issue “Gap RFPs” to meet the requirements of PJM’s Emergency Load Response Program for the planning years 2011-2016, in order to mitigate potential impacts of a delay in the projected in-service dates of the approved TrAIL and proposed PATH transmission lines. The Commission also directed Staff to convene a distributed generation work group for the purpose of determining the scope of potentially available distributed generation resources and proposing a methodology to harness those resources that are not currently participating in PJM’s Emergency Load Response Program.

On March 11, 2009, the Commission ordered the IOUs to execute contracts for the following total MW of demand response capacity for the specified planning years based on the competitive responses of Curtailment Service Providers to the Gap RFPs:

Contracted MWs of Demand Response

Planning Year	2011/2012	12/13	13/14	14/15	15/16	16/17	17/18
AP Total Capacity	67.8	67.8	67.8	67.8	17.8	N/A	N/A
BGE Total Capacity	171.0	171.0	171.0	156.0	11.0	11.0	11.0
DPL Total Capacity	54.5	54.5	54.5	42.5	7.5	N/A	N/A
Pepco Total Capacity	107.3	107.3	107.3	77.3	17.3	7.0	7.0
Total MW Capacity	400.6	400.6	400.6	343.6	53.6	18.0	18.0

The Commission Staff observed that prices bid into the Gap RFP fell roughly into three groups. The first group of bids at a comparatively low price would yield a total of 105.6 MW of capacity for each of the first three bid years. In contrast, the highest priced bids would add only 111.1 MW of capacity to the totals in the above table, but total estimated cost would increase by two-thirds. The third group, recommended by Staff, would provide a State-wide total of 423.4 MW of capacity with a generally little higher cost on a unit basis than the first option. The Commission agreed with Staff’s recommendation and concluded that the cost for the 400.6 MW of total capacity

“insurance” outlined above was small relative to the reliability value of that capacity in the event of a capacity shortfall.

During the winter and spring of 2009, Staff convened the Distributed Generation Work Group (“DG WG”) as directed by the Commission to discuss longer term issues related to distributed generation resources. The DG WG failed to reach a consensus on all issues. The Staff’s May 12, 2009 report on the DG WG contained the following conclusions and recommendations:

- The Commission’s policy on distributed generation should facilitate broader economic deployment of efficient customer-owned resources such as combined heat and power (“CHP”) and seek to maximize the participation of emergency generation in demand response programs.
- Based on a Staff analysis, at least 400 MW of emergency generation that currently does not participate in PJM emergency demand response programs could potentially participate in those programs.
- Recent changes in air quality regulations permit unlimited operation of emergency generation during PJM emergencies.
- Prior to the first DG WG meeting, knowledge among customers and the distributed resources industry of the new air quality regulations appeared quite limited. Although basic awareness of the options now available to emergency generator owners has since improved, more still needs to be done to inform generation owners and demand response aggregators.
- The Commission’s small generator interconnection regulations do not appear to be a barrier to customer-owned generation participation in demand reduction or electricity sales opportunities.
- According to the American Council for an Energy-Efficient Economy, CHP has the potential to provide 291 MW of demand reductions and 2,000 GWh of annual energy savings in Maryland, which is over 10% of the total statewide EmPower Maryland demand reductions and 17% of the energy savings required by 2015.
- Some utility standby tariffs can act as barriers to otherwise economic CHP installations.
- The Report recommends standby service principles including definitions, service options and availability, and rate components that would be used in a formal rulemaking for standby service statewide.
- Natural gas utility distribution service rates often do not recognize the high load factors possible for many CHP applications. Principles related to load factor

recognition including rulemaking, rate proceeding and interim high load factor rider implementation alternatives are presented in the Staff's May 12th Report.

- CHP and other alternative energy customer side resources could contribute significantly to the achievement of EmPower Maryland demand reduction and energy saving targets, and one or more programs for CHP and other customer side resources should be included in utility energy efficiency and conservation portfolios. The Report includes principles to be followed by the utilities for the development of these programs.

The Commission held a hearing on the DG WG report and comments of the parties on July 9, 2009. A decision is pending.

F. Washington Gas Light Leak Issue (Case No. 9035)

This case, noted in prior Annual Reports, was instituted in April 2005 as an inquiry into natural gas leaks on Washington Gas Light Company's (WGL) Maryland Distribution System.

Following hearings held in February 2007, a Proposed Order of Hearing Examiner was issued on April 2, 2007, in which the Hearing Examiner accepted the Company's contention that injection of Liquefied Natural Gas (LNG) was a contributing factor to the increased number of leaks experienced on the WGL distribution system, and injection of hexane gas as advocated by the Company may cause a re-swelling of seals and ameliorate the leak problem. Following appeal by the Office of People's Counsel (OPC), the Commission affirmed the Proposed Order by Order No. 81714 entered on November 16, 2007, while also keeping the proceeding open to monitor the company's actions with respect to the gas leaks.

Following motions by OPC and Staff to re-open the proceeding for the conduct of a second evidentiary hearing by Order No. 82431 issued on February 2, 2009, evidentiary proceedings were re-opened for the purpose of investigating and considering revised

solutions to the ongoing gas distribution leak problems. A technical conference regarding the leaks was held on May 22, 2009, and the parties have continued discussions and reports during the year.

A settlement agreement has been reached between WGL, the Commission Staff and Office of People's Counsel. WGL has agreed to submit a quarterly report on the status of mechanical coupling leaks within its operating territory in Maryland. Along with the submission of the quarterly report, WGL participates in a quarterly conference call, with the Commission Staff, to discuss the reports. The mechanical coupling leaks reported in Prince George's County have continued to decrease in numbers. However, the number of mechanical coupling leaks reported in Montgomery County has continued to rise above the traditional number of leaks reported in past years. The Commission Staff continues to monitor the leak rates and takes appropriate actions where needed.

G. Gas Price Hedging (Case Nos. 9174, 9193)

In response to the unusually high heating bills experienced by customers in the early months of 2009, the Commission undertook an investigation into the commodity procurement practices of the State's largest gas distribution companies. As a result of its investigation and hearings in Case No. 9174, the Commission determined that gas companies should use financial hedging instruments to lock in the unusually low prices that were available during the late spring and summer months for gas that was destined for storage during the summer months. The Commission directed the three largest gas utilities in Maryland to hedge a specified percentage of summer injection needs at or below a specified price. Those gas utilities each filed a confidential report with the Commission describing the results of their summer gas injection hedge purchases.

On May 12, 2009, the Commission initiated a proceeding under Case No. 9193, to determine the appropriate amount of hedging to be done to procure low priced flowing natural gas to be purchased by Maryland gas utilities during the winter of 2009-2010. After an investigation and hearings, the Commission issued an Order directing one gas utility to hedge a portion of its flowing volume during the winter of 2009-2010. The Commission also noted its intent to address possible hedging opportunities in the context of a broader proceeding at a future time.

H. High Bill Investigation (Case No. 9175)

On January 30, 2009, the Commission initiated a proceeding to review the extent of the current and projected arrearages owed to Maryland's electric, gas, and gas and electric utilities and utilities' policies and procedures regarding assistance to customers who have arrearages, collections and terminations of service (Case No. 9175). The Commission expanded the scope of the proceeding on February 11, 2009 to investigate the significant increase in the number of complaints received by the Commission's Office of External Relations ("OER") regarding higher than normal energy bills (both electric and gas), including claims that bills had doubled (or more) from one month to the next. Complaints to the Commission's OER in January had increased 300% over January 2007 and 100% over January 2008's already-elevated levels. For purposes of its investigation, the Commission directed each utility to submit: data or information addressing arrearage and uncollectible balances; collection and termination practices; the number of complaints the utility received about higher than normal utility bills; the steps taken to investigate and respond to the complaints; and the reasons for the spikes in energy bills.

The data submitted by the utilities and the evidence produced at hearings on February 26, 2009 and March 4, 2009 confirmed that a growing number of Maryland gas and electric customers were having difficulty paying their utility bills, and the higher bills of the 2008-2009 winter season had only compounded the problem. For example, Baltimore Gas and Electric Company (“BGE”) disclosed that its uncollectibles had nearly doubled between 2007 and 2008 (from \$24 million to \$44 million) and were on pace to exceed 2008 levels. Potomac Electric Power Company’s (“Pepco”) uncollectibles had increased by nearly 50% between 2007 and 2008. Substantial arrearages resulting from much-higher-than-normal utility bills, coupled with the various financial strains on families brought on by the severe economic downturn gripping our nation, portended a potentially disastrous scenario in which an unacceptably large number of households could face termination of their gas and/or electric service in the near future. Based again on the utilities’ own figures, over 80,000 BGE customers and over 40,000 Pepco customers were potentially subject to termination.¹⁷

In Commission Order No. 82509 issued on March 11, 2009, the Commission ordered all gas, electric, and gas and electric utilities (“Utilities”) subject to its jurisdiction to immediately refrain from terminating any residential customer’s gas or electric service for delinquent payment or outstanding balances. The Commission further directed that a work group headed by the Commission’s Director of OER and consisting of representatives from all Utilities, Commission Staff, the Office of People’s Counsel (“OPC”), the Mayor and City Council of Baltimore (“City”), the Office of Home Energy Programs of the Department of Human Resources (“OHEP”), and other interested parties

¹⁷ The Code of Maryland Regulations (“COMAR”) 20.31.03.03 places winter restrictions on a utility’s option to terminate service, which among other things prevent terminations on days when the forecasted temperature is below a certain level. These restrictions end on March 31st of each year.

immediately convene for the purpose of developing flexible payment plan procedures (“Work Group”). Finally, the Commission instructed the Work Group to file a written report to the Commission by April 1, 2009 and to appear before the Commission to discuss the results of the Work Group on April 7, 2009.

On April 24, 2009, after reviewing the Work Group’s proposal and after hearing testimony on April 7, 2009, the Commission in Order No. 82628 defined the payment plan parameters and termination procedures that Maryland’s gas and electric utilities were required to follow. Effective that date, the Commission lifted the temporary restriction on terminations of residential gas and electric service, but under the specific conditions set forth below. The Commission directed all of Maryland’s Utilities to notify customers of their ability to negotiate payment plans and their right to appeal the Utilities’ payment plan proposals to the Commission’s OER *before* issuing any termination notices (or proceeding with terminations for which notice was made before the Commission’s March 11, 2009 Order).

The Commission directed the Remaining Utilities¹⁸ to offer a flexible payment plan, free of interest or late fees during the pendency of the plan, to each requesting customer that had not yet been terminated, whether the customer contact came before or after the utility issued a termination notice. The Commission, however, exempted the State’s smaller Utilities from these additional procedures.¹⁹ In crafting individual

¹⁸ The Remaining Utilities are: Baltimore Gas & Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, The Potomac Edison Company d/b/a Allegheny Power and Washington Gas Light Company

¹⁹ See Order 82628 at pp. 7 – 8:

The Commission’s goals in these proceedings were to increase the likelihood that customers can pay their bills in a fair and realistic time and manner, and to prevent, if possible, large-scale terminations and large losses by utilities due to uncollectible debts. This Order aimed to balance the financial health of Utilities and utility customers during this extraordinary confluence of economic and other circumstances -

payment plans, the Commission required each utility to give each customer every opportunity to provide, and required each utility to consider, information concerning the customer's ability to pay. Each utility was directed to consider this information as well as the criteria set forth in COMAR 20.31.01.08 (including the size of the delinquent account, the customer's ability to pay, payment history, anticipated energy assistance benefits, length of time the debt had been outstanding, circumstances resulting in past due bills, and hardships that may result from lack of utility service) in determining the appropriate conditions of each customer's payment plan. Late fees that had already accrued prior to the beginning of the payment plan were not waived. Fee waiver applied only to fees that would otherwise accrue while the customer was making payments as agreed under the plan.

The Commission directed the Remaining Utilities to offer interest-and-late-fee-free payment plans of *up to* twelve months in duration. The Commission did not direct

cold weather, an accelerating national and global recession, tightening of credit markets and somewhat higher rates for gas and electric compared to the winter of 2007-08.

That said, not all of Maryland's utilities are situated equally. After reviewing the record developed in this case, including the Utilities' average arrearages, the number of customer complaints received by the Utilities and the Commission, the Utilities' current practices regarding arrearages and terminations, and after considering the economic strain that mandated payment plans could place on certain utilities, the Commission decided to exempt all utilities *except* Baltimore Gas & Electric Company, Potomac Electric Power Company, Delmarva Power & Light Company, The Potomac Edison Company, d/b/a Allegheny Power, and Washington Gas Light Company from the directives outlined above and from further mandatory participation in the Work Group (they are free to continue if they choose), with two important conditions. *First*, based on the testimony at the April 7th hearing, the Commission was comfortable that the smaller utilities already, as a matter of existing policy and process, offered flexible and tailored payment plans to customers in arrears. But the exempt Utilities, most of whom are municipal or cooperative electric and/or gas companies, should continue these practices, and the Commission reserved the right to revisit the exemption as to any utility that fails to do so. *Second*, before initiating the termination process, the exempt utilities were required to notify all customers in writing of their past due balance, the opportunity to negotiate a payment plan, and the right to appeal the utility's payment plan offer directly to the Commission in accordance with COMAR Title 20, Subtitle 32, Chapter 01. The Commission also reserved the right to take additional actions, for example, if customer complaints revealed that an exempt Utility has a practice of demanding unreasonably large deposits or unreasonably short payment periods.

that every customer be offered twelve-month payment plans (or even nine months or any other specific number) – each plan was to be tailored to the customer’s individual circumstances, and plans of *up to* twelve months were to be offered when appropriate. The Commission directed the utilities to strongly encourage, but not mandate, the use of “budget billing” (even monthly payment plans) in conjunction with the extended payment plans. And as an incentive to encourage those customers who could pay the entire arrearage at once to do so, the Commission instructed the utilities to offer customers who agreed to pay their arrearage in full before the next billing a waiver of late fees already included in the arrearage; those fees would not be waived if the customer entered into a payment plan.

