

# **PUBLIC SERVICE COMMISSION OF MARYLAND**

## **2013 ANNUAL REPORT**

**For the Calendar Year Ending December 31, 2013**

Pursuant to Section 2-122 of the Public Utilities  
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 December 31, 2013, the following persons were members of the Commission:

	Term Expires
W. Kevin Hughes, Chairman	June 30, 2018
Harold D. Williams, Commissioner	June 30, 2017
Lawrence Brenner, Commissioner	June 30, 2015
Kelly Speakes-Backman, Commissioner	June 30, 2014
Anne E. Hoskins, Commissioner	June 30, 2016

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

- ◆ electric utilities;
- ◆ gas utilities;
- ◆ combination gas and electric utilities;
- ◆ competitive electric suppliers;
- ◆ competitive gas suppliers;
- ◆ telecommunications companies;
- ◆ water, and water and sewerage (privately-owned) companies;
- ◆ bay pilots;
- ◆ docking masters;

- ◆ passenger motor vehicle carriers (e.g. buses, limousines, sedans);
- ◆ railroad companies;<sup>1</sup>
- ◆ taxicabs operating in the City of Baltimore, Baltimore County, Cumberland, and Hagerstown;
- ◆ hazardous liquid pipelines; and
- ◆ other public service companies.

The jurisdiction and powers of the Commission are found in the Public Utilities Article, *Annotated Code of Maryland*. The Commission's jurisdiction, however, 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 ("FERC"); and interstate telephone service, Voice over Internet Protocol ("VoIP") and cable services are regulated by the Federal Communications Commission.

Under its statutory authority, the Commission has broad authority to supervise and regulate the activities of public service companies and for-hire carriers and drivers. It is empowered to hear and decide matters relating to, among others: (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; (6) mergers or acquisitions of electric companies or gas companies; and (7) quality of utility and common carrier service. The Commission has the authority to issue a Certificate of Public Convenience and Necessity ("CPCN") 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. In addition, the Commission collects and maintains records and reports

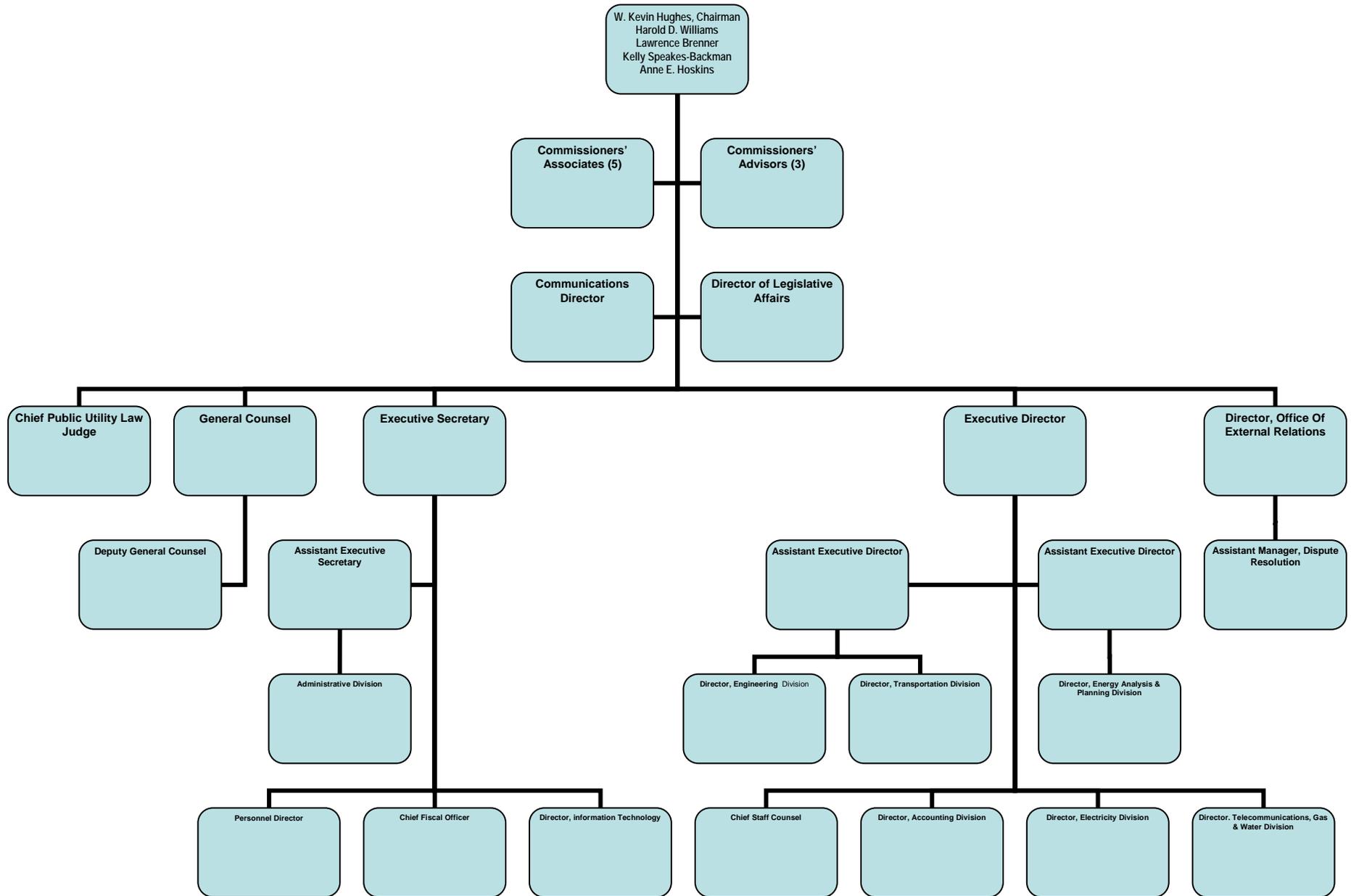
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<sup>1</sup> The Commission has limited jurisdiction over railroad companies: (1) the companies must be organized under Maryland law; and (2) certain conditions and rates for intrastate services.

of public service companies, reviews plans for service, inspects equipment, audits financial records, handles consumer complaints, issues passenger-for-hire permits and drivers' licenses, enforces its rules and regulations, defends its decisions on appeal to State courts, and intervenes in relevant cases before federal regulatory commissions and federal courts.

During the calendar year 2013, the Commission initiated 24 new dockets, conducted approximately 62 en banc hearings (legislative-style, evidentiary, or evening hearings for public comments as well as status conferences, discovery disputes, and prehearing conferences), held 5 rulemaking sessions, participated in 4 public conferences, and presided over 45 administrative meetings. Also, the Commission actively participated in the 90-day General Assembly Legislative Session for 2013, by submitting comments on bills affecting public service companies, participating in work groups convened by Senate or House committees or sub-committees, and testifying before various Senate and House committees and sub-committees.

**B. Maryland Public Service Commission Organization Chart – 12/31/2013**



## C. Commission Membership in Other Regulatory Organizations

### 1. Washington Metropolitan Area Transit Commission

The Washington Metropolitan Area Transit Commission (“WMATC”) was created in 1960 by the Washington Metropolitan Area Transit Regulation Compact (“Compact”)<sup>2</sup> for the purpose of regulating certain transportation carriers on a coordinated regional basis. Today, 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 (“Metropolitan District”).<sup>3</sup> 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 Maryland Public Service Commission is designated to serve on the WMATC. Governor O’Malley appointed Commissioner Lawrence Brenner

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<sup>2</sup> The Compact is an interstate agreement among the State of Maryland, the Commonwealth of Virginia and the District of Columbia, which was approved by Congress in 1960. The Compact was amended in its entirety in 1990 (at Maryland’s behest), and again in 2010 (to modify the articles regarding appointment of Commissioners to WMATC). Each amendment was enacted with the concurrence of the each of the signatories and Congress’s consent. The Compact, as amended, and the WMATC are codified in Title 10, Subtitle 2 of the Transportation Article, *Annotated Code of Maryland*.

<sup>3</sup> 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.

to serve on the WMATC in November 2008. Commissioner Brenner currently serves as the Chair of WMATC.

In fiscal year (“FY”) 2013, which is from July 1, 2012 through June 30, 2013, the WMATC accepted 414 applications to obtain, transfer, amend or terminate a WMATC certificate of authority (up from 190 in FY2012). The WMATC also initiated 144 investigations of carrier compliance with WMATC rules and regulations. The WMATC issued 713 orders in formal proceedings in FY2013. There were 504 carriers holding a certificate of authority at the end of FY2013 – up from 394 at the close of FY2012, which is more than five times the 97 that held authority at the end of FY1990, before the Compact lowered barriers to entry beginning in 1991. The number of vehicles operated under WMATC authority was approximately 5,200 as of June 30, 2013. The WMATC processed 28 informal complaints in FY2013, relatively flat compared to the preceding year, and 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 FY2013 WMATC budget was \$790,000 and Maryland’s share was \$369,246, or 47% of the WMATC budget. In FY2013, the WMATC generated \$186,550 in non-appropriations revenue (fees and forfeitures), which was returned to the signatories on a proportional basis.

## **2. Mid-Atlantic Distributed Resources Initiative**

The Mid-Atlantic Distributed Resources Initiative (“MADRI”) was established in 2004 by the state regulatory utility commissions of Delaware, District of Columbia,

Maryland, New Jersey and Pennsylvania, along with the U.S. Department of Energy (“DOE”), the U.S. Environmental Protection Agency, FERC, and PJM Interconnection, LCC (“PJM”). In 2008, the regulatory utility commissions of Illinois and Ohio became members of MADRI.

MADRI’s position is that distributed generation should be able to compete with generation and transmission to ensure grid reliability and a fully functioning wholesale electric market. It was established to facilitate the identification of barriers to the deployment of distributed generation, demand response and energy efficiency resources in the Mid-Atlantic region, and determine solutions to remedy these barriers. Institutional barriers and lack of market incentives have been identified as the primary causes that have slowed deployment of cost-effective distributed resources in the Mid-Atlantic.

Facilitation support is provided by the Regulatory Assistance Project funded by DOE. The Commission participates along with other stakeholders, including utilities, FERC, service providers, and consumers, in discussions and actions of MADRI. Commissioner Brenner currently is the Chair of MADRI.

### **3. Organization of PJM States, Inc.**

The Organization of PJM States, Inc. (“OPSI”) was incorporated as a non-profit corporation in May 2005. It is an inter-governmental organization comprised of 14 utility regulatory agencies, including the Commission. OPSI, among other activities, coordinates data/issues analyses and policy formulation related to PJM, its operations, its Independent Market Monitor, and related FERC matters. While the 14 OPSI members interact as a regional body, their collective actions, as OPSI, do not infringe on each of

the 14 agencies' individual roles as the statutory regulators within their respective state boundaries. Commissioner Brenner serves as the Commission's representative on the OPSI Board of Directors and currently is Vice President.

#### **4. National Association of Regulatory Utility Commissioners**

The National Association of Regulatory Utility Commissioners (“NARUC”) is the national association representing the interests of the Commissioners from state utility regulatory agencies that regulate essential utility services, including energy, telecommunications, and water. NARUC members are responsible for assuring reliable utility service at fair, just, and reasonable rates. Founded in 1889, NARUC is an invaluable resource for its members and the regulatory community, providing a venue to set and influence public policy, share best practices, and foster innovative solutions to improve regulation. Chairman Hughes is a member of the Board of Directors. Commissioner Speakes-Backman serves as a vice-chair of the Committee on Energy Resources and the Environment.

#### **5. Mid-Atlantic Conference of Regulatory Utility Commissioners**

The Commission also is a member of the Mid-Atlantic Conference of Regulatory Utility Commissioners (“MACRUC”), a regional division of NARUC comprised of the public utility commissions of Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Virginia, West Virginia, Pennsylvania, the District of Columbia and the U.S. Virgin Islands. Commissioner Brenner serves on the MACRUC Board of Directors.

## 6. Regional Greenhouse Gas Initiative

Established in 2009, the Regional Greenhouse Gas Initiative (“RGGI”) is the first market-based regulatory program in the United States designed to stabilize and then reduce greenhouse gas emissions, specifically carbon dioxide (“CO<sub>2</sub>”). RGGI, Inc.<sup>4</sup> is a nonprofit corporation formed to provide technical advisory and administrative services to participating states in the development and implementation of these CO<sub>2</sub> budget trading programs.<sup>5</sup> The original RGGI program, jointly designed by 10 Northeastern and Mid-Atlantic states,<sup>6</sup> envisioned a cap-and-trade program that caps power plants’ CO<sub>2</sub> emissions and then lowers that cap 10 % by 2018. The participating states agreed to use an auction as the means to distribute allowances<sup>7</sup> to electric power plants regulated under coordinated state CO<sub>2</sub> cap-and-trade programs. All fossil fuel-fired electric power plants 25 megawatts (“MW”) or greater must obtain allowances based on their CO<sub>2</sub> emissions.

The RGGI Memorandum of Understanding (“RGGI MOU”) apportions CO<sub>2</sub> allowances among signatory states through a process that was based on historical emissions and negotiation among the participating signatory states. Together, the emissions budgets of each signatory state comprise the regional emissions budget, or RGGI “cap.”

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<sup>4</sup> 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 Speakes-Backman and Secretary Robert Summers of the Maryland Department of the Environment represent Maryland on the Board of Directors for RGGI, Inc.

<sup>5</sup> The RGGI offices are located in New York City in space collocated with the New York Public Service Commission at 90 Church Street.

<sup>6</sup> Nine of the original ten member states have continued their participation in the RGGI program for the second compliance period of January 1, 2012 – December 31, 2014; New Jersey formally withdrew from the RGGI program, effective January 1, 2012.

<sup>7</sup> An allowance is a limited permission to emit one ton of CO<sub>2</sub>.

In 2013, RGGI held four auctions of CO<sub>2</sub> allowances. These auctions raised approximately \$107.1 million<sup>8</sup> for the State's Strategic Energy Investment Fund ("SEIF"). Pursuant to § 9-20B-05(g-1) of the State Government Article, *Annotated Code of Maryland*, as modified by Section 17 of Chapter 397 (Budget Reconciliation and Financing Act of 2011), Laws of Maryland 2011, the proceeds received from January 1, 2013 through December 31, 2013 by the SEIF, were allocated as follows:

(1) up to 50% shall be credited to an energy assistance account to be used for the Electric Universal Service Program and other electric assistance programs in the Department of Human Resources;

(2) at least 20% shall be credited to a low and moderate income efficiency and conservation programs account and to a general efficiency and conservation programs account for energy efficiency and conservation programs, of which at least one-half shall be targeted to low and moderate income efficiency and conservation programs account for (i) the low-income residential sector at no cost to the participants of the programs, projects, or activities; and (ii) the moderate-income residential sector;

(3) at least 20% shall be credited to a renewable and clean energy programs account for (i) renewable and clean energy programs and initiatives; (ii) energy-related public education and outreach; and (iii) climate change programs; and

(4) up to 10%, but not more than \$4,000,000, shall be credited to an administrative expense account for costs related to the administration of the SEI Fund, including the review of electric company plans for achieving electricity savings and demand reductions that the electric companies are required under law to submit to MEA.

As called for in the RGGI MOU, the member states underwent a 2012 RGGI Program Review to assess program effectiveness and whether a new cap should be

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<sup>8</sup> The 2013 auction proceeds represent an increase over Maryland's 2012 auction proceeds of \$38.8 million, or 176 percent.

established based on an updated set of market conditions. The 2012 Program Review included a comprehensive evaluation of the program’s success and impact to-date; the RGGI offsets program; the issue of emissions leakage; and the potential need for further reductions to the RGGI regional cap. The RGGI member states reviewed and considered stakeholder feedback on published potential programmatic changes. All participating states completed their state specific public processes during 2013, resulting in the RGGI programmatic changes becoming effective in January 2014.<sup>9</sup>

On February 7, 2013, the RGGI participating states announced an aggregate 45% reduction in the existing cap,<sup>10</sup> resulting in a revised 2014 regional budget of 91 million short tons – consistent with current regional emissions levels.