Furthermore, the Remaining Utilities could not require any down payment from customers whose service had not previously been terminated, from customers who had made payments within the last 90 days, or from customers who had not defaulted on payment plans. For customers who had defaulted on earlier payment plans, who had been terminated or who had not made payments for at least 90 days, the Remaining Utilities could require *up to* a 25% down payment. As proposed by the parties and approved by the Commission, customers who later defaulted on an offered payment plan would not automatically be subject to accelerated payments, but would be entitled to one “reset” prior to disconnection of service to allow customers to bring the debt current (by paying all outstanding payments under the payment plan plus keeping current on new charges).

The Commission prohibited the Remaining Utilities from terminating the service of customers with whom they could not agree on a payment plan until the later of: (a)

five business days after the utility provided in writing its “best and final offer”; or (b) the expiration of the 14-day notice period required by COMAR 20.31.02.05. The Commission contemplated that the right to appeal the utility’s payment plan offer directly to the Commission in accordance with COMAR Title 20, Subtitle 32, Chapter 01 would serve as an important protection for customers should the utilities fail to offer reasonable payment plans.

As a result of the Work Group sessions and Commission hearings, the Commission directed the Remaining Utilities, OPC, Commission Staff and any other parties previously involved in the Work Group who still wanted to participate to continue the discussion of data collection and reporting and specifically to propose an appropriate set of data fields for collection and analysis at reasonable intervals. The Commission ordered the Work Group to report back to the Commission on a proposed data collection policy by June 1, 2009.

On behalf of the Work Group, the Commission Staff submitted a Recommended Data Collection Policy on June 1, 2009 which proposed a set of data fields to be collected from the Remaining Utilities at certain intervals and analyzed by Commission Staff. It submitted a Revised Recommended Data Collection Policy on June 26, 2009. On August 13, 2009, in Order No. 82837, the Commission adopted the Revised Recommended Data Collection Policy and ordered the utilities to make the Collection Data available to the Commission Staff by August 17, 2009; by October 15, 2009; and by January 15, 2010. Upon Staff’s submission to the Commission of its analysis of the Collection Data, the Commission will determine what additional hearings or investigations may be needed.

Finally, the Commission held a hearing on October 20, 2009 at which it heard from, or was provided data by, all Maryland utilities regarding their arrearages, terminations and related information as of the end of the summer 2009 cooling season in order to assess the status of these issues in advance of the 2009-10 winter season. The information presented also included preliminary data from the Remaining Utilities in connection with the payment plans offered to its customers pursuant to Order No. 82628.²⁰ Because most of these payment plans were entered within the first one or two months after the Order, there was insufficient information to assess the impact of the plans on the customers and the companies. Additionally, OPC, OHEP, the City, and Energy Advocates²¹ appeared at the hearing to provide their comments on the impact of the plans. As a result of the hearing, on November 23, 2009, the Commission issued Order No. 83027, in which it: (1) clarified that the measures adopted in Order No. 82628 were temporary and were intended to provide relief to those customers affected by higher-than-expected winter heating bills, and not to serve as ongoing requirements; (2) directed the 9175 Work Group to consider: (i) suggestions for clarification of current data points; and (ii) suggestions for additional data points designed to measure more precisely the effectiveness of the payment plans; and (3) directed the Remaining Utilities to

²⁰ On May 22, 2009, Baltimore Gas and Electric Company and Washington Gas Light Company filed a *Request for Clarification, or Alternatively Rehearing*. Similarly, on the same date, Potomac Electric Power Company and Delmarva Power & Light Company filed an *Application of Potomac Electric Power Company and Delmarva Power & Light Company to Clarify and Rehear Order No. 82628*. Finally, on May 26, 2009, The Potomac Edison Company filed a *Request for Rehearing and Clarification of Order No. 82628*. On September 23, 2009, in Order No. 82920, the Commission denied the preceding requests. The Commission denied the requests for clarification finding that the Order is clear from its face that the payment plan requirements instituted by the Order were temporary measures applying to customers that faced difficulty in paying higher-than-expected heating bills and faced the prospect of losing service because of an inability to keep current on payment of these higher bills. Furthermore, the Commission did not close the matter and intends to continue to investigate and hold hearings in the matter. Accordingly, the utilities would have the forum to argue their positions during these hearings, and no rehearing of the Order was required.

²¹ Energy Advocates is a statewide coalition that advocates for policies and programs that meet the energy needs of low and moderate income Maryland residents.

continue to file data point responses for three additional quarters to cover the full period in which a majority of the 9175 payment plans are in effect.

The Commission will continue to monitor terminations and arrearages of residential customers,²² and initiate further proceedings as necessary.

I. Supplier Diversity Memorandum of Understanding (PC16)

On February 6, 2009, in the presence of numerous legislators, administration officials, advocacy groups, and the public, ten utilities entered into new Memoranda of Understanding with the Commission in which each utility agreed voluntarily to develop, implement and consistently report on its activities and accomplishments in promoting a strategy designed to create viable and prosperous women, minority, and service-disabled-veteran-owned business enterprises (“Diverse Suppliers”). The utilities agreed to provide the Diverse Suppliers the maximum opportunity to participate in and compete for contracts and subcontracts in the utility’s supply chain for goods and services that support the utility, and to encourage and assist, when reasonable, its prime contractors to develop plans to increase the utilization of Diverse Suppliers as subcontractors (“Supplier Diversity”). These MOUs contained the utilities’ commitment to use their best efforts to achieve a goal of 25% Diverse Supplier contracting, standardized the reporting methodology, and instituted uniform annual plans and annual reports, in order to track the utilities’ compliance with the MOU. The initial ten utilities were: Association of Maryland Pilots; Baltimore Gas and Electric Company; Delmarva Power & Light

²² For purposes of gathering the necessary data for the Commission’s annual report required by 2006 (Special Session) Md. Laws 94, 130 (requiring the Commission to report annually on the impact of the costs of rising fuel prices on residential consumers), the gas, electric, and gas and electric utilities are required to submit monthly reports to the Commission on the number of terminations that occurred in a month and the amount of arrearages for the month.

Company; First Transit's Baltimore Washington International Thurgood Marshall Airport Shuttle Bus Contract; Potomac Edison Company d/b/a/ Allegheny Power; Potomac Electric Power Company; Qwest Communications Corporation; Verizon Maryland Inc.; Washington Gas Light Company; and XO Communications Services, Inc. On July 15, 2009, an additional five utilities, namely, Southern Maryland Electric Cooperative, Inc., Choptank Electric Cooperative, Inc., Chesapeake Utilities Corporation, Easton Utilities, and Pivotal Utilities Holdings, Inc. d/b/a Elkton Gas, entered into similar MOUs with the Commission.

J. Supplement to the Final Report – Options for Re-Regulation and New Generation (SB400)

On March 26, 2009, the Commission issued the Supplement to the Final Report of the Public Service Commission of Maryland to the Maryland General Assembly, Options for Re-Regulation and New Generation: Financial Risk Analysis of Return to Rate Base Regulation. The Financial Risk Analysis of the Return to Rate Base Regulation (the "Consultant's Report") was provided by Levitan & Associates, Inc. and Kaye Scholer LLP (collectively, the "Consultants").

The Consultant's Report was prepared as a result of the Commission's presentation of a report entitled "Options for Re-Regulation and New Generation" (the "Final Report") to the Senate Finance Committee and House Economic Matters Committee on December 16, 2008. During the Senate Finance Committee briefing, the Committee requested that the Commission prepare and submit a quantitative analysis of the costs and risks associated with a return to full re-regulation.

Accordingly, the Commission directed the Consultants to prepare a report that quantified, to the extent possible, the risk factors identified in the Final Report, both in terms of the probability that those risks might occur and the potential economic impact if they do. In addition, the Commission directed the Consultants to update their fuel price, energy usage and cost of capital projections (among other things) with respect to the Consultants' analysis of the potential economic benefit of prospective return to rate base regulation.

The Consultant's Report concluded that the risk-adjusted value of returning to full rate base regulation through utility ownership is essentially zero. In other words, the Consultants opined that upon a return to full re-regulation, it was equally likely that ratepayers could incur additional costs or could realize benefits. Accordingly, the Commission opined to the General Assembly that spending the billions of dollars required to return to full re-regulation when there is only a 50-50 chance of ratepayers seeing any benefit was not a prudent course of action.

K. Mid-Atlantic Distributed Resources Initiative ("MADRI")

MADRI was established by "classic" PJM State Commissions, DOE, and PJM at a meeting in Baltimore, held on June 14-15, 2004. Its goal is "to develop regional policies and market-enabling activities to support distributed generation and demand response in the Mid-Atlantic region." Facilitation support is provided by the Regulatory Assistance Project funded by DOE. There has been much participation by a large number of stakeholders, including utilities, FERC, service providers, and consumers. During 2009, MADRI had activities in the following areas:

- Assisting FERC in its development of a National Action Plan for Demand Response.
- Smart grid and dynamic pricing issues including interoperability, critical peak pricing, cyber security, technology and function options and standards.
- The Maryland Commission Staff's Distributed Generation Work Group report and recommendations.
- Regional PJM transmission system planning and distributed resources.
- Updates and discussion of demand side initiatives and developments in the MADRI states.

L. Regional Greenhouse Gas Initiative ("RGGI")

The Regional Greenhouse Gas Initiative ("RGGI") is the first mandatory cap-and-trade program in the United States for carbon dioxide ("CO₂"). RGGI, Inc.²³ is a nonprofit corporation formed to provide technical and scientific advisory services to participating states in the development and implementation of these CO₂ budget trading programs.²⁴

Under RGGI, 10 Northeastern and Mid-Atlantic states have jointly designed a cap-and-trade program that caps power plants' CO₂ emissions and then lowers that cap by 10% by 2018. These participating states have agreed to use an auction of allowances as the means to distribute allowances to electric power plants regulated under coordinated state CO₂ cap-and-trade programs. All fossil fuel electric power plants 25 megawatts or greater must obtain allowances.

²³ The RGGI Board of Directors ("Board") is composed of two representatives from each member state (20 total), with equal representation from the states' environmental and energy regulatory agencies. Agency Heads (two from each state), also serving as board members, constitute a steering committee that provides direction to the Staff Working Group and allows in-process projects to be conditioned for Board Review. Commissioner Brogan is a member of the RGGI Board representing Maryland, and was elected treasurer effective January 1, 2010.

²⁴ The RGGI offices are located in New York City in space collocated with the New York Public Service Commission at 90 Church Street.

The effective date for RGGI is January 1, 2009. From 2009 through 2014 the cap stabilizes emissions at current levels approximately 188 tons annually until 2015. Beginning in 2015 the cap is reduced by 2.5 % each year until 2018. The first compliance period is the period 2009-2011. The initial base annual emissions budget for the 2009-2014 periods is as follows:

Table VI.B.1: Annual Emissions Budget (2009 – 2014)

State	Carbon Dioxide Allowances (2009 – 2014)
Connecticut	10,695,036 short tons
Delaware	7,559,787 short tons
Maine	5,948,902 short tons
Maryland	37,505,984 short tons
Massachusetts	26,660,204 short tons
New Hampshire	8,620,460 short tons
New Jersey	22,892,730 short tons
Rhode Island	2,659,239 short tons
Vermont	1,225,830 short tons
Total	1,888,078,977 short tons

Source: The Regional Greenhouse Gas Initiative: Memorandum of Understanding. <http://www.rggi.org>.

This phased approach with initially modest emissions reductions is intended to provide market signals and regulatory certainty so that electricity generators begin planning for, and investing in, lower-carbon alternatives throughout the region, but without creating dramatic wholesale electricity price impacts and attendant retail electricity rate impacts. The RGGI MOU apportions CO₂ allowances among signatory states through a process that was based on historical emissions and negotiation among the signatory states. Together, the emissions budgets of each signatory state comprise the regional emissions budget or RGGI “cap.”

In 2009, RGGI held four auctions of CO₂ allowances in 2009 (an allowance is a limited permission to emit one ton of CO₂). Cumulatively, these auctions have raised over \$100 million for the state's Strategic Energy Investment Fund to support conservation and energy efficiency programs and provide rate relief. Auctions of CO₂ allowances are held quarterly.