**Table II.C.1: 2014 Regional Emissions Budget<sup>11</sup>**

<b>State</b>	<b>Carbon Dioxide Allowances (short tons)</b>
Connecticut	5,891,895
Delaware	4,064,687
Maine	3,277,250
Maryland	20,360,944
Massachusetts	14,487,106
New Hampshire	4,749,011
New York	35,228,822
Rhode Island	2,284,975
Vermont	655,310
<b>Total</b>	<b>91,000,000</b>

<sup>9</sup> Additional information about these programmatic changes (and other minor adjustments) is available on the RGGI, Inc. website at: <http://rggi.org/design/program-review>.

<sup>10</sup> In addition to announcing a revised regional cap, other programmatic changes included: interim adjustments to the regional cap to account for privately banked allowances; the establishment of a cost containment reserve to serve as a flexibility mechanism in the unanticipated event of short-term price spikes; the addition of a U.S. Forests Offset Protocol; simplification of the minimum reserve price to increase it by 2.5% each year; and the creation of interim control periods for compliance entities.

<sup>11</sup> Source: *The Regional Greenhouse Gas Initiative*, <http://www.rrgi.org/design/overview/allowance-allocation>

To lock in the emission reduction progress to date, and further build upon this progress, the regional emissions cap and each participating state's individual emissions budget will decline 2.5% each year 2015 through 2020.

## **7. Eastern Interconnection States' Planning Council**

The Eastern Interconnection States' Planning Council ("EISPC") represents 39 states, the District of Columbia, the City of New Orleans and eight Canadian provinces located within the Eastern Interconnection electric transmission grid, of which Maryland is a part. Initially funded by an award from the DOE pursuant to a provision of the American Recovery and Reinvestment Act, the goal of EISPC is to create a collaborative among the states in the Eastern Interconnection. It is comprised of public utility commissions, Governors' offices, energy offices, and other key government representatives. The collaboration is intended to foster and produce consistent and coordinated direction to the regional and interconnection-level analyses and planning. Significant state input and direction increases the probability that the outputs will be useful to the state-level officials whose decisions may determine whether proposals that arise from such analyses become actual investments.

## **III. SUPPLIER DIVERSITY ACTIVITIES**

### **A. Public Conference: Supplier Diversity Memoranda of Understanding – PC16**

As reported in prior Annual Reports, 19 regulated entities<sup>12</sup> have entered into a Memoranda of Understanding ("PC16 MOU") with the Commission in which each

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<sup>12</sup> AT&T Corporation; Association of Maryland Pilots; Baltimore Gas and Electric Company ("BGE"); CenturyLink Communications, LLC; Comcast Phone of Northern Maryland Inc. and Comcast Business Communications, LLC (collectively, "Comcast"); Delmarva Power & Light Company ("DPL" or

organization agreed voluntarily to develop, implement and consistently report on its activities and accomplishments in promoting a strategy to support viable and prosperous women, minority, and service-disabled-veteran-owned business enterprises (“Diverse Suppliers”). The PC16 MOU expressed each entity’s commitment to use its best efforts to achieve a goal of 25% Diverse Supplier contracting; standardize the reporting methodology; and institute uniform annual plans and annual reports, in order to track the entity’s compliance with the PC16 MOU goals. On July 9, 2013, a hearing was held to consider the results of the 2012 Annual Reports submitted by the applicable companies.

The results of the Reports, summarized below, were tabulated by the Commission Staff and presented to the Commission at the July 2013 hearing.

**Table 1 - Achieved vs. Target**

This table shows the program expenditures as reported by the companies, compared with each company’s total spending. Certain types of expenses are excluded from the tabulation, being either single-sourced or are inapplicable to the diversity program.<sup>13</sup>

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“Delmarva”); First Transit’s Baltimore Washington International Thurgood Marshall Airport Shuttle Bus Pepco”); Veolia Transportation Services, Inc.; Verizon Maryland LLC.; Washington Gas Light Company (“WGL”); XO Communications Services, Inc.; Southern Maryland Electric Cooperative, Inc. (“SMECO”); Choptank Electric Cooperative, Inc. (“Choptank”); Chesapeake Utilities Corporation; Columbia Gas of Maryland, Inc.; Easton Utilities; and Pivotal Utilities Holdings, Inc. d/b/a Elkton Gas.

<sup>13</sup> Sources of exempted spend are agreed to in advance and can be found in the respective entity’s PC16 MOU.

**Table 1 - 2012 Utility Diverse Supplier Procurement Achievement**

Utility	Total Diverse Supplier Procurement (\$)	Utility Procurement	Percentage of Diverse Supplier \$ to Utility Procurement \$	2012 Target
Assoc. Of MD Pilots	\$228,932	\$748,615	30.58%	25%
BGE <sup>14</sup>	\$91,484,641	\$815,955,557	11.21%	14%
CenturyLink	\$143,046	\$1,039,850	13.76%	n/a
Chesapeake Utilities	\$66,383	\$3,111,621	2.13%	n/a
Choptank	\$1,886,444	\$22,357,101	8.44%	3%
Columbia Gas	\$141,981	\$7,256,104	1.96%	1.50%
Comcast	n/a	n/a	n/a	n/a
DPL	\$48,126,920	\$285,450,966	16.86%	9.12%
Easton	\$116,141	\$2,583,768	4.5%	3.00%
Elkton	\$10,100	\$636,555	1.59%	n/a
First Transit BWI Airport	\$4,494,445	\$14,575,088	30.84%	28%
PE	\$10,348,205	\$54,074,439	19.14%	19%
Pepco	\$54,445,951	\$619,873,183	8.78%	10%
SMECO	\$2,480,154	\$136,763,320	1.81%	15%
Veolia	n/a	n/a	n/a	n/a
Verizon	\$54,183,793	\$303,641,601	17.84%	27%
WGL <sup>15</sup>	\$44,605,416	\$260,748,325	17.11%	13%
XO Communications	n/a	n/a	n/a	n/a
<b>Sum</b>	<b>\$312,762,552</b>	<b>\$2,528,816,092</b>	<b>12.37%</b>	<b>25%<sup>16</sup></b>

\* n/a – not reported

**Table 2 - Procurement by Diversity Group**

In Table 2, the amounts and percentages from Table 1 are further broken down into expenditures by diversity classification. The breakdown reveals that overall the companies spent approximately 49.26% of their diverse supplier expenditures on

<sup>14</sup> Excluding natural gas purchases of about \$42M for diverse suppliers.

<sup>15</sup> Excluding natural gas purchases of about \$60M from diverse suppliers.

<sup>16</sup> The Commission set 25% as the target achievement rate.

minority business enterprises (an increase of just over 6% from 2012 (43%)), 40.15% on women business enterprises (an increase of approximately 5% from 2012 (35%)), 10.52% on service-disabled veterans (a decrease of approximately 10% from 2012 (22%)), and a small portion on not-for-profit workshops.<sup>17</sup>

**Table 2 - 2012 Procurement by Diverse Group**

<b>UTILITY</b>	<b>MINORITY BUSINESS ENTERPRISE</b>	<b>WOMEN BUSINESS ENTERPRISE</b>	<b>SERVICE DISABLED VETERAN BUSINESS ENTERPRISE</b>	<b>NOT-FOR-PROFIT WORKSHOP</b>	<b>TOTAL \$ DIVERSE SUPPLIER</b>
<b>Assoc. of MD Pilots</b>	\$228,932	\$0	\$0	\$0	\$228,932
<b>BGE<sup>18</sup></b>	\$57,903,688	\$54,535,821	\$4,045,132	\$0	\$116,484,641
<b>CenturyLink</b>	\$102,006	\$1,629	\$623	\$39,411	\$143,669
<b>Chesapeake</b>	\$0	\$66,383	\$0	\$0	\$66,383
<b>Choptank</b>	\$0	\$1,886,444	\$0	\$0	\$1,886,444
<b>Columbia</b>	\$4,114	\$137,867	\$0	\$0	\$141,981
<b>Comcast</b>	n/a	n/a	n/a	n/a	n/a
<b>DPL</b>	\$10,914,291	\$36,889,534	\$213,648	\$109,447	\$48,126,920
<b>Easton</b>	\$5,199	\$110,942	\$0	\$0	\$116,141
<b>Elkton</b>	\$4,579	\$5,521	\$0	\$0	\$10,100
<b>First Transit BWI Airport</b>	\$4,458,091	\$36,354	\$0	\$0	\$4,494,445
<b>PE</b>	\$4,328,092	\$6,019,828	\$285	\$0	\$10,348,205
<b>Pepco</b>	\$38,169,032	\$16,230,336	\$0	\$46,582	\$54,445,951
<b>SMECO</b>	\$64,499	\$2,387,548	\$28,107	\$0	\$2,480,154
<b>Veolia</b>	n/a	n/a	n/a	n/a	n/a
<b>Verizon</b>	\$21,669,280	\$7,955,531	\$24,558,982	\$0	\$54,183,793
<b>WGL<sup>19</sup></b>	\$28,531,945	\$9,362,819	\$6,691,876	\$18,777	\$44,605,416
<b>XO Comm.</b>	n/a	n/a	n/a	n/a	n/a
<b>Sum</b>	<b>\$166,383,748</b>	<b>\$135,626,557</b>	<b>\$35,538,653</b>	<b>\$214,216</b>	<b>\$337,763,175</b>
<b>Percentage Total Diverse Suppliers \$</b>	<b>49.26%</b>	<b>40.15%</b>	<b>10.52%</b>	<b>0.06%</b>	<b>100%</b>

<sup>17</sup> The Association of Maryland Pilots is not required to break down their annual spend by diversity classification.

<sup>18</sup> This amount excludes the amount spent in natural gas.

<sup>19</sup> This amount excludes the amount spent in natural gas.

**B. Rulemaking: Revisions to COMAR 20.08 – Supplier Diversity Program, RM50**

On December 6, 2013, the Commission initiated Administrative Docket, RM50, to consider revisions to the Code of Maryland Regulations (“COMAR”) 20.08. Proposed regulations were filed by Staff that codify the existing PC16 MOU and, if adopted, will establish new regulations promoting supplier diversity in the contracting and purchasing practices of entities regulated by the Commission. A rulemaking session was held on February 6, 2014, to consider whether to publish the proposed regulations in the *Maryland Register* for comment. The proposed regulations were assigned to a work group of stakeholders to revise and re-submit by June 30, 2014.

**IV. COMMISSION ENERGY-RELATED CASES AND ACTIVITIES**

**A. EmPOWER Maryland – Case Nos. 9153, 9154, 9155, 9156, and 9157**

As mandated by the EmPOWER Maryland Act of 2008, the five largest electric utilities in the State<sup>20</sup> (hereinafter “EmPOWER MD Utilities”) are responsible for achieving a 10% reduction in the State’s energy consumption<sup>21</sup> and a 15% reduction of peak demand by 2015. The EmPOWER Maryland Act also requires the five EmPOWER MD Utilities to implement cost-effective demand response programs designed to achieve a reduction in their peak energy demand (measured in MW) of 5% by 2011, 10% by 2013, and 15% by 2015. To generate their portion of the savings, the EmPOWER MD

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<sup>20</sup> The utilities are: The Potomac Edison Company; Baltimore Gas and Electric Company; Delmarva Power & Light Company; Potomac Electric Power Company; and Southern Maryland Electric Cooperative, Inc.

<sup>21</sup> The overall reduction in the State’s energy consumption under EmPOWER Maryland Act is 15%. The Maryland Energy Administration is responsible for achieving 5% of this 15% reduction in the State’s energy consumption.

Utilities are required to file three-year plans, for the periods of 2009 through 2011, 2012 through 2014, and so on.

On December 22, 2011 in Order No. 84569, the Commission approved the EmPOWER MD Utilities' 2012-2014 portfolios with several modifications. This Order provided increased guidance and framework for the 2012-2014 program cycle, and approved the Maryland Department of Housing and Development ("DHCD") request to operate the EmPOWER Maryland Limited Income Energy Efficiency Program. Additionally, the Commission acknowledged that the availability of financing can be a daunting barrier to participation in many of the EmPOWER MD Utilities' programs, and encouraged the EmPOWER Finance Work Group to develop programs to address these barriers. In 2013, the EmPOWER MD Utilities and DHCD worked to implement the proposed programs as approved in the Commission Order. Throughout 2012 and 2013, the EmPOWER MD Utilities, Staff, and the Office of People's Counsel ("OPC") met with stakeholders to discuss new programs and explore energy efficiency financing proposals for residential and small commercial customers in response to the Commission's directive. In an effort to accelerate progress toward the 2015 EmPOWER Maryland goals, each work group explored potential savings opportunities above and beyond those savings already reflected in the EmPOWER MD Utilities' approved portfolios.

As a result of the Commission's directive to analyze financing opportunities in greater detail, Staff filed on January 30, 2013 a Residential Energy Efficiency Financing proposal on behalf of the EmPOWER Finance Work Group and presented the proposal to the Commission at its March 8, 2013, Administrative Meeting. However, in Order No.

85589 dated May 14, 2013, the Commission denied the proposal in light of its previous direction, and instead provided further direction that Staff file a detailed proposal for one small business on-bill financing (“OBF”) proposal that emulated the Small Business Energy Advance Program implemented in the BGE territory through the Customer Investment Fund. Staff, in conjunction with the Maryland Energy Administration (“MEA”), filed a proposal that contained a recommended set of OBF program design elements and identified DPL as the utility with the greatest potential for implementing the program.

On August 1, 2013, DPL filed a letter stating that it was not technically feasible to implement an OBF program at this time because its current billing system does not support on-bill financing. However, on August 19, 2013, Pepco Holdings, Inc. (“PHI”) proposed that Pepco could instead implement the program set forth in Staff’s proposal since Pepco’s existing billing system is able to support an OBF program. On September 5, 2013, the Commission approved the pilot program proposed by Pepco with several modifications, including: increasing the budgeted participants from 200 to 500; directing an evaluation, measurement, and verification (“EM&V”) budget of 1% of the program’s cost; and allowing prepayment without penalty.

During 2013, the Commission received numerous requests from the EmPOWER MD Utilities to increase program budgets above the funding levels authorized in the approved 2012-2014 program cycle plans, primarily due to greater-than-expected participation and installation levels in recent quarters. In an effort to streamline and address budget requests more efficiently, and to encourage the EmPOWER MD Utilities and DHCD to forecast their program budgets and performance more accurately and

realistically, the Commission issued Order No. 85775 in which the parties were directed to seek budgetary adjustments only within the context of a semi-annual performance report, with the exception of rare and specific circumstances. At the October 2013 semi-annual hearings, the Commission considered programmatic budgetary requests in relation to the estimated bill impacts and the historic program performance. As a result of this review, the Commission approved budgetary requests and the corresponding revised metrics for the following residential programs: Appliance Rebates, Lighting, Quick Home Energy Check-ups, Energy Star New Homes; and the following commercial and industrial programs: Combined Heat and Power, Prescriptive, Small Business, and Custom.

The following table summarizes the actual electric consumption and coincident peak demand reductions achieved by each EmPOWER MD Utility program-to-date through the close of 2013, and calculates that reduction as a percentage of the 2015 EmPOWER Maryland goal.

Program-to-date Progress		Coincident Demand Reduction (MW)	Energy Reduction (MWh)
<b>BGE</b>	Goal	1,267.000	3,593,750
	Reported	748.730	1,816,124
	Percentage Achieved	59%	51%
<b>DPL</b>	Goal	18.000	143,453
	Reported	56.457	153,208
	Percentage Achieved	314%	107%
<b>PE</b>	Goal	21.000	415,228
	Reported	55.481	390,475
	Percentage Achieved	264%	94%
<b>Pepco</b>	Goal	672.000	1,239,108
	Reported	603.299	806,041
	Percentage Achieved	90%	65%
<b>SMECO</b>	Goal	139.000	83,870
	Reported	74.086	163,727
	Percentage Achieved	53%	195%
<b>Total</b>	Goal	2,117.000	5,475,409
	Reported	1,538.053	3,329,575
	Percentage Achieved	73%	61%

As reflected in the above table, the EmPOWER MD Utilities made progress during 2013 compared to achievements reported at the end of 2012, with three EmPOWER MD Utilities approaching or exceeding the 2015 targets in one or both categories. Combined, however, the EmPOWER MD Utilities may not reach the 10% per-capita reduction goal in energy usage or the 15% per-capita reduction goal in peak demand by 2015, based upon the current plans.<sup>22</sup> The EmPOWER Maryland programs achieved, on a program-to-date basis, the following results through the end of 2013:

- The EmPOWER MD Utilities’ programs have saved a total of 3,329,575 MWh and 1,538 MW, and either encouraged the purchase of or installed approximately 39.5 million energy-efficient measures.

<sup>22</sup> These estimations only include energy and demand savings from energy efficiency and conservation (“EE&C”) and demand response (“DR”) programs.

- 11,477 low-income customers participated in the Residential Low-Income Programs.
- The EmPOWER MD Utilities have spent over \$988 million on the EmPOWER Maryland programs, including approximately \$567 million on EE&C programs and \$420 million on DR programs.
- The expected savings associated with EmPOWER Maryland programs is approximately \$3.7 billion over the life of the installed measures for the EE&C programs.
- The average monthly residential bill impact of EmPOWER Maryland surcharges<sup>23</sup> for 2013 were as follows:

	EE&C	DR	Dynamic Pricing <sup>24</sup>	Total
BGE	\$2.00	\$1.02	N/A	\$3.02
Pepco	\$1.28	\$0.07	\$0.46	\$1.81
DPL	\$1.56	\$1.15	N/A	\$2.71
PE	\$2.44	N/A	N/A	\$2.44
SMECO	\$3.17	\$2.30	N/A	\$5.47

**B. Deployment of Advanced Meter Infrastructure/Smart Grid - Case Nos. 9207, 9208 and 9294**

The Commission has approved Smart Grid Initiatives (“SGI”) for BGE (Case No. 9208) in 2010, Pepco (Case No. 9207) in 2010, DPL (Case No. 9207) in 2012, and SMECO (Case No. 9294) in 2013. As of December 31, 2013, approximately 1.6 million electric and gas meters have been installed across the State. BGE has installed over 867,000 electric meters and gas modules, or approximately 44% of the total planned installations. Pepco has installed over 552,000 meters, approximately 99% of the total planned installations. DPL has installed over 175,900 meters, approximately 83% of the

<sup>23</sup> Assumes an average monthly usage of 1,000 kilowatt hours (“kWh”), and the figures do not include customer savings.

<sup>24</sup> Pepco offered a Peak Time Rebate pilot program in the summer of 2012 for 5,000 customers with activated smart meters. The difference between rebates paid to participants and revenues received from PJM markets are trued-up in the EmPOWER Maryland surcharge.

total planned installations. All three utilities plan on completing meter installations by the end of 2014, while SMECO will begin deploying meters in the third quarter of 2014.

### **Opt Out**

On February 29, 2012, the Commission issued a hearing notice on the potential for an “opt-out” provision for advanced metering infrastructure (“AMI”). A public hearing was held on May 22, 2012, during which more than 80 parties expressed their opinion on the merits and problems associated with allowing utility customers the choice to opt out of receiving a smart meter as part of the SGI. On May 25, 2012, the Commission issued Order No. 84926, which temporarily allowed utility customers to opt out of smart meter installations until the Commission issues its decision regarding costs and allocation. On January 7, 2013, the Commission issued Order No. 85294, in which the Commission concluded that the public interest required that customer be allowed to decline the installation of a smart meter.<sup>25</sup> A subsequent order issued January 13, 2013, required the four utilities to submit to the Commission proposals regarding the overall additional costs associated with allowing customer to retain their current meter, how to recover the additional costs, and proposals for recovery of cost related to offering customers different Radio Frequency (RF)-free or RF-minimizing options.

On April 24, 2013, Pepco, DPL and SMECO submitted their opt-out cost proposals to the Commission. BGE submitted its proposal on April 25, 2013. On July 31, 2013, the Commission received comments on the utilities opt-out proposals from Staff, OPC, MEA, and Maryland Smart Meter Awareness. A legislative-style hearing was held on August 6, 2013, at which the Commission heard presentations and had its

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<sup>25</sup> Former Chairman Nazarian and Commissioner Speakes-Backman dissented from the Order.

questions answered from the participating parties. The Commission requested Staff to provide additional cost details from the companies' proposals and additional information about other states' decisions regarding AMI opt-out and associated fees, if any. Staff provided this information in a supplemental filing on September 10, 2013.

On February 26, 2014, the Commission issued Order No. 86200,<sup>26</sup> in which it determined the up-front costs and ongoing, monthly charges that BGE, Pepco, DPL and SMECO may charge each of its customers who decline to allow installation of a smart meter. The effective date for including the opt-out fees on a customer's bill is the first full billing cycle following July 1, 2014. The Commission also directed the utilities to track separately the additional infrastructure costs that each utility incurs based on the number and geographic distribution of those customers who decide to opt out of installation of a smart meter. The adopted opt-out fee structure deferred inclusion of the cost of additional mesh relays, until such time as the additional infrastructure costs are determined and reviewed.

In the February 2014 Order, the Commission directed the utilities to delineate the opt-out charges as a separate line item on customer's bill. The Commission also adopted, in part, OPC's recommendations of the manner of communication with the customer who elects to opt out, and directed standardized communications to be conducted across each utility with the materials to be developed and submitted by the AMI work group. For those customers who elected to opt out on an interim basis, the utilities were directed to notify each of these customers within 60 days of the Order of the Commission's decision on the opt-out fees associated with declining the installation of a smart meter. For those

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<sup>26</sup> Commissioner Williams dissented from the Order, and Commissioner Hoskins did not participate in the decision as she was not appointed at the time of the hearing in the proceeding.

customers who did not opt out initially, the Commission determined that these customers must take affirmative action to notify their utility of their desire to opt out. The utilities also were directed to report to the Commission by July 1, 2014 on the efforts to contact customers who have inaccessible meters and have been non-responsive to the utilities' request to exchange their meter.

**C. Investigation into the Regulatory Treatment of Providers of Electric Vehicle Charging Stations and Related Services – Case No. 9261**

Pursuant to § 7-211(m) of the Public Utilities Article, the Commission is required to establish a Pilot Program encouraging electric customers to recharge electric vehicles (“EVs”) during off-peak hours. On June 14, 2013, the Commission held a legislative-style hearing to consider EV Charging Station Pilot Programs proposed by BGE and Pepco.

In its Pilot Program, BGE proposed a voluntary, residential, whole-house time-of-use (“TOU”) rate for select EV owners within the BGE service territory. To participate, the EV owner must: (1) be a Standard Offer Service (“SOS”) customer; (2) may not participate in net metering; and (3) may not purchase renewable energy power from a third party. The EV owners were free to opt into the program or leave the program without penalty. BGE did not include a control group of EV owners who do not participate in the Pilot Program as part of their design.

Pepco's Amended Pilot Program had three residential sub-programs, with participation dependent on whether the customer has existing EV supply equipment or not; and if not, whether the customer wants to add a second meter for the EV charging or

choose a whole-house TOU rate. Pepco also did not propose a control group as part of its Amended Pilot Program.

After considering the comments filed and presentations at the hearing, the Commission issued Order No. 85776 on August 12, 2013.<sup>27</sup> In its Order, the Commission approved each Pilot Program with certain modifications to run from the date of the Order through December 31, 2014. The Commission accepted BGE's tariff, as modified by the Order, and directed BGE to establish a control group or, at a minimum, conduct a survey of non-participating EV owners to provide a baseline from which data about the program can be measured. The Commission also approved Pepco's proposed Amended Pilot Program, but directed that the purchase and installation costs of Level II chargers be shared by Pepco and the pilot participants receiving the chargers, rather than solely by Pepco and recovered through rates. Additionally, the Commission directed BGE, Pepco and the EV Work Group to convene as soon as practicable to establish the exact data point and metrics to be reviewed throughout the duration of the Pilot Programs.

**D. Merger of Exelon Corporation and Constellation Energy Group, Inc. – Customer Investment Fund – Case No. 9271**

As reported in the 2012 Annual Report, the Commission approved 16 programs that will utilize \$112 million of the \$113.5 million Customer Investment Fund (“CIF”). On June 4, 2013, the Commission issued a disbursement schedule approving the semi-annual distribution of the CIF funds and authorizing CIF program implementation. On the same date, the Commission directed Exelon Corporation (“Exelon”) to transfer the

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<sup>27</sup> Commissioner Williams dissented to the portion of the Order which approved Pepco's proposed Amended Pilot Program.

first-year and second-year installment of CIF money into the Commission-established CIF account, each installment to be in the amount of \$37,833,333.33, plus interest accrued on the funds up to the date of the transfer. Additionally, the Commission directed Exelon to deposit \$151,380 into the CIF account in restitution for its inadvertent violation of certain market power mitigation commitments, plus any accrued interest. All funds were required to be transferred by June 10, 2013. Finally, the Commission directed Exelon to transfer the third installment of CIF money in the amount of \$37,833.333.34 on June 10, 2014.

#### **E. Electric Reliability-Related Cases**

##### **1. 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 Short-term Reliability Problems in the State of Maryland – Case No. 9149**

As noted in prior Annual Reports, the Commission initiated this proceeding as a result of PJM's report to the Commission in the summer of 2007, that there was a possibility of future shortfalls in Maryland's electricity supply, which could lead to potential rolling blackouts in the summer of 2011. To insure against possible shortfalls in short-term electricity supply, the Commission directed the investor-owned electric utilities ("IOUs") to issue requests for proposal ("RFPs") to fill potential "gaps" in the supply of electricity. After issuing of the RFPs, the Commission authorized the utilities to enter into contracts with the winning bidders for the applicable utility service territory, in which the winning bidders would provide capacity resources for the period June 1, 2011, to May 31, 2015. Energy Curtailment Specialist, Inc. ("ECS") and Comverge, Inc. ("Comverge") were winning bidders for certain service territories. During this reporting

period, the Commission ruled on proceedings related to the ECS and Comverge contracts, which were continued from 2012.

**Energy Curtailment Specialist Proceeding**

As reported in the 2012 Annual Report, a proceeding was held to consider the motions filed by ECS to amend its capacity resource agreements with Pepco and Delmarva (collectively, “PHI Companies”). A Proposed Order was issued in the matter on November 7, 2012, in which the Public Utility Law Judge found that the Commission had jurisdiction over the contracts at issue and adopted the ECS approach for damages. ECS and OPC each appealed the Proposed Order.

On May 29, 2013, the Commission issued Order No. 85628, in which it affirmed in part and reversed in part the Proposed Order. In its Order, the Commission agreed with the Public Utility Law Judge’s finding that the contracts between ECS and the PHI Companies fell within the Commission’s jurisdiction and affirmed this portion of the Proposed Order.

Further, the Commission concluded that the ratepayers should not be responsible for contract costs for the amount of capacity that ECS failed to deliver in the PJM auction delivery year 2011/2012. It therefore adopted the PHI Companies’ approach for damages, and reversed the Public Utility Law Judge’s adoption of the ECS approach. Based on its decision, the Commission directed Pepco and Delmarva to each file tariff amendments to reflect a reduction in the cost of the respective contracts with ECS, with the reductions to be applied evenly to reduce the ratepayer surcharges for the 2013/2014 and 2014/2015 delivery years.

### Comverge Proceeding

As reported in the 2012 Annual Report, the Staff found that a portion of Comverge's capacity resource obligations were located outside of the Pepco service territory, which appeared to be a material breach of the contract between Comverge and Pepco. On October 25, 2012, pursuant to a Staff request, the Commission established a proceeding to determine whether locating Comverge's capacity resource obligations outside of Pepco's service territory was a material breach of Comverge's contractual obligations; if so, whether such breach caused harm to Pepco's ratepayers; and what, if any, remedy or civil penalties would be appropriate. On October 25, 2012, the Commission issued Order No. 85172 delegating the Comverge matter to the Public Utility Law Judge Division for hearing.

On May 29, 2013, Comverge submitted a settlement agreement negotiated between the parties to the proceeding, and pre-filed testimony in support of approval of the settlement agreement. On May 31, 2013, Staff also submitted pre-filed testimony in support of the settlement agreement. On January 10, 2014, a Proposed Order of Public Utility Law Judge found that the Settlement Agreement was in the public interest, and therefore approved it. No appeal of the Proposed Order was taken and it became Commission Order No. 86176.

## **2. The Matter of Whether New Generating Facilities are Needed to Meet Long-Term Demand for Standard Offer Service – Case No. 9214**

As reported in the 2012 Annual Report, on April 12, 2012, the Commission accepted the bid submitted by CPV Maryland, LLC ("CPV") to build a 661 MW natural gas-fired combined cycle facility in Charles County with an in-service date of June 1,

2015, and directed BGE, Pepco and Delmarva to execute a Contract for Differences in amounts proportionate to their relative SOS load as of the date of execution with CPV.<sup>28</sup> On July 10, 2012, Boston Pacific submitted recommended amendments to the Contract for Differences for the Commission's approval. After considering the recommended amendments, the Commission directed Boston Pacific to make certain revisions to the draft Contract for Differences. On November 26, 2012, the Commission held a hearing on disputes as to certain provisions of the draft revised Contract for Differences, which Boston Pacific submitted on September 28, 2013.

On April 16, 2013, the Commission issued Order No. 85501, in which it resolved the outstanding disputes concerning certain provisions in the Contract for Differences, directed BGE, Pepco, and Delmarva to execute the contract, and directed the companies to recover their costs through the SOS surcharge. The Commission deleted the controversial section 6.9, modified section 5.1(b) (deleting the approval of the contract as one of the conditions of the effective date of the contract), and otherwise adopted the contract as proposed by Boston Pacific.

On May 6, 2013, BGE, Pepco and Delmarva each submitted a signed copy of their Contract for Differences, but reiterated their positions that the Commission acted unconstitutionally, outside its statutory authority or jurisdiction, under unlawful procedure, without support of substantial evidence, and arbitrarily and capriciously in compelling the companies to sign the Contract for Differences, and indicated that each company had signed the contract involuntarily. On May 23, 2013, CPV filed a request asking the Commission to direct the companies to correct a material change to each of the

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<sup>28</sup> As discussed in Section XII (lettered paragraphs (b) and (c) (Office of General Counsel Report), several parties filed petitions for judicial review of the Order.

contracts. On May 31, 2013, the Commission determined that the companies had inserted the incorrect tolling date, and directed the companies to amend the Contracts to reflect the correct date as requested by CPV.

**3. Investigation into Service Reliability in Howard County, Maryland – Case No. 9291**

- a. Petition of Reliability 4HOCO for an Investigation into the Service Reliability of Baltimore Gas and Electric Company in Howard County, Maryland – Case No. 9291, Phase I**
- b. Formal Complaint of the County Council of Howard County, Maryland for an Investigation into the Reliability of the Electric Power Supply for Certain Areas in Howard County, Maryland – Case No. 9291, Phase II (formerly Case No. 9304)<sup>29</sup>**

As reported in the 2012 Annual Report, the Commission initiated Case No. 9291 and directed Staff to investigate the allegations as a result of the February 28, 2012 filing of a petition with an excess of 100 customer signatures calling for an investigation into service reliability of BGE in Howard County (“4HOCO Petition”).