M. Transmission Infrastructure -- National, PJM Region, and Maryland

Transmission facilities within the PJM region and Maryland have continued to play a key role in energy supply. With Maryland's dependence on energy imports, it is extremely important that adequate transmission facilities be available to provide needed supplies. While all network systems can experience congestion at times, central Maryland and the Delmarva Peninsula have experienced higher levels of congestion than the rest of the PJM region. This, in turn, leads to higher energy and capacity costs for Maryland consumers and potential reliability concerns. This is a concern that needs to be monitored, managed, and supplemented with additional infrastructure to ensure adequate capacity and reliability with limited levels of congestion.

Eastern Interconnection Planning Collaborative

The United States Department of Energy ("DOE") has launched an initiative to develop regional transmission plans under the provisions of the American Recovery and Reinvestment Act of 2009 (H.R. 1, pages 24-25). Maryland and PJM are participating in the initiative. The initiative takes into account the input of a larger base of stake holders and a broader geographic region including all interconnections east of the Rocky Mountains. Maryland participates in the Eastern Interconnection Planning Collaborative (EIPC). DOE will lead electricity-related research and development activities, including

research and demonstrations for hardware and software technologies that help operate the country's transmission networks. FERC will continue to oversee electricity reliability standards nationally and will enforce regulations to ensure that all transmission planning happens in an open, transparent and non-discriminatory manner.

Inter-regional Planning

PJM is engaged in planning processes that address issues of mutual concern to PJM and neighboring transmission grid systems: the Midwest Independent ISO, ISO New England, the New York ISO, and with the Tennessee Valley Authority. The Inter-regional Planning Stakeholder Advisory Committee facilitates stakeholder review and input into the Coordinated System Plan. Coordinated regional transmission expansion planning across seams is expected to reduce congestion on an inter-RTO basis, and enhance the physical and economic efficiencies of congestion management. Inter-regional ties are a benefit for reliability, especially when load centers peak at different times (referred to as load diversity). Forums such as this have been important for addressing problems such as loop flows around Lake Erie.

PJM Planning

PJM annually develops the Regional Transmission Expansion Plan ("RTEP") to meet system enhancement requirements for new backbone transmission lines and interconnection requests for new generation. In 2009, Maryland imported 39% of its power, which leads to higher congestion costs when the transmission lines are constrained. The RTEP applies reliability criteria over a fifteen-year horizon to identify transmission constraints and reliability concerns. The Transmission Expansion Advisory Committee ("TEAC") is the primary forum for stakeholders to discuss the RTEP results.

The Maryland Public Service Commission is an active participant in the RTEP and regularly attends the TEAC meetings.

The Baltimore/Washington area is in a situation where the congestion of the electricity transmission grid warrants attention. The United States DOE stated that without transmission upgrades, the reliability criteria established for critically important loads will not be met over the next 15 years.²⁵ Both the Department of Energy and PJM have concluded that in order to alleviate this recurring congestion problem, upgrades to the PJM transmission system need to be initiated and completed. The PSC supports the addition of new generation, transmission expansion, and demand response to maintain reliable grid operation and to reduce congestion costs.

Congestion during the summers of 2008 and 2009 was not as pronounced as it had been in previous years. This was primarily due to reduced demand with no significant generation or transmission outages. The PJM metered peaks for 2008 and 2009 were lower than the peaks in 2007 and 2006. This was due to the relatively mild weather, the slowing economy and more diversity (non-coincident regional peaks), energy efficiency, and demand response. Demand response and other renewable sources of energy are being developed to satisfy the EmPower Maryland program and the Renewable Energy Portfolio Standard.

New or Proposed High Voltage Transmission Lines

The current regional plan reaffirms the need for several backbone transmission line projects that the PJM board previously had authorized to address power supply problems. These transmission lines are expected to mitigate congestion along PJM's

²⁵ U.S. Department of Energy, National Electric Transmission Congestion Study, August 2006.

eastern and western interfaces. The cost of transmission facilities in PJM that operate at a voltage of 500 kV and above are currently socialized across all PJM load. The three backbone projects listed below have secured through FERC incentive rate adders for a net rate of return of about 12.7%. Demand response and the slow economy have reduced near-term load forecasts and therefore the required in-service dates have been extended for 1 or 2 years.

- Trans-Allegheny Interstate Line (TrAIL), 502 Junction to Loudon. Construction is under way on TrAIL, and is scheduled to be in service in 2011. Although this 500-kilovolt (“kV”) transmission line is not physically located in Maryland, it is expected to facilitate the west-to-east power flows that will benefit Maryland.
- Potomac-Appalachian Transmission Highline (“PATH”) is a 765-kV transmission line that, as proposed, will extend 300 miles from the Amos Substation (Charleston, WV) to the Kemptown Substation in Frederick County, Maryland.²⁶
- Mid Atlantic Power Pathway Project (“MAPP”) is a 500-kV line that, as proposed, will connect the Possum Point Substation in Virginia and the generation plants in southern Maryland to Indian River and Vienna on the Delmarva Peninsula. The portion under the Chesapeake Bay will be a submarine high-voltage DC line (“HVDC”).²⁷

N. Washington Metropolitan Area Transit Commission (WMATC)

The State of Maryland is a member of the Washington Metropolitan Area Transit Regulation Compact, an interstate agreement among this State, the Commonwealth of Virginia and the District of Columbia, which was approved by Congress in 1960 and

²⁶ An application for a CPCN was filed by Allegheny Power on December 21, 2009. A prior application had been filed by Allegheny Power on behalf of PATH Allegheny Transmission Company, LLC, which was rejected by the Commission. *See* Case No. 9198 discussion in Major Cases and Decision Section, pp. 50.

²⁷ An application for a CPCN has been filed by BGE, Pepco, and DPL. *See* Case No. 9179 discussion in Major Cases and Decisions.

amended in its entirety in 1990 at Maryland's behest and with the concurrence of the other signatories and Congress's consent.

The Washington Metropolitan Area Transit Commission ("WMATC") was created by the Compact for the purpose of regulating certain transportation carriers on a coordinated regional basis. Today, the WMATC regulates private sector passenger carriers, including sightseeing, tour, and charter bus operators; airport shuttle companies; wheelchair van operators and some sedan and limousine operators, transporting passengers for hire between points in the Washington Metropolitan Area Transit District.

The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

The WMATC also sets interstate taxicab rates between signatories in the Metropolitan District, which for this purpose only also includes Baltimore-Washington International Thurgood Marshall Airport ("BWI") (except that this expansion of the Metropolitan District to include BWI does not apply to transportation conducted in a taxicab licensed by the State of Maryland or a political subdivision of the State of Maryland or operated under a contract with the State of Maryland).

A Commissioner from the Public Service Commission (PSC) is designated to serve on the WMATC. Governor O'Malley appointed PSC Commissioner Lawrence Brenner to serve on the WMATC in November 2008. Commissioner Brenner was elected as Chairman of the WMATC in December 2009. The Compact and the WMATC are codified in Title 10, Subtitle 2 of the Transportation Article of the Annotated Code of Maryland.

In fiscal year ("FY") 2009, which is from July 1, 2008 through June 30, 2009, the WMATC accepted 149 applications to obtain, transfer, amend or terminate a WMATC certificate of authority and one application for self insurance approval. The WMATC also initiated 184 investigations of carrier compliance with WMATC rules and regulations in FY2009 and entertained one formal complaint. The WMATC also initiated two interstate taxicab ratemaking proceedings in FY2009 in response to petitions for ratemaking, and two shortly after the end of FY2009 based in part on a petition for ratemaking filed in late FY2009.

The WMATC issued 625 orders in formal proceedings in FY2009. There were 316 carriers holding certificates of authority at the end of FY2009, which is more than three times the 97 that held certificates of authority at the end of FY1990, before the Compact lowered barriers to entry beginning in 1991. The number of vehicles operated under the WMATC authority was approximately 3,900 as of December 9, 2009. The WMATC processed 27 informal complaints in FY2009, mostly concerning interstate taxicab overcharges.

The Public Service Commission includes its share of the WMATC budget in its own budget. Budget allocations are based upon the population of the Compact

signatories in the Compact region. In Maryland this includes Montgomery and Prince George's Counties, as noted above. The FY2009 WMATC budget was \$723,000, and Maryland's share was \$343,280 or 47% of the WMATC budget. In FY2009 the WMATC generated \$163,945 in non-appropriations revenue (fees and forfeitures), which will be returned to the signatories on a proportional basis.

IV. MAJOR CASES AND DECISIONS OF NOTE

A. Gas and Electric Utilities

1. The Matter of Potomac Electric Power Company's Proposed: (a) Stranded Cost Quantification Mechanism; (b) Price Protection Mechanism; and (c) Unbundled Rates – Case No. 8796

This case, instituted in 1998 and noted in prior Annual Reports, concerns issues regarding implementation of electric restructuring for Potomac Electric Power Company (Pepco). As part of its restructuring, Pepco divested substantially all of its electric generating assets, including interests in Commission-approved power purchase agreements, with sharing of net proceeds between the Company and its customers. Among issues remaining outstanding from the divestiture was assignment of interests of a power purchase agreement with Panda-Brandywine L.P. ("Panda"), which interest was purchased by Mirant Corp. (the company which purchased the bulk of Pepco's generating facilities) under a "Back to Back Arrangement," whereby Mirant would purchase the power from Pepco at a price equal to that paid to Panda by Pepco. However, after filing for reorganization under the U.S. Bankruptcy Code, Mirant sought to reject the Back to Back Arrangement, and several years of litigation ensued.

A settlement was subsequently reached, and in 2008 additional funds became available for sharing with Maryland customers under the divestiture sharing formula

approved by the Commission. The Company, Staff, and People's Counsel then filed a settlement agreement on February 17, 2009, which would constitute a full settlement of all issues remaining in this case and would also include a \$39 million credit to Pepco's Maryland customers.

Following hearing held on June 25, 2009, the Commission accepted the settlement by Order No. 82749 issued July 2, 2009, providing for a \$39 million Divestiture Sharing Credit, with the credit applied on a per kilowatt usage basis during the billing month of August 2009.

2. The Inquiry Into Natural Gas Leaks From the Washington Gas Light Company Distribution System – Case No. 9035

(See Major Activities)

3. The Commission's Investigation into Default Service for Type II Standard Offer Service Customers / Competitive Selection of Electricity Supplier/Standard Offer or Default Service for Investor-Owned Small Commercial Customers – Case No. 9056/Case No. 9064

As noted in prior Annual Reports, Case Nos. 9056 and 9064 involve issues regarding Standard Offer Service (SOS) electric supply for Type II medium-sized commercial customers (Case No. 9056) and SOS to residential and small commercial customers of large investor-owned electric utilities (Case No. 9064).

Hearings have been held periodically in 2009 regarding the solicitations for SOS service to assure the biddings were conducted in conformance with Commission requirements, including testimony by the Bid Monitor on the conduct and results of the SOS solicitations for each investor-owned electric utility. Following the hearings, various orders have been issued in these continuing dockets regarding the bid processes and results, as well as other issues (such as bilateral contracts) to enable the investor-

owned utilities to meet their SOS obligations. In addition, these proceedings have also included review of utilities' solar renewable energy standard obligations.

4. The Commission's Investigation of Advanced Metering Technical Standards, Demand Side Management (DSM) Cost Effectiveness Tests, DSM Competitive Neutrality, and Recovery of Costs of Advanced Meters and DSM Programs – Case No. 9111

As noted in prior Annual Reports, this case was instituted in 2007 as a generic collaborative process to consider various issues related to advanced metering initiatives (AMI) and demand side management (DSM) programs of investor-owned electric utilities. The utilities have filed plans and tariffs regarding energy efficiency, conservation and demand reduction plans in this docket, intended to help meet conservation goals consistent with the EmPower Maryland Energy Efficiency Act of 2008, which seeks to achieve reductions in per capita electricity consumption and peak demand by 2015. The electric utilities have filed periodic reports in this docket, while specific dockets for the larger electric utilities have also been established in Case Nos. 9153 - 9157 with respect to these utilities' energy efficiency, conservation, and demand response programs. Case No. 9207 has also been established to consider proposed AMI deployment and cost recovery for Potomac Electric Power Company and Delmarva Power and Light Company, while Case No. 9208 has been instituted to consider proposed AMI deployment and cost recovery for Baltimore Gas and Electric Company.

5. The Commission's Investigation of Investor-Owned Electric Companies' Standard Offer Service for Residential and Small Commercial Customers In Maryland – Case No. 9117

As noted in prior Annual Reports, the Commission instituted Case No. 9117 in 2007 to investigate power procurement methods for Standard Offer Service (SOS) to residential and small (Type I) commercial customers and to examine aggregating the

buying power of low-income Electric Universal Service Program customers. This docket has generally served as the forum for considering broad policy issues surrounding SOS procurement.

By Order No. 82105 issued on July 3, 2008, the Commission set out numerous criteria for various power procurement portfolios by investor-owned utilities (IOUs) in Maryland. The IOUs were directed to present portfolio plans including evaluation of long-term procurement (10-15 years) plans, and also include an evaluation of a variety of different resource mixes, including some component of short- (one year or less), medium- (one to five year), and long-term (more than five years) purchase commitments. The Order also required Maryland IOUs to provide the Commission with the various portfolio plans with evaluations and recommendations by October 1, 2008.

Following filing of comments on the various IOU procurement plans, further hearings were held in December 2008. In 2009, parties have filed various pleadings and comments regarding SOS procurement issues, including a request to consider the impact of the decline in credit markets on wholesale power procurement. Also, CPV Maryland, LLC filed a motion to direct investor-owned utilities to enter into long-term contracts for the sale of power from its proposed 640 MW generating facility in Charles County. By Order No. 82936 issued September 29, 2009, the Commission established Case No. 9214 to investigate this issue as well as other issues regarding new generating facilities in Maryland.

6. The Application of UniStar Nuclear Energy, LLC and UniStar Nuclear Operating Services, LLC for a Certificate of Public Convenience and Necessity to Construct a Nuclear Power Plant at Calvert Cliffs in Calvert County, Maryland – Case No. 9127

As noted in prior Annual Reports, on November 13, 2007, an application was filed for a Certificate of Public Convenience and Necessity to construct a nominal 1710 MW new nuclear power plant at Calvert Cliffs in Calvert County, Maryland.

Following hearings in August 2008 and March 2009, a Proposed Order of Hearing Examiner was issued April 28, 2009 which would grant the application to the Co-Applicants, UniStar Nuclear Operating Services, LLC and Calvert Cliffs 3 Nuclear Project, LLC (successor to original Co-Applicant UniStar Nuclear Energy, LLC). The Hearing Examiner determined that the new nuclear power plant would constitute a new large source of power that would benefit the citizens and State of Maryland, with the plant location at the site of an existing nuclear plant campus reducing impacts. The Proposed Order also included 95 Licensing Conditions, with the determination that with such conditions the plant will meet all applicable environmental standards and requirements. By Order No. 82741 issued on June 26, 2009, the Commission dismissed all appeals and affirmed the Proposed Order, and denied requests for re-hearing by Order No. 83031 issued November 30, 2009.

7. The Investigation of the Process and Criteria for Use in Development of Request For Proposal by the Maryland Investor-Owned Utilities for New Generation to Alleviate Potential Short-Term Reliability Problems in the State of Maryland – Case No. 9149

(See Major Activities)

8. The Matter of The Potomac Edison Company d/b/a Allegheny Power's, Baltimore Gas and Electric Company's, Potomac Electric Power Company's, Delmarva Power & Light Company's, and Southern Maryland Electric Cooperative's Energy Efficiency, Conservation and Demand Response Programs Pursuant to the EmPOWER Maryland Energy Efficiency Act of 2008 – Case Nos. 9153, 9154, 9155, 9156, and 9157

(See Major Activities)

9. The Petition of the Commission's Staff for an Investigation into Washington Gas Light Company's Asset Management Practices and Cost Recovery of Natural Gas Purchases – Case No. 9158

As noted in the 2008 Annual Report, on July 24, 2008, the Commission Staff petitioned the Commission to open an investigation into Washington Gas Light Company's asset management practices and cost recovery of natural gas purchases, noting WGL has changed its policy by implementing self-management of its gas capacity and commodity resources rather than using of a third party asset manager. Staff further recommended review of margin sharing mechanisms for revenues generated from off-system sales, and review of company pricing of gas storage injections (referred to as the "ratable fill" method).

Following hearings held in March 2009, a Proposed Order of Hearing Examiner was issued on November 2, 2009, in which the Hearing Examiner determined that the Company's movement to self-management of its excess assets has resulted in greater margins than the prior use of a third-party asset manager, thereby benefitting both the Company and customers, and was accepted as being in the public interest. The Hearing Examiner further determined that the sharing ratio should be changed for off-system sales, while customers should be insulated from bearing negative credits. The Company's "ratable fill" method for storage gas was found to be in accordance with past usage, but

parties may propose alternative methods for pricing storage gas. The Proposed Order has been appealed, with the appeal pending before the Commission.

10. The Application of Columbia Gas of Maryland, Inc. for Authority to Increase Rates and Charges – Case No. 9159

On October 1, 2008, Columbia Gas of Maryland, Inc. filed an application with the Commission for authority to increase its base rates for the distribution of natural gas. The company also filed supporting testimony, exhibits, and related tariff revisions. The proposed rates are designed to produce additional annual revenues of \$3.7 million.

Following hearings held in February 2009, a Proposed Order of Hearing Examiner was issued March 12, 2009 which accepted a Settlement Agreement providing for a \$1.2 million increase. The Proposed Order was not appealed and became Order No. 82552 on March 27, 2009.

11. The Application of Dans Mountain Wind Force, LLC for a Certificate of Public Convenience and Necessity to Construct a 69.6 MW Wind Generation Facility in Western Allegany County, Maryland – Case No. 9164

On November 5, 2008, Dans Mountain Wind Force, LLC filed an application for exemption from the requirement to obtain a Certificate of Public Convenience and Necessity (CPCN) and for approval of construction of a proposed 69.6 MW wind generation facility to be located in western Allegany County. The application was filed pursuant to § 7-207.1 of the Public Utility Companies Article, which allows exemption for land-based wind projects not exceeding 70 MW capacity.

The application was docketed as Case No. 9164 and a hearing under the exemption statute was held on January 22, 2009 for receipt of public comment. Following a report on the public hearing to the Commission, the Commission considered

the matter at its March 11, 2009 Administrative Meeting and granted the requested CPCN exemption, while noting the Company's agreement to various commitments, as noted in a letter issued March 12, 2009.

12. The Application of Southern Maryland Electric Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 230 kV Transmission Line from Holland Cliff in Calvert County to Hewitt Road Switching Station in St. Mary's County – Case No. 9165

On November 21, 2008, Southern Maryland Electric Cooperative, Inc. filed with the Commission an application for a Certificate of Public Convenience and Necessity to construct a 230 kV transmission line from the Holland Cliff Switching Station in Calvert County to the new Hewitt Road Switching Station in St. Mary's County. Following hearings held in April 2009, a Proposed Order of Hearing Examiner was issued July 14, 2009 that would grant the application, subject to various Licensing Conditions. By Order No. 82894 issued September 9, 2009, the Commission affirmed the Proposed Order with certain modifications.

13. The Matter of the Allocation of Money in the Maryland Strategic Energy Investment Fund Pursuant to Section 9-20B-05(G)(2) of the State Government Article, *Annotated Code of Maryland* – Case No. 9166

On December 5, 2008, the Commission instituted Case No. 9166 to prescribe the manner in which a portion of funds in the Maryland Strategic Energy Investment Fund (Fund) will be allocated to provide rate relief by offsetting electricity rates of residential customers, including an offset of energy efficiency surcharges. The monies in the Fund, which is administered by the Maryland Energy Administration (MEA), are principal proceeds from the sale of Regional Greenhouse Gas Initiative (RGGI) allowances, money appropriated in the State budget, and compliance fees. The purpose of the Maryland Strategic Energy Investment Program under the MEA is to decrease energy demand and

increase supply to promote affordable, reliable and clean energy, and 23% of the monies in the Fund are to be allocated for rate relief on a per customer basis in a manner prescribed by the Public Service Commission.

Following a hearing held on January 14, 2009, in Order No. 82614 issued April 20, 2009, the Commission determined that the rate relief monies from the Strategic Energy Investment Fund shall be a monthly flat-rate per residential customer credit and reflected as a line item entitled "RGGI Rate Credit" on customer bills. The Order also noted other requirements during the 2009 fiscal year regarding credit procedures. During 2009, periodic filings and reports regarding the credit have been made by utilities and reviewed by the Commission, and the Commission has periodically reset the amount of RGGI Rate Credit.

14. The Matter of the Current and Future Financial Condition of Baltimore Gas and Electric Company – Case No. 9173

(See Major Activities)

15. The Investigation of Gas Utilities' Failure to Hedge its 2009 Summer Storage Injections – Case No. 9174

(See Major Activities)

16. The Matter of Arrearage, Collection and Termination Practices of Maryland Electric, Gas, or Electric and Gas Utilities – Case No. 9175

(See Major Activities)

17. The Applications: (1) to Establish the Overall Need for Construction of a New Transmission Line Known as the Mid-Atlantic Power Pathway (MAPP) Project; (2) to Modify the CPCN in Case No. 6526 to Construct an Already Approved Second 500 kV Circuit on New Supporting Structures Across the Potomac River; (3) to Modify the CPCN in Case No. 6984 to Construct a Second 500 kV Circuit Between Chalk Point and Calvert Cliffs, Maryland and to Replace Certain Existing Structures for the Existing 500 kV Circuit in Calvert County – Case No. 9179

On February 25, 2009, Pepco, Delmarva, and BGE filed various applications related to construction of a new major transmission line known as the Mid-Atlantic Power Pathway ("MAPP") Project. According to the applicants, this project has been identified by PJM Interconnection, LLC, the Regional Transmission Organization, as a transmission solution to address reliability problems in the Mid-Atlantic region.

After consideration at the March 4, 2009 Administrative Meeting, the Commission consolidated the applications as Case No. 9179 and delegated the matter to the Hearing Examiner Division for hearing, where the case is currently pending.

18. The Matter of Washington Gas Light Company's 2009-2013 and 2010-2014 Gas Portfolio Plans – Case No. 9180

On November 19, 2008, WGL filed with the Commission its 2009 - 2013 Gas Portfolio Plan, which noted plans of the Company to construct an on-system peak shaving plant on the grounds of the Chillum gas storage holders in Prince George's County.

On March 19, 2009, the Commission docketed the matter as Case No. 9180, and delegated the proceedings to the Hearing Examiner Division, directing that special focus be given to the issue of peaking capacity as the Commission has not determined how WGL should provide for its peaking capacity. Various procedural matters and motions have been litigated, including a Motion to Consolidate the 2010 - 2014 Gas Portfolio Plan with this case, which consolidation was granted in early 2010. The matter remains pending.

19. The Application of Synergics Roth Rock Wind Energy, LLC and Synergics Wind Energy, LLC for an Exemption of the Certificate of Public Convenience and Necessity Requirement to Construct a 50 MW Wind Generation Facility Located in Oakland in Garrett County, Maryland – Case No. 9191

On April 21, 2009, Synergics Roth Rock Wind Energy, LLC and Synergics Wind Energy, LLC filed an application for exemption from the requirement to obtain a Certificate of Public Convenience and Necessity (CPCN) for construction of a generating station, seeking approval to construct a 50 MW wind generation facility near Oakland, Garrett County, Maryland. The application was filed pursuant to § 7-207.1 of the Public Utility Companies Article, which allows an exemption for land-based wind projects not exceeding 70 MW capacity.

The application was docketed as Case No. 9191 and a public hearing under the exemption statute for receipt of public comment was held on June 11, 2009. Following a report on the public hearing to the Commission and a legislative-style hearing on October 14, 2009, the application was granted by Order No. 83021 issued November 18, 2009.

20. The Application of Delmarva Power and Light Company for an Increase in Its Retail Rates for the Distribution of Electric Energy – Case No. 9192

On May 6, 2009, Delmarva Power & Light Company filed an application to increase its rates for distribution of electric energy by \$14,145,000. Following hearings held in September, October, and November 2009, the Commission authorized an increase of \$7,531,000 in Order No. 83040 issued December 2, 2009, which was supplemented by a more detailed Order No. 83085 issued December 30, 2009.

21. The Commission's Review of Maryland Gas Utilities' and Maryland Gas and Electric Utilities' Current Policies and Plans for the Hedging of Natural Gas for the 2009-2010 Winter Heating Season – Case No. 9193

(See Major Activities)

22. The Application of The Potomac Edison Company on Behalf of PATH Allegheny Transmission Company, LLC for a Certificate of Public

Convenience and Necessity to Construct the Maryland Segments of a 765 kV Electric Transmission Line and a Substation in Frederick County, Maryland – Case No. 9198

On May 19, 2009, The Potomac Edison Company (Potomac Edison) filed a Motion for Expedited Decision that the Company may file for a Certificate of Public Convenience and Necessity (CPCN) on behalf of PATH Allegheny Transmission Company, LLC and an Application for a CPCN to construct the Maryland segments of a 765 kV transmission line and a substation in Frederick County, Maryland. The Commission determined that several preliminary issues were raised by the motion and application, including the authority of the Commission to issue a CPCN for a transmission line to an entity other than an electric company.

Following briefs and hearing of argument on the preliminary issues, by Order No. 82892 issued September 9, 2009, it was determined that The Potomac Edison Company d/b/a Allegheny Power may not seek authorization to construct a transmission line on behalf of its non-electric company affiliate, PATH Allegheny Transmission Company, LLC, as the Commission is authorized to issue a CPCN for a transmission line only to an "electric company." Also, the Commission determined that with respect to a transmission line, a CPCN encompasses all components of a project integral to the proposed line, including, where appropriate, substations. Following issuance of the Order, The Potomac Edison Company noted its intent to submit a filing to the Commission regarding the construction of the Maryland portion of the Potomac Appalachian Transmission Highline Project in a new case.