On May 7, 2013, the Commission held legislative-style hearings for Phase I of the matter to allow parties to supplement the record and to respond to the Commission’s questions. On September 9, 2013, the Commission issued Order No. 85833 in which it: (1) found that the 4HOCO Petition had been satisfied by the findings set forth in the Staff’s Investigative Report; (2) directed BGE to continue and complete its work plan for all 14 4HOCO Petition feeders as submitted to the Commission; (3) directed the company to submit an updated report of its work plan with system/feeder average interruption frequency index (“SAIFI/FAIFI”), system/feeder average duration frequency index

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<sup>29</sup> On November 26, 2012, the Commission issued Order No. 85214, in which it granted the Council’s petition to intervene in Case No. 9291, and consolidated Case No. 9304 into Case No. 9291, as a Phase II proceeding.

(“SAIDI/FAIDI”), momentary average interruption frequency index, customer average interruption duration index, and customers experiencing multiple interruptions (“CEMI”), CEMI<sub>3</sub> and CEMI<sub>11</sub>, reliability metrics for the 4HOCO Petition feeders for 2012 as a benchmark within 30 days of the Order and then annually thereafter; and (4) directed the company to annually conduct a 4HOCO Petition feeder-specific customer survey to assess the satisfaction of customers in response to the company’s completion of its 4HOCO Petition feeder work plan improvements.

The Commission also adopted a procedural schedule for Phase II of the matter. On February 4, 2014, pursuant to the Commission-modified procedural scheduled, Staff filed its Investigative Report. Responses to the Report are due by March 28, 2014, and reply comments must be filed by April 25, 2014.

#### **4. Electric Utilities’ Major Storm Performance—Case Nos. 9298 and 9308**

##### **a. Electric Service Interruptions in the State of Maryland Due to the June 29, 2012 Derecho Storm – Case No. 9298**

As reported in the 2012 Annual Report, late on June 29, 2012, a storm termed a “derecho”<sup>30</sup> storm struck Maryland with little warning, resulting in severe damage in Maryland, including significant and extended outages in the service territories of Pepco, BGE, Delmarva, SMECO, Choptank, and Potomac Edison service territories. After receiving the utilities’ major outage event reports, the Commission conducted public hearings within the utilities’ service territories and legislative-style hearings to question the utilities about each utility’s preparedness and response to resolving the outages. On

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<sup>30</sup> In a weather context, a derecho is a storm with sustained winds in excess of 58 mph (with possible wind gusts in excess of 100 mph), with the wind directed in one direction along a relatively straight line, and with wind damage extending more than 240 miles.

February 27, 2013, the Commission issued Order No. 85385, in which it found that there is a significant and unsatisfactory disconnect between the ratepayers' expectations of system reliability and the ability of the present-day electric distribution systems to meet those expectations. Even so, the Commission also found that nothing in the Maryland utilities' general preparedness or specific response to the derecho constituted violations of the Public Utilities Article or the Commission's current regulations or warranted the imposition of civil penalties. As a result of its findings, the Commission determined that the Maryland utilities should make a number of further improvements in the shorter term to increase their systems' reliability. As directed by the Order, each utility:

- (a) on or before May 31, 2013, filed a plan outlining measures that could be completed in the next five years to accelerate reliability improvements to its distribution system, along with a cost/benefit analysis for each measure and comments on the Report of the Grid Resiliency Task Force;
- (b) on or before August 30, 2013, performed a comprehensive review of its distribution system to assess how and in what locations, and what elements of its system may need to be enhanced or hardened to result in restoration of service to at least 95% of its customers, even for storms in which the total number of sustained interruptions is at least 400,000 or 40% of the utility's total number of customers and filed a report with the Commission;
- (c) on or before March 29, 2013, submitted a report on any improvements made to communications systems since the derecho;
- (d) on or before May 31, 2013, submitted a report on any further improvements to communications systems planned and a timetable for completing such improvements;
- (e) on or before August 30, 2013, performed a three-part analysis of its distribution system staff (an historical analysis, a detailed analysis of the utilization of specific personnel during the derecho, and an analysis of major outage event preparedness based on present staffing levels) and submitted a report on the results; and
- (f) participated in work group sessions with Commission Staff to gather from the appropriate State and local officials and emergency responders the information these

agencies/organizations need, and the method and format in which the information should be transmitted during emergencies, and to address legitimate concerns about customer privacy.

By amendments to the Order issued on June 4, 2013 and September 30, 2013, the Commission directed its Technical Staff to:

- (a) draft and submit proposed regulations revising COMAR 20.50, Service Supplied by Electric Companies, Chapter 12, Service Quality and Reliability Standards, to include major outage event data, and to strengthen the poorest performing feeder standard by May 1, 2014;
- (b) study and evaluate performance-based ratemaking principles and methodologies that would more directly and transparently align reliability service with the utilities' distribution rates and that reduce returns or otherwise penalize sub-standard performance, and report its findings on or before May 1, 2014;
- (c) draft and submit proposed regulations under COMAR 20.50, Service Supplied by Electric Companies, Chapter 12, Service Quality and Reliability Standards to establish objective standards for estimated times of restoration by May 1, 2014; and
- (d) submit a report containing its findings and recommendations based on its participation in the work group along with the utilities to gather from the appropriate State and local officials and emergency responders the information these agencies/organizations need, and the method and format in which the information should be transmitted during emergencies, and to address legitimate concerns about customer privacy, by November 18, 2013.

On November 18, 2013, Staff submitted its Report of Derecho Vulnerable Individual Work Group and Response to HB1159 as directed by the Commission. On December 3, 2013, Staff submitted its Analysis of Improvement Projects Report.

**b. Requests and Reports Associated with Hurricane Sandy – Case No. 9308**

As reported in the 2012 Annual Report, the utilities whose service territories suffered major outage events as a result of Hurricane Sandy, which struck Maryland on October 28, 2012, submitted the required reports for the Commission’s review. On February 1, 2013, Staff submitted its Hurricane Sandy Multi-State Outage and Restoration Report. On February 11, 2013, the Commission reviewed Staff’s report, noted it, and finding no violations of Commission regulations, took no further action in the matter.

**F. Rate-Related Cases**

**1. Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Distribution of Electric Energy – Case No. 9311**

As noted in the 2012 Annual Report, on November 30 2012, Pepco filed an application for approval by the Commission to increase the company’s rates and charges for its electric distribution service. In the application, Pepco requested authority to increase its distribution rates by approximately \$60.8 million and increase its return on equity from 9.31% to 10.25%. After conducting evidentiary hearings and hearings for public comments, the Commission issued Order No. 85724 on July 12, 2013, in which it approved a revenue increase of \$27.9 million and a return on equity of 9.36%, with the new rates to become effective for services rendered on or after July 12, 2013.

In addition, a quorum of the Commission<sup>31</sup> approved Pepco's proposed Accelerated Priority Feeders reliability program along with an annual surcharge to recover the costs of the project. The Commission rejected two other proposed accelerated reliability programs. Among other decisions on adjustments to rate base and operating income, the Commission allowed Pepco to include net operating loss carry-over ("NOLC") in rate base, but required Pepco to file for an Internal Revenue Private Letter Ruling to address the ratemaking implications of the NOLC raised in the proceeding. The Commission rejected OPC's adjustment of the rate base to increase the accumulated depreciation reserve by the interim period depreciation expense. The decision was appealed by certain of the parties,<sup>32</sup> and is currently pending a decision in circuit court.<sup>33</sup>

## **2. Application of Columbia Gas of Maryland, Inc. for Authority to Increase Rates and Charges – Case No. 9316**

On February 27, 2013, Columbia Gas of Maryland, Inc. ("Columbia Gas") filed an application to increase its revenues for its distribution services by approximately \$5.6 million, with an overall rate of return of 8.20%. The Commission initiated a new docket, Case No. 9316, and delegated the conduct of the matter to the Public Utility Law Judge

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<sup>31</sup> Commissioner William disagreed with the majorities' decision to allow cost recovery of the Accelerated Priority Feeder project through an annual surcharge and indicated he would provide for cost recovery through a rolling two-year regulatory asset. Commissioner Brenner concurred with the majority, but expressed his preference that a mechanism similar to a deferred regulatory asset be implemented to recover the costs of the approved project.

<sup>32</sup> On July 26, 2013, Pepco filed a Petition for Judicial Review in Baltimore City Circuit Court. OPC and AARP Maryland also filed Petitions for Judicial Review in Baltimore City Circuit Court. Subsequently, Montgomery County Maryland filed a Petition for Review in Montgomery County. That case was later transferred to Baltimore City. The cases have been consolidated and are now pending before the Baltimore City Circuit Court. *See* Case No. 24-C-13-006543, Baltimore City Circuit Court.

<sup>33</sup> *See* Section XII, letter paragraph j (Office of General Counsel Report), which provides a summary of the appeals and the current status.

Division. After conducting evidentiary hearings for the cross-examination of the parties,<sup>34</sup> witnesses and evening hearings for public comment, a Proposed Order of Public Utility Law Judge was issued on August 9, 2013. The Proposed Order<sup>35</sup> authorized a revenue increase of \$3,591,272 and return of equity of 9.60%, which resulted in an overall rate of return of 7.52%. Columbia Gas' request to introduce a Pipeline Safety Enhancement charge was denied, but its New Area Service Pilot Rider was approved. A composite depreciation rate of 2.339% was authorized to be implemented in the rate-effective period.

The Proposed Order addressed a number of issues raised by the parties to the matter, but noted the three most contentious matters: (1) the Company's inclusion of its Net Operating Loss ("NOL") in rate base; (2) OPC's adjustment of the rate base to increase the accumulated depreciation reserve by the interim period depreciation expense; and (3) the environmental remediation costs for the Company's Hagerstown Service Center site and the adjacent so-called "Cassidy Property." The Proposed Order allowed the NOL to be included in rate base and rejected OPC's adjustment to rate base of the accumulated depreciation reserve by the interim period depreciation expense. The Company's inclusion of the environmental remediation costs for its Hagerstown Service Center site was allowed, but the costs for the Cassidy Property were disallowed.

Both Columbia Gas and OPC appealed the Proposed Order. OPC appealed the Proposed Order's: (1) rejection of OPC's allocation of the depreciation reserve imbalances to the plant-only rates; (2) approval of the New Area Service Pilot; and (3) rejection of the adjustment to the accumulated depreciation to reflect the interim

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<sup>34</sup> The parties in the matter were Columbia Gas, OPC and Staff.

<sup>35</sup> As amended on September 16, 2013.

period depreciation expense. Columbia appealed the Proposed Order's decision to disallow recovery of remediation costs for the Cassidy Project.

On September 23, 2013, by Order No. 85858, the Commission denied Columbia's appeal and affirmed the Proposed Order's decision to disallow recovery of the environmental remediation costs associated with the Cassidy Property. The Commission denied OPC's appeal of the decision rejecting OPC's allocation of the depreciation reserve imbalances to the plant-only rates and OPC's requested adjustment to Columbia's accumulated depreciation, and affirmed those portions of the Proposed Order decision. The Commission, however, determined that additional information concerning the New Area Service Pilot was required and therefore granted OPC's appeal of this matter and reversed this portion of the Proposed Order's decision on the Pilot without prejudice.

Columbia Gas filed a Petition for Judicial Review in the Circuit Court for Washington County, Maryland challenging the Commission's Order denying recovery of the costs of environmental remediation for the Cassidy property.<sup>36</sup> The case has been briefed, and a hearing on the matter is scheduled for April 4, 2014.

### **3. Application of Delmarva Power & Light Company for Adjustments to its Retail Rates for the Distribution of Electric Energy -- Case No. 9317**

On March 29, 2013, Delmarva submitted its application for authority to increase its distribution rates in the amount of \$22,762,720, and increase its return on equity to 10.25% with an overall rate of return of 7.67%. The Commission initiated a new docket, Case No. 9317, and delegated the conduct of the proceedings to the Public Utility Law Judge. Three evening hearings for public comment were conducted in June 2013. On

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<sup>36</sup> See *Columbia Gas of Maryland, Inc. v. PSC*, Case No. 21-C-13-48802.

July 17, 2013, Delmarva filed a Joint Motion for Approval of Agreement of Unanimous Stipulation and Settlement on behalf of itself and the two other parties in the matter, OPC and Staff (“Settlement Agreement”). On July 18, 2013, an evidentiary hearing was held for the purposes of entering the pre-filed testimony of the parties’ witnesses into the record and receiving testimony in support of the approval of the Settlement Agreement.

On July 30, 2013, a Proposed Order of Public Utility Law Judge was issued, which granted the Joint Motion for Approval of the Settlement Agreement and incorporated the terms and conditions of the Settlement Agreement into the Proposed Order. Pursuant to the approved Settlement Agreement, Delmarva was authorized to file revised tariff sheets to increase annual base rates by \$14,980,000, with an effective date of September 15, 2013. Additionally, DPL was authorized to implement an Accelerated Priority Feeders reliability plan along with an annual surcharge to recover the costs of the project. The Proposed Order was not appealed and became Commission Order No. 85816.

**4. Application of Washington Gas Light Company for Authority to Increase its Existing Rates and Charges and to Revise its Terms and Conditions for Gas Service – Case No. 9322**

On April 26, 2013, WGL filed its application to increase its base rates for distribution services in the amount of \$30.7 million and increase its return on equity to 10.70%, with an overall rate of return of 8.7%. WGL also proposed that the percentage of equity in its capital structure be 60.8%. The Commission initiated a new docket, Case No. 9322, and delegated the conduct of the proceedings to the Public Utility Law Judge Division.

After conducting evidentiary hearings and evening hearings for public comment, a Proposed Order of Public Utility Law Judge was issued on October 10, 2013. The Proposed Order authorized a revenue increase of \$8,754,000, a return on equity of 9.25%, and an overall rate of return of 7.54%. WGL was awarded an equity percentage of 57.88% in its capital structure, which was the same as granted by the Commission in November 2011 in WGL's last base rate case, Case No. 9267. WGL's request to offer to the public compressed natural gas from two existing stations that it owns was granted; however, WGL's right to build a larger number of new CNG fuel stations for public use was denied without prejudice. WGL, the Apartment and Office Building Association of Metropolitan Washington ("AOBA"), and OPC each filed an appeal of the Proposed Order.

In its appeal, WGL disagreed with the Proposed Order's decision to use a "hypothetical" rather than an actual capital structure. It argued that there was nothing in the record reflecting that WGL had manipulated its capital structure to make its equity ratio higher. It also appealed the decision to impute 2.92% of zero-cost capital. WGL further challenged the award of a 9.25% return on equity as being unfairly low. In Order No. 86013 issued November 22, 2013 ("WGL Order"), the Commission agreed with the Public Utility Law Judge determination that the 60.80% equity ratio was too high for WGL's capital structure, but decided that the equity ratio had not been reduced sufficiently and the 2.9% zero-cost capital was problematic. Accordingly, the Commission adopted Staff's proposed capital structure of 53.02% equity, 41.35% long-term debt, 4.01% short-term debt, and 1.62% preferred dividend equity. It also agreed that the return on equity awarded was too low, and approved a 9.60% return on equity.

WGL also appealed the Proposed Order's decision rejecting its proposal to include amortization of costs to achieve the savings associated with its Accenture outsourcing contract over the life of the contract. In the WGL Order, the Commission denied this portion of WGL's appeal, and agreed with the Proposed Order's determination that WGL had failed to show financial benefit from the Accenture contract.

WGL also appealed the Proposed Order's rejection of WGL's pro-forma labor expense adjustment based on the end-of-test year number of employees. In the WGL Order, the Commission denied the appeal on this issue, but did revise upward the revenue requirement by \$49,000 to account for OPC witness Arndt's surrebuttal testimony revising his adjustment to this expense.