23. The Application of Energy Answers International, LLC for a Certificate of Public Convenience and Necessity to Construct a 120 MW Generating Facility in Baltimore, Maryland – Case No. 9199

On May 22, 2009, Energy Answers International, LLC filed an application for a CPCN to construct a nominally rated 120 MW renewable fuel fired power plant, the "Fairfield Renewable Energy Project," to be located at the former FMC Corporation facility in Baltimore, Maryland, and is designed to accept Processed Refuse Fuel as the primary fuel source. The application was delegated to the Hearing Examiner Division, and a pre-hearing conference was held on July 13, 2009. The matter remains pending.

24. The Application of Easton Utilities Commission for Authority to Increase Its Gas Rates and Charges – Case No. 9205

On July 15, 2009, The Easton Utilities Commission filed an application to increase its rates and charges for gas service by \$351,485, representing an increase of 4.5 percent. Following delegation to the Hearing Examiner Division and a hearing held on October 30, 2009, in a Proposed Order issued November 9, 2009, the Hearing Examiner accepted a Settlement Agreement by the parties for an increase of \$252,000 in annual gross operating base rate revenues. The Proposed Order was not appealed and was entered as final Order No. 83029 on November 25, 2009.

25. Potomac Electric Power Company's and Delmarva Power and Light Company's Request for the Deployment of Advanced Meter Infrastructure – Case No. 9207

(See Major Activities)

26. Baltimore Gas and Electric Company Request for Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge Mechanism for the Recovery of Cost – Case No. 9208

(See Major Activities)

27. The Matter of Whether New Generating Facilities Are Needed to Meet Long-Term Demand for Standard Offer Service – Case No. 9214

By Order No. 82936 issued September 29, 2009, the Commission instituted Case No. 9214 to consider issues regarding generating facilities in Maryland. This docket will

include consideration of the request of CPV Maryland, LLC, filed in Case No. 9117 on July 7, 2009, to direct investor-owned utilities to enter into long-term contracts for the sale of power from its proposed 640 MW generating facility in Charles County, and that motion and related responses have been moved into this new docket, Case No. 9214. Also, this case will investigate whether the Commission should exercise its authority to order electric utilities to enter into long-term contracts to anchor new generation or to construct, acquire, or lease, and operate new electric generating facilities in Maryland. Therefore, proposals related to investor-owned utilities meeting Standard Offer Service obligations with respect to new Maryland-located electric generating facilities are to be filed in this docket.

The Commission Staff has requested clarification of the scope of proposals to be submitted, seeking further information on proposed contractual offers, and various comments have been filed. The matter remains pending.

B. Telecommunications

- 1. The Request of Verizon Maryland Inc. to Reclassify Certain Retail Bundled Services to the Competitive Services Basket as Provided by the Commission's Price Cap Plan (Case No. 9072); the Commission's Investigation into Verizon Maryland Inc.'s Service Performance and Service Quality Standards (Case No. 9114); the Commission's Investigation into Verizon's Affiliate Relationships (Case No. 9120); the Commission's Investigation into Local Calling Area Boundaries and Related Issues (Case No. 9121); and the Matter of Appropriate Forms of Regulating Telephone Companies (Case No. 9133) – Case Nos. 9072, 9114, 9120, 9121 and 9133**

(See Major Activities)

- 2. The Commission's Inquiry Into Verizon Maryland Inc.'s Provision of Local Exchange Telephone Service Over Fiber Optic Facilities – Case No. 9123**

(See Major Activities)

C. Miscellaneous

- 1. The Matter of Increase of Rates for Taxicab Service in Baltimore City and Baltimore County – Case No. 9184**

By Order No. 82618 issued April 22, 2009, the Commission, in response to objections to a reduction in the taxicab fuel surcharge, instituted Case No. 9184 to determine the just and reasonable rates for taxicab service in Baltimore City and Baltimore County. The Commission noted that the "automatic fuel adjustment surcharge," authorized in the preceding 2005 base rate case, Case No. 9028, provides for adjustment based upon changes in the price of regular grade gasoline in the Baltimore area. Furthermore, dramatic reductions in the area price of gasoline since the summer of 2008 would reduce the surcharge, which reduction has been opposed by various taxicab permit holders and drivers. In docketing the case, the Commission established a temporary rate to maintain the existing mileage rate and delegated the proceedings to the Hearing Examiner Division, where the case remains pending.

2. The Application of the Maryland-American Water Company for Authority to Adjust its Existing Schedule of Tariffs and Rates – Case No. 9187

On April 30, 2009, the Maryland-American Water Company filed an application to increase its rates for water service in the municipality of Bel Air, Maryland and surrounding areas. Following hearings held in July and August 2009, a Proposed Order of Hearing Examiner was issued August 24, 2009, which accepted a Settlement Agreement providing for an increase of \$615,000, compared to the \$792,736 increase proposed in the application. In Order No. 82893 issued September 9, 2009, the Commission approved the Proposed Order, thereby accepting the \$615,000 increase.

3. The Petition of Cecil County, Maryland for the Public Service Commission to Set Rates for Water Service Provided by the Town of North East, Maryland Within Cecil County – Case No. 9190

On November 6, 2008, Cecil County requested that the Commission set the rates for water service provided by the Town of North East to the areas inside Cecil County but outside the jurisdictional town limits. The matter was delegated to the Hearing Examiner Division, and a prehearing conference was held on September 28, 2009.

On October 15, 2009, the Hearing Examiner issued a Ruling on Burden of Proof, determining that the burden of proof or persuasion will be and remain on the proponent of any change. However, the burden of producing evidence will lie with whichever party possesses evidence. On November 13, 2009, Cecil County noted an appeal of the Ruling, and the matter remains pending.

4. Maryland Water Service, Inc.'s Bulk Purchased Water Rate Increase and Purchased Water Surcharge Reconciliation – Pinto and Highland Estates – Case No. 9212

On July 27, 2009, Maryland Water Service, Inc. (“MWS”) filed a request to increase the bulk purchased water rate for its Pinto customers to reflect an increase in bulk purchased water costs. Subsequently, on August 3, 2009, MWS filed a request to impose three concurrent purchased water reconciliation surcharges to collect the difference between its purchased water costs and revenues collected from customers in prior years. Customers in the Company's Pinto territory and Highland Estates territory may be affected.

By Order No. 82899 issued September 11, 2009, the Commission instituted Case No. 9212 to consider the proposed bulk purchased water rate increase, the reconciliation surcharges, and water quality issues, and delegated the matter to the Hearing Examiner Division. Also, a temporary bulk purchased water rate was set. A procedural schedule has been established providing for hearings in early 2010. The matter remains pending.

5. The Request by Oldtown Toll Bridge, LLC to Increase Its Rates – Case No. 9213

On August 4, 2009, the Commission Staff submitted a rate proposal on behalf of the Oldtown Toll Bridge, LLC proposing a rate increase for the company. By Order No. 82904 issued September 14, 2009, the Commission instituted Case No. 9213 to consider the proposed rates and delegated the matter to the Hearing Examiner Division. Hearings were held on November 30, 2009, at which the owner of the company agreed to the extension of the proceedings to permit completion of a report on the recent safety

inspection of the bridge, as well as cost estimates for needed repair work. The matter will continue in 2010.

V. RULEMAKINGS: REGULATIONS – NEW AND AMENDED

The Commission conducted proceedings involving amendments to the Code of Maryland Regulations Title 20 regarding: (a) Terminations of Service; (b) Service Supplied by Electric Companies; (c) Electric Standard Offer Service--Transfers of Service; (d) Competitive Electric Supply; (e) Competitive Gas Supply; (f) Renewable Energy Portfolio Standard; and (g) Power Plant Modifications - Clean Air.

COMAR 20.31.01.02B, 20.31.03.03, and 20.31.03.04 –Terminations of Service

Proposed regulations pertaining to temporary restriction against termination due to extreme weather conditions were adopted for publication on July 28, 2009. After consideration of comments on the published regulations at an Open Meeting held November 5, 2009, these regulations were assigned to a working group to consider: (1) inserting non-payment in E(1); (2) whether summer gas cooling customers should be included in the regulations; (3) the weather forecast time frame; and (4) the definition of weather station area.

COMAR 20.50.01--Service Supplied by Electric Companies--General

Proposed regulations adding two definitions used in other new regulations for distribution transformers were adopted by the Commission on August 20, 2009, and became effective September 21, 2009.

COMAR 20.50.02--Service Supplied by Electric Companies--Engineering

Proposed regulations requiring the use of life-cycle cost analysis in the purchase of liquid-immersed distribution transformers as required by § 7-205 of the Public Utility

Companies Article, *Annotated Code of Maryland*, were adopted by the Commission on August 20, 2009, and became effective September 21, 2009.

COMAR 20.50.03--Service Supplied by Electric Companies - Records and Reports

Proposed regulations requiring submission of an annual report detailing distribution transformer purchases were adopted by the Commission on August 20, 2009, and became effective September 21, 2009.

COMAR 20.52.03--Electric Standard Offer Service--Transfers of Service

Proposed regulations were introduced amending the time period governing transfer of service to be consistent with COMAR 20.53, Competitive Electric Supply, and deleting obsolete language

COMAR 20.53--Competitive Electric Supply

COMAR 20.53 was adopted as final by the Commission on March 10, 2009 and published March 27, 2009, with an effective date of April 6, 2009. COMAR 20.53 incorporates the Commission's former residential consumer protection regulations and requires that electric utilities provide specific pre-enrollment information to suppliers upon receipt of customer consent, provides for switching within a 12-day period tied to the customer's regularly scheduled meter reading date, contains certain requirements in the case of a supplier default, provides for budget billing for suppliers, requires a utility to provide retail suppliers the same electronic access to customer bill information that it provides to the customer and sets forth limited consumer protection regulations for non-residential customers. In addition, COMAR 20.53, as revised, changes the Commission's partial payment hierarchy under utility consolidated billing, from one that ages

receivables to one that gives the choice, at the utility's option, of either pro rata sharing between the utility and the supplier or purchase of supplier receivables by the utility.

COMAR 20.59--Competitive Gas Supply

COMAR 20.59, which pertain to competitive gas supply, was adopted as final by the Commission on September 25, 2009 and published October 5, 2009, with an effective date of October 5, 2009. COMAR 20.59 incorporates the Commission's former residential consumer protection regulations and requires that gas utilities provide specific pre-enrollment information to suppliers upon receipt of customer consent, provides for switching within a 12-day period tied to the first of the month, requires that suppliers be compensated within 90 days of the first supply of gas, contains certain requirements in the case of a supplier default, provides for budget billing for suppliers, requires a utility to provide retail suppliers the same electronic access to customer bill information that it provides to the customer, and sets forth limited consumer protection regulations for non-residential customers. In addition, COMAR 20.53, as revised, changes the Commission's partial payment hierarchy under utility consolidated billing, from one that ages receivables to one that gives the choice, at the utility's option, of either pro rata sharing between the utility and the supplier or purchase of supplier receivables by the utility.

COMAR 20.61--Renewable Energy Portfolio Standard

Revised COMAR 20.61.01.05C(1) and 20.61.03.06 were adopted as final by the Commission on July 14, 2009 and published on September 11, 2009, with an effective date of September 21, 2009. By these revisions COMAR 20.61 was amended to provide that a renewable energy credit ("REC") that results from a Level I solar facility and, therefore, is awarded for a 15-year period at the time of certification based on

engineering estimates, would remain eligible for Maryland compliance provided it is transferred or sold to an electricity supplier prior to decertification of the facility to which the REC is tied. The Commission adopted additional proposed revisions to COMAR 20.61 for publication on December 15, 2009 as follows: (1) inclusion of the interconnection requirement in the definition of solar facility; (2) clarification of application requirements for photovoltaic solar systems; (3) clarification of the useful life of a REC for purposes of compliance; and (4) revision of COMAR 20.61.05 in recognition of the changed composition of the Maryland Strategic Energy Investment Fund.

COMAR 20.79.01--Power Plant Modifications--Clean Air Act

The Commission adopted as final on November 5, 2009, effective November 30, 2009, a new regulation revising how the Commission determines whether a change to a power plant is a “modification” under the PUC Article that requires Commission approval. The new regulation requires compliance with relevant sections of the Federal Clean Air Act by incorporating that Act’s provisions into COMAR.

VI. OTHER MATTERS

A. Broadened Ownership Act

In compliance with §14-102 of the Economic Development Article of the *Annotated Code of Maryland*, entitled the "Broadened Ownership Act," the Commission engaged in communications with the largest gas, electric, and telephone companies in the State in an effort to assure their awareness of this law. The law establishes the need to institute programs and campaigns to encourage the public and employees to purchase

stocks and bonds in these companies, thus benefiting the community, the economy, the companies, and the general welfare of the State.

The following major utility companies submitted reports outlining various efforts to encourage public and employee participation in the stock purchase program:

(a) Pepco Holdings, Inc. (“PHI”) continues to encourage broadened ownership of the Company’s capital stock particularly among Maryland residents. PHI is the parent company of Potomac Electric Power Company and Delmarva Power & Light Company. As of August 31, 2009, there are more than 221 million shares of PHI common stock outstanding that are held by over 60,000 shareholders. With respect to ownership of PHI stock by Maryland residents, PHI’s records show that 10,811 shareholder accounts, representing 6.7 million shares, are registered directly to Maryland residents.