The interest synchronization amount set forth in the Proposed Order also was appealed by WGL as being inaccurately calculated. Staff agreed with WGL. The Commission concluded that the amount had been miscalculated and adjusted the interest synchronization amount appropriately.

WGL asked for clarification on the treatment of the Medicare Part D uncontested adjustment, stating that it had requested to establish a regulatory asset for the costs to be incurred, and the Proposed Order did not address this request. In the WGL Order, the Commission concluded that, even though the amount for the Medicare Part D was not itemized in the Proposed Order, there was no reason to believe it was not included. The Commission authorized WGL to maintain a regulatory asset related to Medicare Part D expenses and amortize them over five years, with the first year reflected in the adjusted test year.

AOBA and WGL appealed the Proposed Order's decision on the Class Cost of Service Study ("CCOSS"). WGL was ordered to file a statistically valid CCOSS as part of its next rate case, and to meet with Staff to resolve issues regarding the proper methods for WGL's next CCOSS, with a report due from Staff by June 20, 2014. WGL argued that the directive was overbroad, as it should refer only to the demand study and not the entire CCOSS. AOBA appealed the decision because it relied on an admittedly flawed CCOSS study. AOBA also asked for clarification of its role in the resolution of future CCOSS issues. Based on Staff's suggestions in its reply memorandum, in its WGL Order, the Commission modified the ordering clause to require WGL to file fully allocated non-coincident peak and coincident peak CCOSS, which utilize statistically valid demand studies, and that it rely on such studies as part of its next base rate case. The Commission denied AOBA's appeal, but granted AOBA's clarification request and amended the ordering clause of the Proposed Order to require WGL to meet with Staff and other parties to resolve issues regarding the proper methods and analyses to be used in the next CCOSS.

OPC appealed the Proposed Order's allowance of a ten-year amortization of costs related to the abandoned LNG facility, although the unamortized costs were removed from rate base. In its WGL Order, the Commission found the ten-year amortization of costs to be reasonable and denied OPC's appeal of this issue.

OPC also appealed the Proposed Order's allowance of the full expert witness fees for WGL's cost of equity witness, because OPC believed the fee was excessive. In the WGL Order, the Commission denied this portion of OPC's appeal as well, finding that WGL did not act imprudently under the circumstances of the matter. The Commission,

however, noted that it would watch the issue in future rate cases and WGL should consider cost-saving measures, including those offered by OPC.

**5. Application of Baltimore Gas and Electric Company for Adjustments to its Electric and Gas Base Rates – Case No. 9326**

On May 17, 2013, BGE filed an application to increase its rates and charges for its distributions services for an electric revenue requirement increase of \$82.6 million and a gas revenue requirement increase of \$24.4 million. BGE also proposed a five-year, \$136 million Electric Reliability Investment (“ERI”) initiative, which was composed of eight programs designed to accelerate reliability improvements to its electric distribution system and to recover costs of the investments through a monthly surcharge. After conducting evidentiary hearings and evening hearings for public comments, the Commission issued Order No. 86060 on December 13, 2013.

In the Order, the Commission approved an increase in BGE’s electric distribution rates of \$33.6 million and gas distribution rates of \$12.5 million. It did not change significantly BGE’s return on equity awarded in its last recent base rate case for either its electric distribution operations or gas distribution operations. The Commission found that economic conditions had not changed since it last set BGE’s return on equity in 2012, and denied BGE’s request for an increase.

The Commission also authorized BGE to implement a five-year, \$72.6 million ERI initiative consisting of five of the eight proposed programs. The majority of the Commission<sup>37</sup> approved a concurrent surcharge cost recovery on a volumetric basis for

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<sup>37</sup> Commissioner Williams and Commissioner Brenner dissented. They disagreed with the implementation of a surcharge to recover the investments for a number of reasons, and would have preferred an alternative

the investments associated with five authorized programs, terminating upon the projected completion date of the authorized projects. BGE is required to submit a base rate case application that aligns with the projected completion date.

**6. Application of Baltimore Gas and Electric Company for Approval of Gas System Strategic Infrastructure Development and Enhancement Plan and Accompanying Cost Recovery Mechanism – Case No. 9331**

On August 2, 2013, BGE filed an application for approval of its Gas System Strategic Infrastructure Development and Enhancement (“STRIDE”) Plan, pursuant to the newly-enacted provision of the Public Utilities Article, § 4.210, effective June 1, 2013, as well as a proposed cost recovery mechanism for the investments associated with its Plan. The Commission initiated a new docket, Case No. 9331, to consider the matter. The Commission conducted five evening hearings for public comment between November 4 – 8, 2013, within BGE’s service territory at locations in Annapolis, Towson, Baltimore City, Ellicott City, and Bel Air. It also conducted three days of evidentiary hearings in the matter on November 12 – 14, 2013.

On January 29, 2014, the Commission issued Order No. 86147, which conditionally approved the request. In its Order, the Commission found that BGE’s Plan includes infrastructure replacement to be made on or after June 1, 2013, is designed to improve public safety or infrastructure reliability, does not increase the revenue of a gas company by connecting an improvement directly to new customers; reduces or has the potential to reduce greenhouse gas emissions through a reduction in natural gas system

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approach of allowing BGE to account for the costs of the five projects through a regulatory asset mechanism, with the option for BGE to later seek to include the costs in rates without having to file for a full base rate proceeding.

leaks, and does not include proposed infrastructure replacements currently included in the current rate base of BGE as determined by its most recent base rate proceeding, and therefore met the statutory requirements of §§ 4-210 (a)(3)(i), (iii), (iv) and (v) of the Public Utilities Article. The Commission also concluded that the Plan represents an acceleration in the replacement of vintage mains and services, and determined that BGE's Plan also met the statutory requirements of §§ 4-210(a)(3)(ii) and 4-210(e)(3)(ii) of the Public Utilities Article. Additionally, the Commission found the Plan met the requirements of § 4-201(d)(2)(ii) of the Public Utilities Article in that it will result in customer benefits.

The Commission, however, concluded that it was unable to determine whether each proposed program is reasonable and prudent from an infrastructure and cost standpoint, it conditioned approval of the Plan on BGE's filing of a time line within 30 days of the date of the Order, along with certain other specific information about each eligible infrastructure replacement project to be initiated in 2014, and a requirement to submit a revised project list annually for 2015-2018. BGE also was directed to report annually regarding specific system improvements accomplished and customer benefits on a project basis so as to allow the Commission to review the asset replacements and related expenditures prior to determining the following year's surcharge. Additionally, the Commission directed BGE to undergo a detailed audit by an independent auditor to evaluate program performance and to ensure that costs spent under the Plan are both reasonable and prudent and to file an audit report annually by April 1 following each program year.

The Commission rejected OPC's recommendation to use a demand allocator to calculate the surcharges. It found that the statute was clear that the allocation to costs were to be calculated consistent with the proportions of total distribution revenues that each class bears in accordance with the most recent base rate proceeding for BGE. BGE was directed to allocate the non-residential surcharge by customer class, and rejected Staff's recommendation to further allocate the surcharge by sub-classes. Similar to its conditional approval of the Plan, the Commission conditionally approved the surcharge, with the 2014 surcharge to apply to all Commission-approved projects initiated in 2014.

The Commission also directed BGE to file a report regarding final IRS guidance on the Tax Repair Rule and the impact on the STRIDE surcharge within 45 days of any IRS final guidance. In addition, the Commission accepted BGE's commitment to increase supplier diversity associated with executing its Plan and directed BGE to report on its progress as part of its reporting requirements. BGE also was directed to file a reconciliation annually, by November 15 of each year, to adjust the amount of its surcharge, and shall account for the difference between the actual cost of the Plan and the actual amount recovered under the surcharge. Finally, BGE was directed to notify the Commission by February 28, 2014, whether it would accept the conditions in the Order, or otherwise the Plan is denied. On February 21, 2014, BGE filed a notice that it accepted the Commission's conditions, and filed a list of each proposed STRIDE project to be initiated in 2014 along with a supplement to its gas tariff.

**7. Application of Columbia Gas of Maryland, Inc. for Authority to Adopt an Infrastructure Replacement Surcharge Mechanism – Case No. 9332**

On August 5, 2013, Columbia Gas filed an application for approval of an infrastructure replacement surcharge mechanism, pursuant to Public Utilities Article, § 4.210, effective June 1, 2013 (“Statute”). The Commission initiated a new docket, Case No. 9332, to consider the matter. The Commission conducted two evening hearings for public comments in Hagerstown on December 12, 2013, and in Cumberland on December 18, 2013. It also conducted four days of evidentiary hearings on December 2 – 4, 2013, and December 6, 2013. On January 31, 2014, the Commission rejected the proposed Plan without prejudice, finding that it did not meet the intent of the Statute. The Commission encouraged the Company to reapply on an expedited basis subject to certain conditions.

**8. Application of Washington Gas Light Company for Authority to Implement a Strategic Infrastructure Development and Enhancement Plan and Associated Cost Recovery Mechanism – Case No. 9335**

On November 7, 2013, WGL filed an application seeking authority to implement its STRIDE plan and associated cost recovery mechanism, pursuant to Public Utilities Article, § 4.210. The Commission initiated a new docket, Case No. 9335, to consider the application and delegated the conduct of the proceedings to the Public Utility Law Judge Division. Evening hearings for public comments were held in Rockville and College Park on January 27 and January 29, 2014, respectively. Evidentiary hearings were held on February 4 - 7, 2014. The Chief Public Utility Law Judge is expected to issue a Proposed Order by March 21, 2014; the Commission’s final Order is required to be issued by May 6, 2014.

**9. Application of Potomac Electric Power Company for Adjustments to its Retail Rates for the Distribution of Electric Energy – Case No. 9336**

On December 4, 2013, Pepco filed an application for an increase to its retail rates for the distribution of electric energy. Pepco has asked for a \$43,343,000 increase in Maryland distribution rates and an authorized rate of return on equity of 10.25%.

The Commission initiated a new docket, Case No. 9336, to consider the application. Evidentiary hearings are scheduled during the weeks of April 22 and April 28, 2014. The final Order is required to be issued by July 2, 2014.

**G. Certificates of Public Convenience and Necessity (“CPCN”) Cases—Applications, Modifications, and Waivers**

**1. Application of Baltimore Gas and Electric Company for a Certificate of Public Convenience and Necessity to Construct a 230 KV Transmission Line Circuit Between the Conastone and Graceton Substations in Harford County, Maryland – Case No. 9246**

As reported in the 2011 Annual Report, this matter was held in abeyance pending receipt of certain information from PJM. On April 5, 2013, BGE withdrew its application and asked that the matter be dismissed without prejudice.

**2. Application of CPV Maryland, LLC for a Certificate of Public Convenience and Necessity Authorizing the Minor Modification of its St. Charles Project in Charles County, Maryland – Case No. 9280**

In 2008, the Commission granted CPV a CPCN to construct a nominally rated 640 MW combined-cycle natural gas-fired generating facility in Charles County, Maryland (Case No. 9129). CPV increased the facility rating to 725 MW, and an amended CPCN reflecting the modification was granted in docket No. 9280 in 2012.

Pursuant to a condition in the initial CPCN granted in Case No. 9129 and the amended CPCN granted in Case No. 9280, the air quality provisions of the CPCN would expire if construction of the facility did not begin within 18 months from the date of issuance. Several extensions of the deadline were granted and the construction commencement date was extended until May 8, 2013.

On April 5, 2013, CPV filed a Motion to amend certain conditions of the CPCN and requested further extension of the date by which construction of the facility must commence for purposes of the air quality provisions of the conditions. CPV explained that construction of the facility was intertwined with the Commission's decisions in Case No. 9214, in which the Commission accepted CPV's bid for the facility to be operational by June 1, 2015, and ordered three Maryland utilities to enter into a Contract for Differences with CPV. As of the date of the Motion filing, CPV stated that the Commission had not issued a final Order in Case No. 9214 on the terms and conditions of the Contract for Differences. CPV asked the Commission to extend the construction deadline to November 8, 2014.

On May 1, 2013, the Commission issued a letter order in which it tolled the construction deadline of the CPCN condition until such time as the Commission issued a decision as to what action it intends to take on the Motion. On June 14, 2013, the Power Plant Research Program, Maryland Department of Natural Resources ("PPRP") and the Air and Radiation Management Administration, Maryland Department of the Environment ("ARMA") submitted a joint letter to the Commission stating that they found that extension request was administratively complete and indicated that the parties in the matter would work together to develop a proposed procedural schedule for filing

PPRP's and ARMA's recommendation following their review of information submitted by CPV under the provisions of the Clean Air Act. As of December 31, 2013, a request to set a revised procedural schedule had not been filed.

**3. Application of Keys Energy Center, LLC for a Certificate of Public Convenience and Necessity to Construct a Nominal 735 MW Generating Facility in Prince George's County, Maryland—Case No. 9297**

On July 3, 2012, Keys Energy Center filed an application for a CPCN to construct a nominal 735 MW generating facility in Prince George's County, Maryland. On July 18, 2012, the Commission initiated a new docket, Case No. 9297, to consider the application and delegated the conduct of the proceedings to the Public Utility Law Judge. A pre-hearing conference was held in the matter on September 6, 2012, at which a procedural schedule was set for submission of applicant, Staff, PPRP and OPC testimony, and an agreement that a status conference would be held the week of April 8, 2013, to discuss the procedural schedule further, including setting specific dates for an evidentiary hearing and evening hearing for public comment.

On April 1, 2013, PPRP submitted a letter asking that the procedural schedule be stayed temporarily to allow it to complete a full and adequate review of the project. The letter indicated that PPRP and the applicant would work to develop a revised procedural schedule. No party opposed the request for stay. On April 2, 2013, a Notice suspending the procedural schedule was issued.

On July 22, 2013, the Chief Public Utility Law Judge sent a letter to the parties seeking a status update on PPRP's and the applicant's progress in resolving any outstanding data requests and any agreement on a revised procedural schedule. On

July 25, 2013, the applicant responded to the request for status, indicating that it was modifying the routing of its lateral facilities, which would require that certain portions of its Environmental Review Document (“ERD”) be revised. The applicant proposed to either submit a proposed procedural schedule or a status update by September 6, 2013. On September 6, 2013, the applicant filed a status update.

On October 1, 2013, the applicant submitted a letter indicating it had made a number of modifications to the filings and that it would be submitting supplemental testimony and revised ERD chapters detailing the project updates by December 31, 2013. It indicated that the parties would then discuss a proposed procedural schedule after the December 31 filing.

On December 3, 2013, the applicant filed an updated ERD Chapters 1 through 9. On December 9, 2013, the applicant filed an updated Chapter 10 to the ERD. On January 9, 2014, the Chief Public Utility Law Judge re-assigned the matter for conduct of the proceeding to Public Utility Law Judge McGowan. The procedural schedule remains suspended.

#### **4. Application of Potomac Edison Company for a Certificate of Public Convenience and Necessity to Rebuild the Maryland Segment of the Mt. Storm-Doubs 500 kV Electric Transmission Line in Frederick County, Maryland – Case No. 9309**

On November 15, 2012, PE filed an application for a CPCN to rebuild its Mt. Storm-Doubs Line in Frederick County and replace facilities that had been in service for more than 40 years and were approaching their expected end-of-life. With the rebuild, the line’s maximum operating capacity would increase from 2,442 million volt-amperes

(“MVA”) to 4,325 MVA. Approximately a 2.8-mile segment of the line is located in Maryland.

The Commission initiated a new docket, Case No. 9309, to consider the application and delegated the conduct of the proceedings to the Public Utility Law Judge Division. On May 21, 2013, an Agreement of Stipulation and Settlement was filed between PE and PPRP, which included unamended Initial Recommended Licensing Conditions. An evidentiary hearing and an evening hearing for public comments was held on May 21, 2013. The evening hearing was held in Brunswick.