(b) NiSource, Inc. (Parent) owns all of the common stock of the Columbia Energy Group, which in turn owns all of the common stock of Columbia Gas of Maryland, Inc. The Parent has five plans, which encourage broadened stock ownership. The Employee Stock Purchase Plan (“ESPP”) encourages broadened stock ownership by employees. The Parent maintains the NiSource Inc. Retirement Savings Plan, the Northern Indiana Public Service Company Bargaining Unit Tax Deferred Savings Plan, and the Bay State Gas Company Operating Employee Savings Plan collectively referred to as the Tax Deferred Savings Plans. In addition, the Automatic Dividend Reinvestment and Stock Purchase Plan broadens capital ownership by all stockholders.

On July 31, 2009, the Parent had 275,338,872 shares of its common stock outstanding, of which 8.8 million or about 3.2% were held by employees in the ESPP

Plan and the Tax Deferred Savings Plans. As of July 31, 2009, the Parent had approximately 729 registered stockholders with Maryland addresses, holding approximately 251,017 shares of Parent common stock.

(c) As of September 30, 2009, 21,573 Maryland residents representing 60.72% of Constellation Energy Group, Inc. (Parent Company of Baltimore Gas and Electric Company) total common shareholders, owned 9,478,447 or 4.72% of the outstanding shares of common stock. In addition, Company employees (many of whom are Maryland residents) own additional shares of common stock through the Company's Employee Savings Plan.

Constellation Energy Group, Inc. established an Employee Savings Plan to provide employees with a convenient way to save toward retirement and to increase their ownership interest in the Company. Under this Plan, employees may save up to 50% of their income and invest such savings in any of the Company's common stock, 11 mutual funds, 12 Target Dated Funds or a combination of all 24 investment options. As of September 30, 2009, 6,318,012 shares of common stock were held in the Employee Savings Plan for current and former employees, including approximately 618,842 shares allocated during the current reporting period.

Constellation Energy Group, Inc. established a Shareholder Investment Plan to provide a viable and attractive method for Constellation Energy's registered and beneficial investor to acquire additional shares. As of September 30, 2009, 4,413 Maryland residents representing 12.42% of Constellation Energy's total common shareholders, owned 41,346 or 0.02% of the outstanding shares of common stock, participated in the Shareholder Investment Plan.

(d) The Potomac Edison Company d/b/a Allegheny Power is a wholly-owned subsidiary of Allegheny Energy, Inc. (“AE”). In 2009, AE continued its Employee Stock Ownership and Savings Plan. Approximately 86% of AE's employees are currently contributing to the Plan and 3,873 participants have AE stock as part of their account balance within the Plan. As of December 31, 2008, 1,279 Maryland residents held 482,113 shares of AE stock as stockholders of record, which represents approximately 7% of all AE registered stockholders and 0.28% of all shares.

(e) Washington Gas Light Company (“WGL”), provides the following information from the Investor Relations Department regarding its efforts to broaden ownership of the Company’s capital stock, particularly among residents of Maryland and Company employees. Currently, approximately 26.79% of registered shareholders reside in Maryland, and represent 4.26% of the Company's outstanding common shares. WGL employees also actively participate in the ownership of the Company. As of October 1, 2009, 103 employees were actively participating in the Company's Dividend Reinvestment and Common Stock Purchase Plan, and approximately 1,071 employees (both active and retired) owned shares through its 401K Savings Plan.

(f) Verizon Maryland Inc. is a wholly owned subsidiary of The Verizon Corporation. Public stockholder ownership in the Maryland Company is obtained through the purchase of Verizon Capital Stock. The Verizon Savings Plan and the Verizon Savings and Security Plan enable employees to purchase Verizon stock. Employees are eligible to participate in the plans after one year of service. As of September 30, 2009, there were 25,195 Maryland residents who held Verizon stock.

B. Electric Competition Activity – Case No. 8738

By letter dated September 13, 2000, the Commission ordered the four major investor-owned utilities in the state, Allegheny Power Company (APS), Baltimore Gas & Electric Company (“BGE”), Delmarva Power & Light (“Delmarva”), and Potomac Electric Power Company (“PEPCO”), to file Monthly Electric Customer Choice Reports. The reports were to show the number of customers served by suppliers, the total number of utility distribution customers, the total megawatts of peak demand served by suppliers, the peak load obligation for all distribution accounts, and the number of electric suppliers serving customers. These data were to be collected for both residential and non-residential customers.

At the end of December 2005, electric suppliers in the state served 39,527 commercial, industrial and residential customers. Through December 2009, this number had increased to 169,908. Of these, 98,599 were residential and 71,309 were non-residential accounts. BGE had the highest number of residential (53,126) accounts served by suppliers. BGE had the highest number (40,353) of commercial accounts served by suppliers. The total statewide number of distribution service accounts eligible for electric choice was 2,226,302 of which 1,986,688 were residential and 239,644 were non-residential. Overall, as of December 2009, 5.0% of residential accounts and 29.8% of non-residential accounts were enrolled with an electric supplier.

The overall demand in megawatts (MWs) of peak load obligation served by all electric suppliers was 5,249 MWs at the end of December 2009. Of this amount, 365 MWs were residential and 4,884 MWs were non-residential. BGE had the highest peak-load served by suppliers (2,852 MWs). The total statewide peak load obligation eligible

for choice was 13,166 MWs of which 6,545 MWs were residential and 6,620 MWs were non-residential. Statewide at the end of December 2009, electric suppliers served 5.6% of eligible residential peak load and 73.8% of eligible non-residential peak load.

As of December 2009, AP had 7 suppliers serving residential customers, 15 suppliers serving Small C&I, 18 suppliers serving Mid-Sized C&I, and 12 suppliers serving Large C&I. BGE had 11 suppliers serving residential customers, 22 suppliers serving Small C&I, 23 suppliers serving Mid-Sized C&I, and 18 suppliers serving Large C&I. Delmarva had 10 suppliers serving residential customers, 17 suppliers serving Small C&I, 19 suppliers serving Mid-Sized C&I, and 14 suppliers serving Large C&I. PEPCO had 10 suppliers serving residential customers, 19 suppliers serving Small C&I, 22 suppliers serving Mid-Sized C&I, and 16 suppliers serving Large C&I.

VII. REPORTS OF THE ORGANIZATION'S DEPARTMENTS/DIVISIONS

A. Office of the Executive Secretary

The Executive Secretary is responsible for the daily operations of the Commission and for keeping the records of the Commission, including a record of all proceedings, filed documents, orders, regulation decisions, dockets, and files. The Executive Secretary is an author of, and the official signatory to, minutes, decisions and orders of the Commission that are not signed by the Commission directly. The Executive Secretary is also a member of a team of policy advisors to the Commission.

The Office of Executive Secretary ("OES") is responsible for the Commission's case management, expert services procurement, order preparation, purchasing and procurement, regulation development and coordination, tariff maintenance, the Equal

Employment Opportunity Program (“EEOP”), operations, fiscal and budget management, the Commission’s computer system, including databases and the official website and the intranet site. The OES divisions are:

(1) Administrative Division, which includes the following sections:

- a. *Case Management.* The Case Management Section creates and maintains formal dockets associated with proceedings before the Commission. In maintaining the Commission’s formal docket, this Section must ensure the security and integrity of the materials on file, while permitting access by the general public. Included within this security function is the maintenance of confidential/proprietary information relating to the conduct of utility regulation and required compliance with detailed access procedures. During 2009, this Section established 420 new dockets and processed 3,182 non-transportation related case items. This Section is also responsible for archiving the formal dockets based on the record retention policies of the Commission.
- b. *Document Management.* The Document Management Section is responsible for the development of the Commission’s Administrative Meeting Agenda (“Agenda”), the official open meeting action agenda mandated by law. During 2009, this Section scheduled 47 Commission administrative meetings to consider the Agenda; and there were 1,112 items considered at these meetings. Additionally, this Section is responsible for docketing public conferences held by the

Commission. There were three administrative docket public conferences initiated and held in 2009. This Section also processed 6,334 filings, including 2,155 memoranda.

- c. *Regulation Management.* This Section is responsible for providing expert drafting consultation, establishing and managing the Commission's rulemaking docket, and coordinating the adoption process with the Secretary of State's Division of State Documents. During 2009, this Section managed 11 rulemaking dockets that resulted in emergency or final adoption of regulation changes to COMAR Title 20 – Public Service Commission, and 8 rulemaking dockets that remain active.
- d. *Operations.* This Section is responsible for managing the Commission's telecommunications needs and its motor vehicle fleet as well as being the liaison to accomplish building maintenance, repairs and construction needs of the Commission. In addition, this Section is responsible for the EEOP.

(2) Fiscal Division, which includes the following sections:

- a. *Fiscal and Budget Management.* This Section manages the financial aspects of the daily operations of the Commission. The operating budget totaled \$17,619,601 for fiscal year ending June 30, 2009. This budget consisted of \$17,364,601 in Special Funds and \$255,000 in Federal Funds. Included within the normal State functions are two unique governmental accounting responsibilities. The first function

allocates the Commission's cost of operation to the various public service companies subject to the Commission's jurisdiction. The second function allocates the budget associated with the Department of Natural Resources' Power Plant Research Program to electric companies distributing electricity to retail customers within Maryland. This Section also administers the financial accountability of the Pipeline Safety Program and the Hazardous Liquid Pipeline Safety Program, which are partially reimbursed by the Federal Department of Transportation, by maintaining all associated financial records consistent with federal program rules, regulations, and guidelines requiring additional record keeping.

b. *Purchasing and Procurement Management.* This Section is responsible for expert services procurement and all other procurements required by the Commission as well as the overall control of supplies and equipment. This Section is also responsible for agency forms management and record retention management. This Section's staff maintained and distributed the fixed and disposable assets, maintained all related records, purchased all necessary supplies and equipment, and coordinated all equipment maintenance. As of June 30, 2009, this Section was maintaining approximately 160 items of disposable supplies and materials totaling \$11,744 and fixed assets totaling \$1,848,537.

(3) *Information Technology Division.* The Information Technology Division (“IT”) functions as the technical staff for the Commission’s network and computer systems. IT is responsible for computer hardware and software selection, installation, administration, training and maintenance. IT creates and maintains the Commission’s Internet website. In 2009, IT: (a) implemented secure online transactions via VERISIGN for the Commission’s web site applications; (b) added an online application for the submission of single/form and bulk affidavits from utilities; (c) completed a new online service for the acquisition of termination and arrearage data from utilities; and (d) deployed a live streaming video system (REAL NETWORKS) for the Commission’s public Hearings and Proceedings which is accessible via browser (Internal and Public).

(4) *Personnel Division.* The Personnel Section is responsible for day-to-day personnel transactions of the Commission, which include recruitment, testing, hiring, retirements and terminations along with associated records management. In addition, this Division is responsible for payroll, timekeeping, and state and federal employment reports. The Division serves as the liaison between the State’s Department of Budget and Management’s Office of Personnel Services and Benefits, the Commission and the Commission’s employees. During 2009, this Section provided the Commission’s managers and personnel with advice, direction, and guidance on personnel matters, performance evaluations, salary issues under the Agency’s independent salary plan, and retirement and training.

B. Office of the General Counsel

The Office of the General Counsel (“OGC”) has eight attorneys: the General Counsel, three Deputy General Counsel, and four Assistant General Counsel. OGC represents the Commission in external proceedings in which the Commission is a party or desires to intervene as a party, advises the Commission on legal questions that require interpretation of a provision of law about the jurisdiction, rights, duties, or powers of the Commission, acts as an attorney to the Commission as the Commission reasonably requires, and leads or participates in special projects as directed by the Commission.

In addition to the duties outlined above, the Office of General Counsel provides legal support to the Commission in a variety of other ways. For example, during calendar year 2009, the Office of General Counsel responded to 64 requests for information pursuant to the Public Information Act. Attorneys from the office also spearheaded the Commission's negotiation of the Memoranda of Understanding with the utilities regarding utilization of Diverse Suppliers, interfaced with various communities regarding their concerns about utilities' reliability and tree trimming practices, and assisted the Commission with various enforcement actions relative to limousine and for-hire drivers.

Below is a summary of selected cases litigated by OGC and a summary of selected matters in which OGC represented the Commission before the Federal Energy Regulatory Commission:

1. Summary of Selected Litigation

The Commission prevailed, in part, before the Court of Appeals in *Higginbotham v. PSC*, 985 A.2d (Md. Ct. App. 2009). The Court affirmed the trial court's dismissal of the defamation actions against current and former Commissioners, while vacating the

dismissal of the action against the Commission itself. In a related case, *Higginbotham v. PSC*, September Term, 2008, No. 329, the Court of Special Appeals affirmed the trial court's dismissal of all claims against the Commission, other than back pay through the date of termination.

The Commission also prevailed in *Constellation Energy Group, Inc. et al. v. PSC*, in which the Baltimore City Circuit Court dismissed as interlocutory the plaintiffs' appeal of the Commission's Order in Phase I of Case No. 9173. The Baltimore City Circuit Court, in *Potomac Electric Power Company v. PSC*, Case No. 24-C-08-008519 AA, also affirmed the Commission's rejection of certain service company costs in Pepco and Delmarva's distribution rate cases.

2. Proceedings Before the Federal Energy Regulatory Commission

During 2009, the Commission continued its aggressive challenges to excessive transmission incentive rate requests filed by transmission owners and developers with the Federal Energy Regulatory Commission (the FERC). Though the Commission strongly supports the development of much needed transmission facilities, both in order to relieve costly congestion and in some instances as a cost-effective alternative to new generation, the Commission opposes transmission incentive rates for routine transmission projects designed primarily to meet local as opposed to regional reliability needs.

By continuing to aggressively oppose such requests, the Commission has successfully dampened the FERC's inclination to award overly generous incentives. Recently, in a transmission incentive rate case involving Public Service Gas and Electric (PSEG), the FERC agreed with arguments made by the Commission and reduced PSEG's incentive rate of return request from 150 basis points to 125 basis points in order to

account for the abandonment costs and Construction Work in Progress incentives the applicant also sought in its filing. The FERC also denied an incentive rate treatment request made by Trans-Allegheny Interstate Line Company (TrAILCo) based on the protest filed by the Maryland Commission, because TrAILCo had not established a nexus between the project and the requested incentive rate of return based on risks.

Additionally, the Commission successfully pursued out-of-court negotiations with the FERC relating to enforcement matters that led to adoption of a revision in FERC's notice policy regarding such matters. On December 17, 2009, the FERC issued a formal policy statement authorizing the FERC Secretary to issue Staff's Preliminary Notice of Violations in enforcement matters. The newly issued policy statement gives State Commissions, and others, notice of FERC Staff's investigation, the nature of alleged violations by market participants, and the opportunity to entities such as the Commission to provide information that could be helpful to the FERC as part of its investigation. Information provided by the Commission or others in response to Staff's Preliminary Notice of Violations will ensure that the FERC has as much relevant information as possible when a settlement is proposed, or if a settlement cannot be fashioned, when the FERC moves forward with an adjudicatory proceeding.

C. Office of the Executive Director

The Executive Director and two assistants supervise the Commission's Technical Staff. The Executive Director's major supervisory responsibility consists of directing and coordinating the work of the Technical Staff relating to the analysis of utility filings and operations, the presentation of testimony in Commission proceedings, and support of the Commission's regulatory oversight activities. The Executive Director supervises the

formulation of Staff policy positions and serves as the liaison between Staff and the Commission. The Executive Director is also the principal contact between the Staff and other State agencies, commissions and utilities.

1. Accounting Investigation Division

During 2009, the Accounting Investigations Division's work responsibilities included assisting other divisions, conducting audits of utility fuel programs and other rate adjustments, ongoing evaluating of utility base rates, and providing appropriate analysis of utility filings and rate initiatives. Division personnel participated in the High Bill Task Force created from CN 9175. The Accounting Division also performed an audit of the operations of the Washington Metropolitan Area Transit Commission for a second time since 2007. The Division assisted the Commission with the development of the Supplier Diversity Programs Report. Division personnel provided expert testimony and recommendations relating to the performance of ongoing audits of 14 utility fuel programs, 8 other rate adjustments and provided appropriate analysis and comment with respect to 119 filings submitted by utilities. In addition, Division personnel also participated as witnesses in 15 formal proceedings in 2009.

2. Demand Side Management (DSM) Division

The Demand Side Management Division, formerly part of the Energy Resources and Markets Division, reviews and monitors electric and gas utility energy efficiency, conservation, demand reduction and related programs. In particular, the Division tracks goals, reviews programs and monitors program results related to the recently enacted EmPower Maryland energy and demand reduction targets.

Division members also have analytical and/or oversight responsibilities on a wide range of subjects including: developments in the wholesale energy markets focusing on demand response and distributed generation through PJM working groups and committees; participation in multi-party program development for EmPower Maryland, national developments on smart grid and advanced metering infrastructure (AMI) as well as utility-sponsored AMI plans; and, preparation of highly technical studies and reports for the Commission, other State agencies, and the General Assembly.

During 2009, DSM participated in several significant initiatives including:

- Reviewing and providing testimony in Commission regulatory proceedings for the Advanced Metering Infrastructure proposals in Cases Nos. 9207 and 9208.
- Participating in technical working groups on utility-sponsored energy efficiency and conservation programs, collectively known as demand-side management (DSM) programs.
- Monitoring, and where appropriate, participating in initiatives of the PJM, including the Energy Efficiency Task Force and Demand Response Working Group.

3. Electricity Division

The Electricity Division conducts economic, financial and policy analyses relevant to the regulation of electric utilities, electricity retail markets, low income concerns, and other related issues. The Division prepares the results of these analyses in written testimony, recommendations to the Commission and various reports. This work includes: retail competition policy and implementation related to restructuring in the electric utility industry, rate of return on equity and capital structure, pricing structure and design, load forecasting, low income customer policy and statistical analysis, consumer

protection regulations, consumer education, codes of conduct, mergers, and jurisdictional and customer class cost-of-service determinations. The Division's analyses and recommendations may appear as expert testimony in formal proceedings, special topical studies requested by the Commission, leadership of or participation in workgroup processes established by the Commission, or formal comments on other filings made with the Commission.

The Electricity Division was formed in August of 2008 as part of the reorganization of the Commission's Technical Staff. Members of the Division were previously assigned to the former Economics and Policy Analysis Division. The Electricity Division focuses most of its work on regulation, policy and market activities related to the provision of retail electricity.

As part of rate proceedings, the Division's work lies in three main areas: Rate Design, the setting of electricity prices to recover the cost (as annual revenue) of providing service to a specific class (e.g. residential) of customers; Cost of Service Studies, the classification of utility operating costs and plant investments and the allocation of those costs to the customer classes that cause them; and, Cost of Capital, the financial analysis that determines the appropriate return to allow on a utility's plant investment given the returns observed from the utility industry regionally and nationally.

In addition to traditional Rate-of-Return expertise, the Division maintains technical and analytical professionals whose function is to identify and analyze emerging issues in Maryland's retail energy market. Division analysts research methods of electricity procurement, retail energy market models, energy and natural resource price

trends, annual electricity cost data, renewable energy issues, economic modeling of electricity usage, and other areas that reflect characteristics of electricity costs.

During 2009, the Division's work included expert testimony and/or policy recommendations in approximately ten formal and administrative proceedings before the Commission.

4. Engineering Division

The Commission's Engineering Division monitors the operations of public service companies. Engineers perform plant inspections and check the operation of utilities for safety, efficiency, reliability, and quality of service. The Division's primary areas of responsibility include: Electric Generation and Transmission; Metering; Electric, Private Water and Sewer Distribution; and Natural Gas and Hazardous Liquid Pipeline Safety. In 2009, the Engineering Division was deeply involved in facilitating Maryland's move to safe and reliable energy sufficiency, alternative energy technology, and certification of Solar Renewable Energy Facilities to be eligible to earn Renewable Energy Credits in the PJM GATS system.

The Division was active throughout the State monitoring PSC-ordered replacement of bare steel propane piping on the Eastern Shore, evaluating the progress of mitigation of leaks caused by failed mechanical gas couplings in Southern Maryland, and assessing the plans for bare steel replacement in Western Maryland. All of the Commission's Pipeline and Hazardous Liquid Safety Engineers are fully trained for their roles in enforcement of Federal pipeline safety regulations within the State.

The Division worked with the Transmission owners and other involved State agencies to review the plans for several major transmission lines proposed for Maryland.

It also reviewed transmission plans to provide adequate capacity for areas where growth will soon exceed electric supply. The Division coordinated the review of State agencies of the efforts of Maryland's generating stations to comply with the Healthy Air Act through the addition of gas desulphurization and selective catalytic conversion equipment, the installation of barge facilities to enable alternate coal and additive supply sources, and the test burning of new coal mixtures.

The Division had a role in increasing the use of solar power in Maryland when it developed and administered a process that implements the provisions of 2008's Maryland Senate Bill 1016/House Bill 595 which enable owners of solar facilities to obtain Renewable Energy Credits. In 2008, 108 applications from solar power installations were approved for the credits and in 2009, 350 applications were approved for credits.

Commensurate with higher consumer energy bills, the division saw a dramatic increase in electricity meter referee test requests from 106 in 2008 to 230 in 2009.

In 2009, in addition to its traditional regulatory inspections, investigations, and over-sight, the Engineering Division had new opportunities to participate in the transition of Maryland's energy landscape through work related to demand growth, environmental compliance, and new alternative energy technologies.

5. Integrated Resource Planning Division

The Integrated Resource Planning ("IRP") Division provides economic analysis of the long-range plans for reliably meeting customers' demand of the electric companies subject to the Commission jurisdiction. IRP is responsible for monitoring developments in the energy markets as they affect Maryland and promoting Commission policies that

accomplish more robust and competitive energy markets, including at PJM Interconnection, LLC (PJM).

Division members have analytical and/or oversight responsibilities on a wide range of subjects including: regional power supply and transmission planning through participation in PJM working groups and committees; oversight of the Standard Offer Service (SOS) competitive solicitations; developments in the wholesale energy markets focusing on prices and availability; Maryland's renewable energy portfolio standard (RPS); wholesale market demand response programs; certification of retail natural gas and electricity suppliers; and, applications for small generator exemptions to the CPCN process.

During 2009 IRP was directly responsible or involved in several significant initiatives including:

- Preparing the “10-Year Plan (2009-2018) of Electric Companies in Maryland.”
- Preparing the “Renewable Energy Portfolio Standard Report of 2010.”
- Preparing the “Status of Wind-Powered Generating Stations in the State of Maryland Report of 2010.”
- Monitoring wholesale electricity prices in Maryland, including spot prices as measured by locational marginal prices.
- Participating in the PJM planning processes to put in place a new long-term transmission planning protocol addressing both reliability and market efficiency.
- Active participation in several PJM committees and working groups including the Transmission Expansion Advisory Committee (TEAC), the Markets and Reliability Committee (MRC), the Planning Committee, the Market Implementation Committee, the Members Committee, the Demand Side Response Working Group, and the Regional Planning Process Working Group.

- Implementing the Maryland Renewable Energy Portfolio Standard (RPS). Year 2008 was the third compliance year for the Maryland RPS, and the results are available for inclusion in the RPS Annual Report of 2010.
- Monitoring the SOS procurement processes to ensure they were conducted according to codified procedures consistent with the Maryland restructuring law. IRP continued to work with electricity and natural gas suppliers to bring retail choice to the residential and small commercial markets.
- Participate in Commission regulatory proceedings, including the investigation of SOS service for residential and small commercial customers (Case No. 9117), the matter of whether new generating facilities are needed to meet long-term demand for SOS service (Case No. 9214), the matter of applications to, in part, establish the overall need for construction of a new transmission line known as the Mid-Atlantic Power Pathway (MAPP) Project (Case No. 9179), and Allegheny Power Warrior Run relationships and obligations (Case No. 8797).
- Participating in National Association of Regulatory Utilities Commissioners (NARUC) activities.

Monitoring, and where appropriate, participating in initiatives of the PJM, the Federal Energy Regulatory Commission (FERC), and the Organization of PJM States (OPSI).

6. Staff Counsel Division

The Staff Counsel Division directs and coordinates the preparation of Technical Staff's position in all matters pending before the Commission, under the supervision of the Executive Director. In performing its duties, the Staff Counsel Division evaluates public service company applications for identification of issues, legal sufficiency, and compliance with the Public Utility Companies Article of the *Annotated Code of Maryland*, the Code of Maryland Regulations, and utility tariffs. The Staff Counsel

Division attorneys are the final reviewers of Technical Staff's testimony, reports, proposed legislation analysis and comments before submission to the Executive Director. In addition, the attorneys: (1) draft and coordinate the promulgation and issuance of regulations; (2) review and comment on items handled administratively; (3) provide legal services to each division within the Office of Executive Director; and (4) handle inquiries from utilities, legislators, regulators and consumers.

During 2009, Staff attorneys participated in a wide variety of matters involving all types of public service companies regulated by the Commission. The Staff Counsel Division's work included review of rates charged by public service companies, participation in the Constellation Energy Nuclear Group/EDF merger case, settlement of several pending Verizon cases, an investigation into high customer energy bills, and matters concerned with the safety, reliability, and quality of utility services. The Staff Counsel Division was also involved in a variety of efforts intended to address the EmPower Maryland Act of 2008, investigation into methodologies used for gas procurement, establishing the procedures to be followed by electric and gas suppliers as a part of consumer choice, consideration of means for acquisition of new or additional electric generation and transmission, and continued development of the Maryland Renewable Energy Portfolio Program.

7. Telecommunications, Gas, and Water Division

The Telecommunications, Gas, and Water Division assists the Commission in regulating the delivery of wholesale and retail telecommunications services and retail natural gas services and water services in the state of Maryland. The Division's output generally constitutes recommendations to the Commission, but also includes publication

of industry status reports, responses to inquiries from elected officials, media representatives, members of the public, and industry stakeholders. In addition, the Division assists the Commission's Office of External Relations in the resolution of consumer complaints and leads or participates in industry working groups. The Division's analyses and recommendations to the Commission may appear as written comments, expert testimony in formal proceedings, special topical studies requested by the Commission, formal comments on filings submitted by the utilities or by other parties, comments on proposed legislation, proposed regulations and public presentations.