On June 4, 2013, a Proposed Order of Public Utility Law Judge was issued granting a CPCN and incorporating the Settlement Agreement, including the Initial Recommended License Conditions into the CPCN. No appeal was taken of the Proposed Order and it became Commission Order No. 85706.

**5. Application of Delmarva Power & Light Company for a Certificate of Public Convenience and Necessity to Construct a New 138 kV Overhead Transmission Line on Existing Right-of-Way from Church Substation to Wye Mills Substation in Queen Anne’s County, Maryland – Case No. 9312**

As set forth in the 2012 Annual Report, on December 21, 2012, Delmarva filed an application for a CPCN to construct a new 25.9-mile 138 kV transmission line originating at its Church Substation and running to its Wye Mills Substation, all within existing right-of-way in Queen Anne’s County, Maryland. According to Delmarva, this new transmission line will resolve anticipated N-1-1 reliability criteria violations<sup>38</sup> that could,

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<sup>38</sup> The definition of N-1-1 is the sequence consisting of the initial loss of any one transmission facility (*i.e.*, transmission line, transformer, etc.) or generation facility after which the electric transmission system is “re-balanced” or “re-dispatched” prior to the loss of the second transmission or generation facility. The

if left unaddressed, result in severe reactive power deficiencies along the southern Delmarva Peninsula as early as June 2015, which would negatively impact reliability in that region. The matter was delegated to the Public Utility Law Judge Division.

After an evidentiary hearing held on September 10, 2013, and two evening hearings for public comments held on September 2 and September 16, 2013, a Proposed Order of Public Utility Law Judge was issued on October 17, 2013. The Proposed Order granted a CPCN and incorporated the Final Recommended Licensing Conditions into the CPCN as well as the notice condition requested by Staff. The Proposed Order indicated that only one issue was contested in the matter. OPC was concerned as to whether the existing load forecast would still show the N-1-1 violation as early as June 2015, and sought to have a proceeding at a later date or a less robust and expensive solution proposed. OPC asserted that Delmarva should have requested an updated analysis, or retool, by PJM to determine whether the N-1-1 violation would occur as early as June 2015. The Public Utility Law Judge denied OPC's request for a retool prior to conclusion of the proceeding. Further, he found that the evidence demonstrated that the CPCN application met the statutory requirements of § 7-207(e) of the Public Utilities Article. No appeal of the Proposed Order was filed and it became Commission Order No. 85959.

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approach permits the analysis of transmission facilities that may not be contiguous but can be "paired" within a geographic area.

**6. Application of Church Hill Solar Farm, LLC for a Certificate of Public Convenience and Necessity to Construct a 6 MW Solar Photovoltaic Generating Facility in Queen Anne's County, Maryland – Case No. 9314**

On January 22, 2013, Church Hill Solar Farm filed an application for a CPCN to construct a 6 MW solar photovoltaic generating station in Queen Anne's County. The Commission initiated a new docket, Case No. 9314, to consider the application and delegated the conduct of the proceedings to the Public Utility Law Judge Division. An evidentiary hearing in the matter was held on May 13, 2013. The evening hearing for public comments was held on May 20, 2013 in Stevensville.

On May, 31, 2013, a Proposed Order of Public Utility Law Judge was issued. The Public Utility Law Judge indicated that he had considered all of the statutory factors set forth in § 7-207(e) of the Public Utilities Article, and concluded that evidence was sufficient to grant the CPCN, incorporating PPRP's Proposed Licensing Conditions into the CPCN. No appeal of the Proposed Order was taken and it became Commission Order No. 85683.

**7. Request for Approval to Construct Twenty-Four Generator Units Pursuant to Section 7.207.1 of the Public Utilities Article and Request for Waiver of CPCN Requirements for Tap Loop Line to Serve Fourmile Ridge Wind Energy Project – Case No. 9315**

On January 14, 2013, Fourmile Wind Energy, LLC filed a request for approval to construct up to 24 wind turbines comprising a 60 MW wind energy project on Fourmile Ridge in Garrett County, pursuant to § 7-207.1 of the Public Utilities Article. In addition, it requested waiver of the CPCN requirement (§ 7-207 of the Public Utilities Article) to facilitate its construction of a 300-foot loop line to serve the Project. It asked that the waiver be granted by April 1, 2013.

The Commission initiated a new docket, Case No. 9315, to consider the requests. It delegated the conduct of the evening hearing to the Public Utility Law Judge Division and also directed public comments on the waiver be heard at the same evening hearing. The Commission required a report on the evening hearing to be filed within 20 days after the hearing.

An evening hearing was conducted at McHenry College located in Garrett County on March 19, 2013. On April 4, 2013, the Chief Public Utility Law Judge filed her Report of Hearing Comments. On April 25, 2013, the Commission accepted the report, authorized the construction of the Project, and granted the waiver of the CPCN requirement for the tap loop line.

**8. Application of Dominion Cove Point, LNG, LP for a Certificate of Public Convenience and Necessity to Construct a Generating Station with a Name-Plate Capacity of 130 MW at the Dominion Cove Point Liquefied Natural Gas Terminal in Calvert County, Maryland – Case No. 9318**

On April 1, 2013, Dominion Cove Point, LNG filed its application for a CPCN to construct a generating station at the Dominion Cove Point Terminal in Calvert County. The Commission initiated a new docket, Case No. 9318, to consider the application and initially delegated the matter to the Public Utility Law Judge Division. On November 25, 2013, the Commission reversed its decision to delegate the matter, and determined that it would hear the matter en banc. Evidentiary hearings were held on February 20, 21 and 24, 2014, and a hearing for public comments was held on March 1, 2014 in Lusby, Maryland. The Commission is expected to issue its Order by May 1, 2014.

**9. Application of Constellation Power Source Generation, Inc. for a Certificate of Public Convenience and Necessity Authorizing Modification of the Riverside Generating Station in Baltimore County, Maryland – Case No. 9320**

On April 8, 2013, Constellation Power Source Generation, Inc. (“CPSG”) filed an application for a CPCN to allow it to modify its Riverside generating station located in Baltimore County, Maryland. According to CPSG, the application was filed as a result of a PJM request for proposals for Black Start service. On April 10, 2013, the Commission initiated a new docket, Case No. 9320, to consider the application and delegated the matter to the Public Utility Law Judge Division. On September 11, 2013, CPSG withdrew the application because PJM withdrew its request for proposals for Black Start service and the project to modify the Riverside generating station was no longer required.

On September 12, 2013, a Proposed Order of Public Utility Law Judge was issued to close the docket. No appeal of the Proposed Order was filed, and it became Commission Order No. 85899.

**10. Application of Delmarva Power & Light Company for a Certificate of Public Convenience and Necessity to Rebuild an Existing 138 kV Overhead Transmission Line on Existing Right-of-Way from the Maryland/Delaware State Line to Cecil Substation in Cecil County, Maryland – Case No. 9321**

On April 12, 2013, Delmarva filed an application for a CPCN to rebuild a portion of an existing 138 kV overhead transmission line from the Maryland/Delaware state line to Cecil Substation in Cecil County (“Line Section 1”), as well as a waiver of the CPCN requirement for another portion of the line (“Line Section 2”). The Commission initiated a new docket, Case No. 9321, to consider the application and delegated the matter to the Public Utility Law Judge Division. On August 6, 2013, the Chief Public Utility Law

Judge issued a ruling in which she granted the waiver of the CPCN requirement for Line Section 2 as requested by Delmarva. An evidentiary hearing was held February 26, 2014. An evening hearing for public comments is scheduled for March 25, 2014 in Elkton, Cecil County.

**11. Application of Baltimore Gas and Electric Company for a Certificate of Public Convenience and Necessity for the Northeast Transmission System Improvement – Case No. 9323**

On May 6, 2013, BGE filed an application for a CPCN for the Northeast Transmission System Improvement, for which BGE indicated three project segments, one of which involves the same scope of work described in the application filed by BGE in Case No. 9246 (which was withdrawn by BGE without prejudice and the matter closed). BGE proposed to complete a double-circuit 230 kV ring around the northeastern section of its Maryland electric distribution service territory. In Segment A, BGE proposed to construct a second 230 kV circuit on the mostly vacant north side of an existing double-circuit overhead transmission line running between Graceton Substation and Conastone Substation in Harford County. Segment B was described as the construction of a steel pole, double-circuit 230 kV overhead transmission line, which will replace an existing 230 kV single-circuit, lattice tower overhead transmission line that runs between Bagley Substation and the Graceton Substation. In Segment C, BGE proposed to construct a steel pole, double-circuit 230 kV overhead transmission line replacing an existing 230 kV single-circuit, lattice tower overhead transmission line that runs between the Bagley Substation and the Raphael Road Switching Station.

The Commission initiated a new docket, Case No. 9323, to consider the application and delegated it to the Public Utility Law Judge Division. An evidentiary

hearing was held on November 5, 2013, and evening hearings for public comments were held on November 6 and 7, 2013. On November 25, 2013, a Proposed Order of Public Utility Law Judge was issued granting the CPCN, and incorporating into the CPCN the Recommended Licensing Conditions submitted by PPRP as well as the two-part condition requested by Staff. No appeal of the Proposed Order was filed and it became Commission Order No. 86086.

**12. Application of Old Dominion Electric Cooperative, Inc. for a Certificate of Public Convenience to Construct a Nominally Rated 1000 MW Generating Facility in Cecil County, Maryland – Case No. 9327**

On May 20, 2013, Old Dominion Electric Cooperative, Inc. (“ODEC”) filed an application for a CPCN to construct a nominally rated 1000 MW combined-cycle, natural gas-fired generating station, including interconnection facilities next to the existing Rock Spring Generation Facility, on land co-owned by ODEC and Essential Power, LLC in Rising Sun, Cecil County (but contractually controlled by ODEC). ODEC requested a waiver of the requirement to file a CPCN application at least two years before construction of the facility will commence.

The Commission initiated a new docket, Case No. 9327, to consider the application and delegated the proceedings in the matter to the Public Utility Law Judge Division. On July 9, 2013, PPRP and ARMA submitted a joint letter indicating they determined the application to be administratively incomplete pursuant to COMAR 26.11.02.01B(1). Procedural dates were established to allow ODEC an opportunity to address the deficiencies in the application identified by PPRP and ARMA. On August 1, 2013, ODEC filed supplemental testimony of one of its witnesses, and on August 15

2013, PPRP and ARMA submitted a joint letter to the Commission indicating that they found the application to be administratively complete pursuant to COMAR 26.11.02.01B(1).

An evening hearing for public comments was held on January 22, 2014 in Conowingo, Maryland. The parties stipulated to the entry of the pre-filed testimony of all parties and had no cross-examination for any witness. Consequently, no evidentiary hearing was conducted. A Proposed Order of Public Utility Law Judge will be issued once PPRP notifies the Commission that the required EPA Region III and public comments process has been completed. The parties agreed to shorten the 30-day appeal period to 14 days.

**13. Application of Potomac Electric Power Company for a Certificate of Public Convenience and Necessity to Rebuild an Existing Double-Circuit 230 kV Overhead Tower Line on Existing Right-of Way from the Burtonsville Substation to the Takoma Station in Prince George's County, Maryland – Case No. 9329**

On June 21, 2013, Pepco filed an application for a CPCN to rebuild an existing 9.9 mile double-circuit 230 kV overhead tower line on existing right-of-way from the Burtonsville Substation to the Takoma Station in Prince George's County. According to Pepco, the rebuilt 230 kV double-circuit tower line must be operational by June 1, 2015, and therefore Pepco must start construction by June 2014.

The Commission initiated a new docket, Case No. 9329, to consider the application and delegated the proceedings in the matter to the Public Utility Law Judge Division. Evidentiary hearings are scheduled for March 25 and 26, 2014, with an

evening hearing for public comments scheduled for March 27, 2014 in College Park. A Proposed Order of Public Utility Law Judge is expected to be issued by May 9, 2014.

**14. Application of Mattawoman Energy, LLC for a Certificate of Public Convenience and Necessity to Construct a Nominally Rated 859 MW Generating Facility in Prince George's County, Maryland – Case No. 9330**

On July 19, 2013, Mattawoman Energy, LLC filed an application for a CPCN to construct a nominally rated 859 MW combined-cycle combustion turbine and heat recovery steam generator electric generating facility in Brandywine, Prince George's County. Mattawoman also requested a waiver of the requirement to file a CPCN application at least two years before the construction of the facility will commence.

The Commission initiated a new docket, Case No. 9330, to consider the application and delegated the proceedings in the matter to the Public Utility Law Judge Division. On September 9, 2013, a Notice of Procedural Schedule was issued establishing the dates of submission of testimony, dates of the evidentiary hearing (in June 2014), and the date by which the Proposed Order would be expected to be issued. On December 3, 2013, a Notice of Amended Procedural Schedule was issued. On February 19, 2014, the Public Utility Law Judge granted the unopposed Motion to Suspend Amended Procedural Schedule filed by PPRP. The parties were directed, when possible, to consult with each other and to file a new proposed procedural schedule.

**15. Request for Approval to Construct Twelve to Fifteen Generator Units Pursuant to Section 7.207.1 of the Public Utilities Article and Request for Waiver of CPCN Requirements for the Fair Wind Generating Facility Located in Garrett County, Maryland – Case No. 9334**

On August 19, 2013, Fair Wind Power Partners, LLC filed a request for approval to construct a land-based wind generating station in Garrett County with a nameplate capacity of no more than 30 MW on Backbone Mountain in Garrett County, Maryland. Fair Wind intends to install up to 15 wind turbines with a capacity of between 2.0 to 2.5 MW per turbine.

The Commission initiated a new docket, Case No. 9334, to consider the application, and delegated the public hearing required to be conducted pursuant to § 7.207.1 of the Public Utilities Article to the Public Utility Law Judge Division, with the directive that a report of the hearing be submitted to the Commission within 20 days of the hearing. A hearing for public comments was held on November 14, 2013, in McHenry, Garrett County. On November 25, 2013, the Chief Public Utility Law Judge submitted her report of the hearing to the Commission. On December 11, 2013, the Commission approved the construction of the Fair Wind Generating Facility.

## **H. Standard Offer Service-, Restructuring-, and Energy Competition-Related Cases**

### **1. Electric Competition Activity – Case No. 8378**

By letter dated September 13, 2000, the Commission ordered the four major investor-owned utilities in the State – PE, BGE, Delmarva, and Pepco - to file Monthly Electric Customer Choice Reports. The reports were to convey 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 in Maryland. These data were to be collected for both residential and non-residential customers.

At the end of December 2013, electric suppliers in the state served 634,045 commercial, industrial and residential customers. This number represents an approximate 9.7% increase over 2012, when 578,139 customers were served by suppliers.

**Customer Accounts Enrolled with Electric Suppliers  
As of December 31, 2013**

	<b>Residential</b>	<b>Non-Residential</b>	<b>Total</b>
Total Eligible Accounts	2,013,339	246,038	2,259,377
Customers Enrolled	529,492	104,553	634,045
Percentage Enrolled with Suppliers	26.3%	42.5%	28.1%

At the end of December 2013, the overall demand in megawatts of peak load obligation served by all electric suppliers was 6,816 MW, up from 6,646 MW in 2012.

**Peak Load Obligation Served by Electric Suppliers  
As of December 31, 2013**

	<b>Residential</b>	<b>Non-Residential</b>	<b>Total</b>
Total MW Peak	6,632 MW	6,407 MW	13,039 MW
Demand Served	1,843 MW	4,973 MW	6,816 MW
Percentage Served by Suppliers	27.8%	77.6%	52.3%

BGE had the highest number of residential accounts (338,219), commercial accounts (58,181), and peak-load (3,907 MW) served by suppliers. The number of electric suppliers licensed in Maryland has increased from 2012 to 2013 by 5%, as compared to a 17% increase from 2011 to 2012.

Most electric suppliers in Maryland are authorized to serve multiple classes. The number serving each class, as well as the total number of unique suppliers serving in each utility territory, is reflected in the table below.

**Number of Electric Suppliers Serving Enrolled Customers  
By Class as of December 2013**

	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid-Sized</b>	<b>Large C&amp;I</b>	<b>Total</b>
<b>BGE</b>	52	54	51	22	179
<b>DPL</b>	34	40	36	20	130
<b>PE</b>	22	25	27	13	87
<b>Pepco</b>	43	44	43	21	151

**2. Potomac Edison Company’s Proposed: (A) Stranded Cost Quantification Mechanism; (B) Price Protection Mechanism; and (C) Unbundled Rates – Case No. 8797**

By Order No. 82965 issued on October 16, 2009, the Commission delegated to the Public Utility Law Judge the issue of whether PE violated its obligation to maximize the Warrior Run (“WR”) proceeds under a provision of the 1999 Settlement in the matter.<sup>39</sup> The allegation was that PE, by filing its Reactive Power Compensation tariff with FERC in May 2008, failed to maximize WR proceeds between January 1, 2008 and the date the tariff became effective. On January 20, 2011, a Proposed Order of Public Utility Law Judge was issued, which found that PE’s actions were reasonable and no ratepayer credit was appropriate. OPC appealed the Proposed Order because it claimed that the Public Utility Law Judge made an error both of law and of fact in finding that PE was not responsible for maximizing WR revenues. After review of the record in the matter and the Proposed Order, on January 10, 2013, the Commission affirmed the Proposed Order and denied OPC’s appeal in Order 85297. Based on the evidence in the

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<sup>39</sup> See Order No. 75851 issued December 23, 1999.

record, the Commission found that PE should not be penalized for filing its reactive power tariff at FERC on May 1, 2008, and concluded that PE maximized WR revenues in 2008 as required by the 1999 Settlement.

### **3. Results of the Standard Offer Services Solicitations for Residential and Type I and Type II Commercial Customers – Case Nos. 9056 and 9064**

The Commission reviews SOS rates on an ongoing basis in Case Nos. 9064 and 9056. For the 12-month period beginning June 2013, SOS rates for residential and small commercial customers generally increased compared with the previous year. With the exception of Potomac Edison,<sup>40</sup> 2013 bids were completed in April of 2013. Rate changes expressed as a percentage change in the total annual cost for an average customer are shown below, and the statistics are taken from the Commission’s Staff reports submitted in Case Nos. 9064 and 9056.

#### **Residential**

- BGE +9.8%
- DPL +1.8%
- Pepco +4.0%
- Potomac Edison -2.1%

#### **TYPE I SOS (Small Commercial Customers)**

- BGE +8.1%
- DPL +2.0%
- Pepco +2.6%
- Potomac Edison no change<sup>41</sup>

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<sup>40</sup> PE completed bids for 2013 in January 2013.

<sup>41</sup> PE bids Type I load every two years.

**4. Review of Standard Offer Service Administrative Charge --  
Delmarva Power & Light Company – Case No. 9226 and  
Potomac Electric Power Company – Case No. 9232**

Case No. 9226 and Case No. 9232 were initiated in 2010, when Delmarva and Pepco filed a request to revise recovery of cash working capital costs associated with the administrative charge for SOS. The Commission initially opened a new docket for Case No. 9226 to investigate the requests and delegated the matter to the Public Utility Law Judge Division. Pursuant to a Motion by OPC, the scope of the proceeding was expanded to review all of the components of the SOS administrative charge. At the request of Staff, Case No. 9226 was then bifurcated into two dockets, Case No. 9226 to review Delmarva's SOS Administrative Charge, and Case No. 9232 to review Pepco's SOS Administrative Charge. On February 4, 2011, a Proposed Order of Public Utility Law Judge was issued in both matters. The Public Utility Law Judge determined that: (1) the Administrative Charge and the return component should be eliminated; (2) all SOS charges and revenues should be considered as part of the companies' standard operation in their next rate case; (3) cash working capital should be recovered dollar for dollar by the companies and earn a return at the authorized rate of return until each company's next rate case; and (4) the cash working capital cost recovery should be subject to annual review and true-up process. All parties to the matters appealed the Proposed Order for a number of reasons.

After review of the record, on August 21, 2013, the Commission reversed the Proposed Order because it did not agree that the Administrative Charge should be eliminated at that time and that it would not be appropriate to consider SOS issues in the companies' future rate cases. Further, it determined that the Administrative Charge

should continue in some form, but the record was not sufficiently developed to determine the appropriate form. The Commission therefore remanded the matter for further hearing by the Public Utility Law Judge to determine an appropriate SOS Administrative Charge for each company. On February 4, 2014, Pepco, Delmarva, Staff and RESA filed a Joint Motion for Approval of Stipulation and Settlement. An evidentiary hearing to consider the Joint Motion is scheduled for May 8-9, 2014.

**5. Investigation of the Current Practice of Baltimore Gas and Electric Company and BGE Home Products & Services, Inc. – Case No. 9235**

On November 26, 2013, the Report of Public Utility Law Judge was submitted to the Commission. As required by the Commission's Order No. 83467, the Public Utility Law Judge conducted a proceeding in the matter, which primarily was based on written testimony and arguments on brief. As directed, the Public Utility Law Judge concluded his Report with findings of fact rather than ordering paragraphs. Based on the record, he found, among other things, that: (1) the record was not sufficient to determine if any subsidies by Constellation to BGE were unreasonable or inappropriate (as alleged); (2) there was no persuasive evidence that BGE erected cost barriers to HVAC participation in BGE's billing system; (3) there was no justification for excluding BGE Home from the use of BGE's billing system; and (4) that BGE's costs are distributed in a manner consistent with its cost allocation manual. Accordingly, he found no violation of the Commission regulations by BGE or BGE Home by the exchange of unlawful subsidies, intentional exclusion of competitors for BGE's billing system, or any other practice.

On February 12, 2014, the Commission issued Order No. 86184, in which it accepted the findings in the Report of the Public Utility Law Judge and closed the investigation and the docket.

#### **6. Investigation into the Competitiveness of Centralized Propane Distribution in Maryland – Case No. 9263**

On June 24, 2013, the Commission issued Order No. 85684 in Case No. 9263 and found, after examining the record in the matter, that there was no need to re-regulate centralized propane distribution rates. It declined to convene a rulemaking to govern terms and conditions of services provided by centralized propane distributors. The Commission found that unresolved consumer complaints about centralized propane distributors should continue to be referred to the Consumer Protection Division of the Office of the Attorney General for resolution, and directed the centralized propane distributors to annually inform their customers in writing about the process for making consumer complaints with the distributor and/or the Consumer Protection Division of the Office of the Attorney General.

#### **7. Investigation into the Marketing Practices of Starion Energy PA, Inc. – Case No. 9324**

On May 13, 2013, Staff filed a Petition for Issuance of a Show Cause Order to Starion Energy PA regarding the company's marketing practices. On May 16, 2013, the Commission issued Order No. 85596, in which the Commission directed Starion to respond to questions propounded by the Commission and to show cause why Starion's electricity supplier license should not be suspended or revoked or a civil penalty be

imposed on it by the Commission for Starion's customer marketing, advertising or trade practices. On June 7, 2013, Starion responded to the Show Cause Order.

After reviewing filed testimony from the parties, the Commission conducted evidentiary hearings in the matter on October 10 and October 15, 2013. Briefs were filed in the matter on October 30, 2013. A decision from the Commission is pending in the matter.

## **I. Merger-, Transfer-, and Franchise-Related Cases**

### **1. Joint Application of Chesapeake Utilities Corporation and the Eastern Shore Gas Company for Approval of an Agreement by which Chesapeake Utilities Corporation Will Acquire Certain Franchises, Assets, Rights and Authority of the Eastern Shore Gas Company – Case No. 9303**

As reported in the 2012 Annual Report, on September 7, 2012, Chesapeake Utilities Corporation and Eastern Shore Gas Company submitted a joint application for the approval of a transaction in which Chesapeake would acquire certain assets of Eastern Shore Gas. The Commission docketed the matter and delegated its conduct to the Public Utility Law Judge.

On April 8, 2013, the applicants submitted a Joint Petition for Approval of Settlement Agreement. On April 9, 2013, an evidentiary hearing was held for the purpose of entering the pre-filed testimony of the parties' witnesses into the record, including pre-filed testimony in support of approval of the Settlement Agreement. An evening hearing for public comments also was held April 9, 2013 in Berlin, Maryland.

On April 24, 2013, a Proposed Order of Public Utility Law Judge was issued, which approved the transactions and authorized transfers of the assets identified in the application, incorporating the terms and conditions of the Settlement Agreement into the

Proposed Order. No appeal of the Proposed Order was taken, and it became Commission Order No. 85622.

## **J. Fuel Rate Adjustment Matters**

### **1. Continuing Investigation of the Commodity and Purchased Gas Adjustment Charges of Baltimore Gas and Electric Company – Case No. 9500 (b) and (c)**

Case No. 9500 was initiated for the conduct of the annual hearing required pursuant to § 4-402 of the Public Utilities Article to review the commodity and purchased gas adjustment charges of BGE. In Case No. 9500(b) and Case No. 9500(c), Staff challenged the Public Utility Law Judge’s decision that BGE’s assignment of storage gas to its asset manager pursuant to a Storage Asset Management Agreement during the review periods was not an Off-System Sale. After review of the records in both matters, on October 18, 2013, the Commission affirmed the Proposed Orders issued in each matter and denied Staff’s appeal.

### **2. Continuing Investigation of the Electric Fuel Rate and Purchased Power Cost Adjustment Charges of Williamsport Municipal Electric Light Plant – Case No. 9507(f)**

On July 10, 2012, a hearing was conducted to review Williamsport’s annual Purchased Cost Adjustment (“PCA”). On brief, OPC challenged the inclusion of the \$5,000 PJM Membership Fee (“Fee”) in the calculation of the PCA because OPC alleged that the Fee was not a “fuel cost” or “purchased power cost” as defined in § 4-402 of the Public Utilities Article. On August 22, 2012, the Public Utility Law Judge issued a Ruling on Interlocutory Motion, which denied OPC’s challenge of the inclusion of the Fee in the PCA. The Public Utility Law Judge also issued a Proposed Order accepting

Williamsport's PCA calculation for the period June 2012 through May 2013. OPC filed an appeal of the Proposed Order.

On March 18, 2013, by Order No. 85437, the Commission denied OPC's appeal and affirmed the Ruling and the Proposed Order as issued by the Public Utility Law Judge. The Commission first found that OPC was not harmed, as OPC argued, by the Public Utility Law Judge's refusal to strike a PJM Settlement Invoice, which Williamsport submitted in its post-hearing brief. The Commission noted that the PJM Settlement Invoice was mentioned several times during the hearing, but OPC did not raise an issue until the invoice was submitted. The Commission concluded that the Invoice is not dispositive of the issue of whether the Fee should be included in the calculation of the PCA and found no harm to OPC.

Further, the Commission determined that the Fee, whether it was a fixed fee or a variable fee, was properly included in the calculation of the PCA. The Fee was appropriate to be included because the Commission found that Williamsport is required to be a member of PJM in order to purchase power supply directly from the wholesale market.

### **3. Continuing Investigation of the Purchased Gas Adjustment Charges of Sandpiper Energy, Inc. – Case No. 9514**

As a result of the approval of the Settlement Agreement and ultimately the transaction between Chesapeake Utilities Corporation and The Eastern Shore Gas Company in Case No. 9303,<sup>42</sup> Sandpiper Energy was formed to provide regulated distribution and sale of gas services in Worcester County, Maryland on May 29, 2013.

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<sup>42</sup> See Section IV, I.1 at 70-71.

Consequently, the Commission initiated a new docket to investigate changes in the fuel costs that Sandpiper directly passes to its customers as required by § 4-402 of the Public Utilities Article. It initiated Case No. 9514 and delegated the conduct of the annual proceedings to the Public Utility Law Judge Division.

The first hearing in the matter was held on December 9, 2013 (Case No. 9514(a)). A Proposed Order was issued on December 12, 2013, in which the Gas Sales Service Rate was found to be properly calculated and applied to customers' bills and that the Actual Cost Adjustment for calendar year 2014 was properly calculated and was approved. A further hearing in the matter was directed to be held prior to January 1, 2015. No appeal of the Proposed Order was taken, and it became Commission Order No. 86119 on January 14, 2014.

## **K. Other Matters**

### **1. Formal Complaint and Request to Retroactively Bill Undercharges for Electric Service by Potomac Electric Power Company v. Perini/Tompkins Joint Venture – Case No. 9210**

As reported in the 2012 Annual Report, by Order No. 85126, the Commission denied the appeal of Perini/Tompkins Joint Venture and affirmed the Proposed Order of Public Utility Law Judge, in which Pepco's request to retroactively bill Perini/Tompkins Joint Venture ("PTJV") the amount of \$971,165.31 to recover undercharges incurred during 29 months, from September 2005 through February 2008, was granted. By Order No. 84909, the Commission required PTJV to post an appeal bond; in Order No. 85126, the Commission directed that upon payment to Pepco by PTJV in full, the bond posted by PTJV will be released.

On November 25, 2013, Pepco filed a Settlement Agreement and Release between the parties and notified the Commission that Pepco had been paid in full by PTJV. Accordingly, on December 6, 2013, the Commission issued Order No. 86050 to release the appeal bond.

## **2. Gas Price Hedging – Case No. 9224**

On March 21, 2013, the Commission held a hearing to consider WGL's request for approval of its 2013 summer storage injection and 2013-2014 baseload hedging programs consistent with its hedging programs previously approved by the Commission in June 2011, March 2012, and June 2012. After the hearing, the Commission issued Order No. 85443, authorizing WGL to proceed with the proposed 2013 summer storage injection hedging and the 2013-2014 winter baseload hedging program. The Commission also directed WGL to submit its 2013 summer injection program report by November 30, 2013 and its 2013-2014 winter baseload hedging report by April 30, 2014. On December 12, 2013,<sup>43</sup> WGL submitted its 2013 summer injection program report and indicated that no hedging transactions were conducted during the 2013 summer storage injection season.

## **3. Commission's Investigation into the Potomac Edison Company's Meter Reading Frequency, Estimation of Bills and Compliance with Tariff – Case No. 9329**

On April 9, 2013, the Commission initiated an investigation into PE's meter reading practices, estimations of bills, and its compliance with its tariffs based on the filing of several formal complaints by certain of its customers. The Commission

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<sup>43</sup> WGL stated in the cover letter accompanying the report that it had inadvertently filed the Report out of time.

delegated the conduct of the proceedings to the Public Utility Law Judge Division, and directed the Public Utility Law Judge to determine the full scope of the investigation and designate any additional issues for investigation as appropriate. Further, the Commission directed PE to produce sufficient documents for the Public Utility Law Judge to assess whether PE is, and has been, complying with its bi-monthly meter reading as prescribed in its tariff. The Public Utility Law Judge also was directed to determine the appropriate disposition of the two formal complaints, including appropriate remedial actions, if applicable, consistent with his findings.

On December 9, 2013, OPC submitted a status report of the matter to the Public Utility Law Judge. According to the report, OPC had made a formal settlement proposal to PE. OPC further stated that, if the parties were unable to reach a settlement agreement by the first week of January 2014, OPC would contact the parties to develop a procedural schedule for the matter and would submit a proposed procedural schedule by January 13, 2014. On January 13, 2014, OPC submitted a procedural schedule with evidentiary hearings proposed to be conducted May 21 and 22, 2014.