In telecommunications, the Division reviews applications for authority to provide telephone services from local and intrastate toll service providers, reviews tariff filings from such providers, monitors the administration of telephone numbering resources for the State, administers the certification of all payphone providers in the state and monitors the provision of low income services, E911 and telecommunications relay services. During 2009, the Division reviewed 324 tariff filings, rate revisions, new service offerings and related matters. In 2009, the Commission authorized seven new local exchange and nine additional long distance carriers and certified 127 payphone service providers and 11,067 payphones in Maryland. In 2009, Staff filed testimony in several cases involving significant consumer issues including the provision of voice services over next generation fiber optic facilities, the provision of directory assistance service, quality of service and the regulation of retail service offered by the largest incumbent carrier in the State.

In the natural gas industry, the Division focuses on retail natural gas competition policy and implementation of customer choice. The Division participates as a party in

contested cases before the Commission to ensure that safe, reliable and affordable gas service is provided throughout the State. Staff contributes to formal cases by providing testimony on rate of return, capital structure, rate design and cost of service. In addition, the Division provides recommendations on low income consumer issues, consumer protections, consumer education, codes of conduct, mergers, and debt and equity issuances. The Division also conducts research and analysis on the procurement of natural gas for distribution to retail customers.

In the water industry, the Division focuses on retail prices and other retail issues arising in the provision of safe and affordable water services in the State. During 2009, Division personnel testified in several cases involving water company franchises and rates.

8. Transportation Division

The Transportation Division enforces the laws and regulations of the Public Service Commission pertaining to the safety, rates, and service of transportation companies operating in intrastate commerce in Maryland. The Commission's jurisdiction extends to most intrastate for-hire passenger carriers by motor vehicle or waterborne vessel (total 1,098), intrastate for-hire railroads, as well as taxicabs in Baltimore City, Baltimore County, Cumberland and Hagerstown (total 1,483). The Commission is also responsible for licensing drivers (total 7,591) of taxicabs in Baltimore City, Cumberland and Hagerstown, and other passenger-for-hire vehicles that carry 15 or fewer passengers. The Transportation Division monitors the safety of vehicles operated (total 6,969), limits of liability insurance, schedules of operation, rates, and service provided for all regulated carriers except railroads (only entry, exit, service and rates are regulated for railroads that

provide intrastate service). If problems arise in any of these areas which cannot be resolved at the staff level, the Division requests the institution of proceedings by the Commission, which may result in the suspension or revocation of operating authority or permits, or the institution of fines.

During 2009, the Transportation Division continued to conduct vehicle inspections and report results via on-site recording of inspection data and electronic transmission of that information to the Commission's databases and to the Federal Motor Carrier Safety Administration's Safety and Fitness Electronic Records (SAFER) System. SAFER provides carrier safety data and related services to industry and the public via the Internet.

The Division maintained its regular enforcement in 2009 by utilizing field investigations and joint enforcement project efforts with local law enforcement officials, Motor Vehicle Administration Investigators, and regulators in other jurisdictions. Administratively, the Division continued to develop, with the Commission's Information Technology staff, projects designed to streamline processes through automation, electronic filings by the industry, and better intra-agency communication among the Commission's internal databases.

In 2009, Division leaders also participated in state, regional, federal and international regulatory group meetings and conferences, serving on a panel discussion at the International Association of Transportation Regulators Conference and as guest speakers at local industry and community functions.

D. Office of External Relations

The Office of External Relations (OER) investigates and responds to consumer complaints relating to gas, electric, water and telephone services. OER investigators act as mediators in order to resolve disputes between consumers and utility companies based on applicable laws and tariffs. In 2009, the OER investigated 7,204 consumer complaints. Out of those complaints 4,703 involved gas and electric issues, while 2,204 were telecommunication complaints, 45 complaints related to water companies, and 252 complaints involved issues outside of the PSC's jurisdiction. The majority of complaints against gas and electric local distribution companies and suppliers concerned billing issues, followed by service quality issues. Most telecommunication disputes involved billing disputes and installation or repair problems, followed by slamming concerns. In addition, OER staff fulfilled 1,028 requests for information concerning the Commission, utilities and suppliers. OER responded to 4,207 requests for payment plans or extensions. Through OER's efforts, \$996,748.41 was recovered for Maryland Consumers.

OER also continues its efforts in consumer education. Representatives from OER also participated in several conferences on low-income utility assistance programs and hosted a conference for suppliers to encourage more choices for Maryland consumers. OER staff members work proactively to provide the public with timely and useful utility related information based on the feedback received from consumers.

OER instituted several new processes to more efficiently address consumer issues. The office was successful in the implementation of an electronic affidavit process, as well as an OER intranet to assist OER staff in responding to customer questions and

complaints. Additionally, the Director of OER created the Utility Roundtable that meets quarterly to discuss issues that may affect consumers.

E. Hearing Examiner Division

Under the Public Utility Companies Article, the Hearing Examiner Division constitutes a separate organizational unit reporting directly to the Commission. The Commission's Hearing Examiner Division has four attorney hearing examiners, including the Chief Hearing Examiner. Typically, the Commission delegates to the Hearing Examiner Division proceedings pertaining to the following: applications for construction of power plants and high-voltage transmission lines; rates and other matters for gas, electric and telephone companies; purchased gas and electric fuel rate adjustments; bus, passenger common carrier, water, and sewage disposal company proceedings; plant and equipment depreciation; and consumer as well as other complaints which are not resolved at the administrative level. Also, the Commission has a part-time License Hearing Officer, who hears matters pertaining to certain taxicab permit holders and also matters regarding Baltimore City, Cumberland, and Hagerstown taxicab drivers, as well as passenger-for-hire drivers. While most Hearing Examiner activity concerns delegated cases from the Commission, the Commission may also conduct its proceedings in three-member panels, which panels may include one Hearing Examiner. As a panel member, a Hearing Examiner participates as a voting member in the hearings and in the panel's final decision. The decision of a three-member panel constitutes the final order of the Commission.

In delegated cases, the Hearing Examiners and Hearing Officer conduct formal proceedings in the matters referred to the Division and file Proposed Orders, which

contain findings of fact and conclusions of law. During 2009, 399 cases were delegated by the Commission to the Hearing Examiner Division, 357 relating to transportation matters of which 169 were taxicab-related. These transportation matters include license applications and disciplinary proceedings involving requests for imposition of fines or civil penalties against carriers for violations of applicable statutes or regulations. Unless an appeal is noted with the Commission, or the Commission takes action on its own motion, a Proposed Order becomes the final order of the Commission after the specified time period for appeal noted in the Proposed Order, which is between seven and thirty days.

VIII. RECEIPTS AND DISBURSEMENTS FY 2009

Receipts and Disbursements

C90G001 – General Administration and Hearings

Salaries and Wages		\$5,749,211
Technical and Special Fees		\$186,715
Operating Expenses		<u>\$5,342,334</u>
Total Disbursements for Fiscal Year 2009		\$11,278,260
Reverted to State Treasury		<u>\$1,052,606</u>
Total Appropriation for Fiscal Year 2009		<u>\$12,330,866</u>

C90G002 – Telecommunications Division

Salaries and Wages		\$474,419
Operating Expenses		<u>\$5,416</u>
Total Disbursements for Fiscal Year 2009		\$479,835
Reverted to State Treasury		<u>\$22,835</u>
Total Appropriation for Fiscal Year 2009		<u>\$502,670</u>

C90G003 – Engineering Investigations Division

Salaries and Wages		\$1,192,650
Public Utility Regulation Fund	\$980,930	
Federal Fund	\$211,720	
Operating Expenses		<u>\$67,719</u>
Public Utility Regulation Fund	\$24,439	
Federal Fund	\$43,280	

Total Disbursements for Fiscal Year 2009		\$1,260,369
Public Utility Regulation Fund	\$1,005,369	
Federal Fund	\$255,000	

Reverted to State Treasury		<u>\$306,578</u>
Public Utility Regulation Fund	\$226,296	
Federal Fund	\$80,282	

Total Appropriation for Fiscal Year 2009		<u>\$1,566,947</u>
Public Utility Regulation Fund	\$1,231,665	
Federal Fund	\$335,282	

C90G004 – Accounting Investigations Division

Salaries and Wages		\$566,427
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Operating Expenses		<u>\$2,762</u>
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Total Disbursements for Fiscal Year 2009		\$569,189
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Reverted to State Treasury		<u>\$5,770</u>
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Total Appropriation for Fiscal Year 2009		<u>\$574,959</u>
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C90G005 – Common Carrier Investigations Division

Salaries and Wages	\$1,190,811
Public Utility Regulation Fund	\$1,190,811
For-Hire Driving Services Enforcement Fund	\$0
Technical and Special Fees	\$122,972
Public Utility Regulation Fund	\$0
For-Hire Driving Services Enforcement Fund	\$122,972
Operating Expenses	<u>\$59,911</u>
Public Utility Regulation Fund	\$48,716
For-Hire Driving Services Enforcement Fund	\$11,195
Total Disbursements for Fiscal Year 2009	\$1,373,694
Public Utility Regulation Fund	\$1,239,527
For-Hire Driving Services Enforcement Fund	\$134,167
Reverted to State Treasury	<u>\$400</u>
Public Utility Regulation Fund	\$400
For-Hire Driving Services Enforcement Fund	\$0
Total Appropriation for Fiscal Year 2009	<u>\$1,374,094</u>
Public Utility Regulation Fund	\$1,239,927
For-Hire Driving Services Enforcement Fund	\$134,167

C90G006 – Washington Metropolitan Transit Commission

Operating Expenses	\$	<u>228,568</u>
Total Disbursements for Fiscal Year 2009	\$	228,568
Reverted to State Treasury	\$	<u>114,712</u>
Total Appropriation for Fiscal Year 2009	\$	<u>343,280</u>

C90G007 – Rate Research and Economics Division

Salaries and Wages	\$442,537
Operating Expenses	<u>\$11,250</u>
Total Disbursements for Fiscal Year 2009	\$453,787
Reverted to State Treasury	<u>\$58,725</u>
Total Appropriation for Fiscal Year 2009	<u>\$512,512</u>

C90G008 – Hearing Examiner Division

Salaries and Wages	\$814,079
Operating Expenses	<u>\$2,130</u>
Total Disbursements for Fiscal Year 2009	\$816,209
Reverted to State Treasury	<u>\$4,234</u>
Total Appropriation for Fiscal Year 2009	<u>\$820,443</u>

C90G009 – Office of Staff Counsel

Salaries and Wages	\$725,461
Operating Expenses	<u>\$3,010</u>
Total Disbursements for Fiscal Year 2009	\$728,471
Reverted to State Treasury	<u>\$77,715</u>
Total Appropriation for Fiscal Year 2009	<u>\$806,186</u>

C90G0010 – Integrated Resource Planning Division

Salaries and Wages	\$422,098
Operating Expenses	<u>\$9,121</u>
Total Disbursements for Fiscal Year 2009	\$431,219
Reverted to State Treasury	<u>\$32,754</u>

Total Appropriation for Fiscal Year 2009 \$463,973

Summary of Public Service Commission
Fiscal Year Ended June 30, 2009:

Salaries and Wages	\$11,577,693
Public Utility Regulation Fund	\$11,365,973
Federal Fund	\$211,720
For-Hire Driving Services Enforcement Fund	\$0

Technical and Special Fees	\$309,687
Public Utility Regulation Fund	\$186,715
Federal Fund	\$0
For-Hire Driving Services Enforcement Fund	\$122,972

Operating Expenses	\$5,732,221
Public Utility Regulation Fund	\$5,677,746
Federal Fund	\$43,280
For-Hire Driving Services Enforcement Fund	\$11,195

Total Disbursements for Fiscal Year 2009	<u>\$17,619,601</u>
Public Utility Regulation Fund	\$17,230,434
Federal Fund	\$255,000
For-Hire Driving Services Enforcement Fund	\$134,167

Reverted to State Treasury	<u>\$1,676,329</u>
Public Utility Regulation Fund	\$1,596,047
Federal Fund	\$80,282
For-Hire Driving Services Enforcement Fund	\$0

Total Appropriations	<u>\$19,295,930</u>
Public Utility Regulation Fund	\$18,826,481
Federal Fund	\$335,282
For-Hire Driving Services Enforcement Fund	\$134,167

Assessments (Cost and expenses of the Public Service Commission, Office of People's Counsel and the Railroad Safety Program) remitted to the State Treasury during Fiscal Year 2009: \$ 19,239,597

Miscellaneous Fees remitted to the State Treasury during Fiscal Year 2009:

1) Misc. Fines & Citations	\$	98,792
2) For-Hire Driving Services Permit Fees	\$	124,766
3) Meter Test	\$	2,640
4) Filing Fees	\$	239,950
5) Copies	\$	1,012
6) Rent to Department of General Services	\$	752,952
Total Miscellaneous Fees	\$	<u>1,220,112</u>