## **L. Rulemakings and Regulations – New and Amended**

### **1. RM43 - COMAR 20.50.12.11 – Electric Reliability Regulations**

COMAR 20.50.12.11, Electric Reliability and Service Quality Standards, became effective on May 28, 2012. Section 7-213(g) of the Public Utilities Article requires annual reports to be filed by electric utilities subject to the regulations by April 1 of each year. Section 7-213(f) of the Public Utilities Article mandates that the Commission determine on or before September 1 of each year whether each utility has met the relevant service quality and reliability standards. Because the regulations did not become

effective until May 28, the first reporting period was a prorated period of July 1 through December 31, 2012, and the reports were filed on April 1, 2013.

On August 20, 2013, the Commission conducted a hearing for the purpose of reviewing the annual reports and determining whether each utility met the service quality and reliability standards. On September 3, 2013, the Commission issued Order No. 85817 and accepted the service quality and reliability annual reports and any associated corrective action plans of BGE, Pepco, Delmarva, Potomac Edison, Choptank, and SMECO. The Commission determined that BGE, PE, Pepco, Choptank and SMECO each met their prescribed system-wide SAIDI and SAIFI reliability standards, but Delmarva did not. The Commission directed Delmarva to file a corrective action plan, despite Delmarva's contention that it was not required to file a plan. Further, the Commission found the action plans identified by each utility to improve their poorest performing feeders were reasonable. It also found that BGE, Pepco, Delmarva, SMECO and Choptank complied with the service interruption standards and downed wire response standards. While PE met the service interruption standard for normal weather conditions, it failed to meet the standard during the major outage events and the downed wire response standard. PE submitted a remedial action plan to bring its restoration of service interruption into compliance with the standards, as well as its downed wire response performance. PE also failed to meet the requirement to answer 75% of calls to the utility for customer service or outage reporting purposes within 30 seconds, and filed a remedial plan to improve this metric. BGE and PE each filed a remedial action plan due to their failures to meet the annual average abandoned call percentage rate standard of 5% or less.

**2. RM48 – Revisions to COMAR 90.61 – Thermal Biomass Systems Applications Requirements for Certification as a Renewable Energy Facility**

On December 13, 2012, Staff submitted proposed revisions to COMAR 90.61 to implement Senate Bill 1004, enacted during the 2012 General Assembly session, which went into effect on January 1, 2013. Senate Bill 1004 directed the Commission to adopt regulations for metering, verification, and reporting the output of thermal biomass systems qualified as a Renewable Energy Facility under the legislation. A rulemaking session to consider whether to publish the proposed regulations in the *Maryland Register* for notice and comment was held on March 1, 2013. As adopted by the Commission, the proposed regulations were published in the *Maryland Register* on April 19, 2013. On June 12, 2013, a rulemaking session was held at which the Commission adopted the proposed regulations, which became effective on July 28, 2013.

**3. RM49 – Revisions to COMAR 20.79 – Applications Concerning the Construction or Modifications of Generating Stations and Overhead Transmission Lines**

On August 13, 2013, Staff filed proposed rules revising COMAR 20.79 to implement changes enacted during the 2012 session of the Maryland General Assembly to § 7-207 (allowing for the modification of overhead transmission lines without the need for first obtaining a CPCN), and § 7.207.1 of the Public Utilities Article (directing the Commission to adopt regulations in coordination with the Patuxent River Naval Air Station (“PAX River NAS”) to prevent construction of wind-powered generating station within 20 miles of PAX River NAS and, for proposed facilities within 46 miles of NAS, to require an evaluation by the PAX River NAS to determine whether the erection of a proposed wind turbine would adversely impact the PAX River NAS’s Doppler Radar or

missions). On December 11, 2013, the Commission held a rulemaking session to consider whether to publish the proposed regulations in the *Maryland Register* for notice and comment. After hearing from stakeholders attending the rulemaking session, the Commission remanded the proposed regulations back to Staff to work with stakeholders and re-submit revised proposed regulations within 60 days. On February 11, 2014, Staff filed revised proposed regulations.

## **M. Public Conferences**

### **1. PC27 – In the Matter of Low-Income Energy-Related Customer Arrearages and Bill Assistance Needs**

In 2012, the Commission convened PC27 to undertake a comprehensive review of Maryland's energy assistance programs after its hearing on the Office of Home Energy Programs' FY2011 Electric Universal Service Program Annual Report. It held a hearing on March 20, 2012, and thereafter directed Staff to prepare a longer-term review of energy assistance programs in Maryland, and make recommendations for changes to meet longer term needs. On November 1, 2012, Staff submitted an Affordable Energy Plan, which it indicated represented a consensus recommendation with OPC. After receiving comments on the Plan, the Commission held a hearing on May 9, 2013 to consider the Plan. The Commission has not taken further action in the matter.

### **2. 2013 Summer Electric Reliability Status Conference**

On May 28, 2013, the Commission held its annual summer reliability status conference to provide it the opportunity to inquire into electric generating resource adequacy of the competitive electric industry. The conference allows the Commission to gather information on the existing or proposed methods of ensuring an adequate and

reliable electric system and assists the Commission in developing its position on various reliability issues. PJM sent representatives to participate in the conference and present an overview of the 2013 Maryland projected capacity and peak load, and to discuss any reliability or capacity concerns that PJM is monitoring or addressing. BGE, Pepco, Delmarva, PE, and SMECO also participated in the conference and made presentations on each utility's readiness to deliver reliable electricity service during the summer season. The Commission found the presentations informative, and found no basis to undertake any specific action as a result of the conference.

### **3. 2013 Retail Gas Market Conference**

On November 5, 2013, the Commission held its annual retail gas conference to review the regulated gas utilities' preparations for the 2013-2014 winter heating season. The conference also is intended to increase awareness of gas customers about upcoming market conditions and the potential impact on service costs and reliability. BGE, Columbia Gas, WGL, Chesapeake Utilities, Easton Utilities, and Elkton Gas participated in the conference. The Commission found the information presented informative, and found no basis to take any specific action as a result of the conference.

## **VI. COMMISSION TELECOMMUNICATIONS CASES AND ACTIVITIES**

### **A. Complaint of Verizon Maryland Inc. Concerning Customer Winback Charges Imposed by Cavalier Telephone Mid-Atlantic, Inc. – Case No. 9022**

On March 22, 2013, Verizon Maryland withdrew its Motion for Partial Reconsideration of Commission Order No. 81153 and requested the docket be closed.

On April 23, 2013, the Commission issued Order No. 85526, which granted Verizon Maryland's request to withdraw its Motion and closed the docket.

**B. Complaint of Cavalier Telephone Mid-Atlantic, LLC Concerning Directory Listing Charges Imposed by Verizon Maryland Inc. – Case No. 9130**

On October 3, 2013, the Commission issued Order No. 85878, in which it gave notice to Cavalier and Verizon Maryland that the Commission intended to close the docket because of a lack of pursuit of the appeal in the matter. The Commission gave each party 60 days to either inform the Commission that it desired a ruling on the pending appeal.

On December 2, 2013, Verizon Maryland filed a letter stating that it did not oppose closing the docket, but opposed any action that would vacate the earlier decision. Cavalier did not file a response to the order within the designated timeframe.

On January 7, 2014, the Commission issued Order No. 86105, in which it affirmed the Proposed Order and Ruling on Motions to Dismiss, denied the applicable appeals, and closed the docket.

**C. Investigation, Examination, and Resolution of Payment Obligation of GLOBAL NAPs – Maryland, Inc. for Intrastate Access Charges Assessed by Armstrong Telephone Company – Maryland – Case No. 9177**

On November 7, 2013, the Commission issued Order No. 85977, in which it granted the appeals of Armstrong Telephone and Staff in part, reversed the Proposed Order in part, and remanded the matter for further proceedings to the Public Utility Law Judge Division consistent with the Order. Specifically, the Commission disagreed with the Public Utility Law Judge's finding that an assumption that all of the nomadic VoIP in

Global NAPs traffic was fixed, and that Armstrong had not separated and measured the intrastate and interstate Global NAPs nomadic VoIP calls effectually. The Commission found that Global NAPs had or should have had the data or information to either challenge or verify Armstrong's computations, and therefore held the burden of production to demonstrate Armstrong's computations were incorrect. The Commission directed that a proceeding be held to determine the amount of intrastate access charges, if any, that Armstrong should be permitted to collect.

On January 2, 2014, a letter was submitted on behalf of the federal court-appointed Receiver, who had taken control of Global NAPs and its affiliated entities as a result of a pending case in Massachusetts. The letter advised the Commission that Global NAPs ceased operations on or about March 1, 2012. The Receiver therefore requested that the matter be dismissed.

On January 16, 2014, the Commission issued Order No. 86124, in which it declared the issues underlying the proceeding moot and closed the docket.

**D. Investigation of the Telecommunications Companies' Failure to Comply with the Commission's May 11, 2012 Notice of Required Tariff Filings – Case No. 9302**

On September 18, 2012, the Commission issued Order No. 85116 directing a number of telecommunications carriers authorized to operate in Maryland to show cause why each company's authority should not be revoked or other penalties imposed for a failure to submit applicable tariff changes reflecting VoIP-PSTN traffic provisions by June 15, 2012, as required by the Commission in its Notice dated May 11, 2012. On May 17, 2013, the Commission issued Order No. 85604, in which it found that 23 carriers of the 63 carriers it identified as failing to comply with the March 29, 2012

Notice, are required to file tariffs to reflect and represent the telecommunications services actually provided by these carriers. The Commission directed these 23 carriers to file revised tariffs canceling the switched access portion of their current tariff. It also determined that 19 carriers provided no response to the Commission's Show Cause Order. The Commission stated that it would cancel the switched access service portion of the tariffs of these 19 non-compliant carriers effective June 1, 2013, unless the carrier requested in writing, a hearing with the Commission on or before June 1, 2013, and explain their failure to comply with the Commission's Notice and Order to Show Cause.

On August 14, 2013, as directed by the Order, Staff provided the status of five carriers for which the Commission did not have a valid mailing address. Staff recommended that four of the five carriers be found defunct, their operational authority and the tariffs on file with the Commission be rescinded. Staff determined that the fifth carrier was operating under a different name, obtained the contact information for the company, and determined that the company does not have switched access rates, therefore no revised tariff filing was required.

## **VII. COMMISSION TRANSPORTATION CASES**

### **A. Increase of Rates for Taxicab Service in Baltimore City and Baltimore County – Case No. 9184, Phase II**

By Order No. 83721, the Commission initiated a Phase II of Case No. 9184 to conduct an inquiry into the structure of the taxicab industry and the alternatives to it, including any modifications to the rates for taxicab service in Baltimore City and Baltimore County. Staff was directed to collect certain data from taxicab permit holders and the taxicab associations, and then notify the Commission once the data had been collected and reviewed. On December 18, 2012, Staff filed the Direct Testimony and

Exhibits of David M. Boonin, a consultant who was hired by Staff to review the data and to provide findings and recommendations to the Commission.

The Commission conducted two evening hearings for public comments in Towson and Baltimore City on May 28 and May 30, 2013, respectively. An evidentiary hearing was held on June 5, 2013 for the purposes of cross-examination of the parties' witnesses. All briefs were filed as of July 31, 2013. A decision from the Commission is pending in the matter.

**B. Investigation to Consider the Nature and Extent of Regulation Over the Operations of Uber Technologies, Inc. and Other Similar Companies – Case No. 9325**

On May 16, 2013, after considering Staff's Report on Uber Technologies, Inc. and Other Similar Companies and after receiving comments from stakeholders in the matter at its Administrative Meeting on May 15, 2013, the Commission initiated a new docket, Case No. 9325, to consider the nature and extent of regulation over Uber and other companies using smart-phone-based applications in the manner similar to Uber. It delegated the proceedings to the Public Utility Law Judge Division.

On August 2, 2013, at the request of Staff, the Commission issued a subpoena to Uber requiring it to produce a list of the names of the drivers and associated vehicles that partner with Uber to provide transportation services, as well as a list of all individuals to whom a smartphone had been issued by Uber. Uber filed a Motion to Quash Subpoena on August 9, 2013. On September 3, 2013, the Chief Public Utility Law Judge issued a Ruling on Uber's Motion to Quash Subpoena and ordered Uber to produce the list of the names of the drivers and associated vehicles that partner with Uber to provide transportation services, and a list of all individuals to whom a smartphone has been

issued by Uber. On September 6, 2013, Uber filed a Motion for Stay Pending Appeal and a Request for Emergency Hearing and a Notice of Appeal of the Ruling. On September 10, 2013, the Commission, by Order No. 85835, granted Uber's Motion for Stay. On September 25, 2013, the Commission issued Order No. 85860, in which it affirmed the Ruling.

On October 2, 2013, Uber filed a Petition for Judicial Review and Motion for Stay in the Baltimore City Circuit Court,<sup>44</sup> which the Court dismissed on October 22, 2013. The Judge stayed his Order for 15 days to give Uber an opportunity to file an appeal to the Court of Special Appeals, which Uber did. As of December 31, 2013, no action on the appeal had been taken by the Court of Special Appeals.

Evidentiary hearings in the matter were held on November 6 and 7, 2013. The briefing period expired on January 22, 2014. A Proposed Order is expected to be issued by March 31, 2014.

## **VIII. COMMISSION WATER/SEWER CASES**

### **A. Investigation by the Commission of the Intended Abandonment of CECO Utilities, Inc. of its Franchise and Service to the Manchester Park Subdivision in Cecil County, Maryland – Case No. 9310**

On November 27, 2012, Staff filed with the Commission a Petition for Issuance of a Show Cause Order as to whether CECO Utilities, Inc. and Crystal Water LLC (collectively, "CECO") had received appropriate approvals to abandon the Manchester Park Wastewater Treatment System ("WWTS").<sup>45</sup> The Commission initiated the docket to investigate the issues surrounding CECO's ability to maintain its WWTS and its

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<sup>44</sup> See *Uber Technologies, Inc. v. PSC*, Case No. 24-C-13-06089.

<sup>45</sup> On November 26, 2012, CECO notified Staff that it intended to abandon the WWTS.

notification of intent to abandon the sewage system. The Commission directed the Public Utility Law Judge Division to facilitate discussions among CECO, Cecil County Government, Staff, MDE, and OPC, leading to a plan for either bringing the WWTS into compliance with State law or transitioning it to a new owner. It further directed that a status report be submitted by February 28, 2013.

Based on the recommendations of the Chief Public Utility Law Judge, who was facilitating the discussions, the parties continued their discussions until September 6, 2013. On September 10, 2013, the Chief Public Utility Law Judge filed her Final Report and advised the Commission that CECO and the Cecil County Government had been unable to reach a voluntary agreement, whereby CECO and the County would enter into a private-public partnership to fund the costs of fixing the WWTS to then be transferred to the County. The Final Report discussed other possible options to fix the WWTS and the gating issues associated with each. The Chief Public Utility Law Judge recommended that the Commission issue a Phase II proceeding to determine what actions are necessary to ensure that the WWTS not threaten the health and comfort of the community and surrounding areas.

On October 16, 2013, the Commission held a status conference for a further update and to determine what, if any, further action was needed. As directed at the conference, Staff submitted a synopsis of the parties' most recent discussions on November 22, 2013. Staff described the steps the County was taking to apply for funds to fix the WWTS, and that the County anticipated presenting a plan sometime during January 2014 to the County Executive and County Council to take over the WWTS and connect it to the County's system. Staff indicated no formal agreement between CECO

and the County had been made, and requested additional time for discussions to proceed, requesting an additional 45 days to file another report to the Commission.

On January 22, 2014, Staff filed an update to its report, indicating that additional time was needed for continued discussions, and asked to file an additional report in 60 days.

## **IX. COMMISSION PARTICIPATION OR INTERVENTIONS IN OTHER REGULATORY COMMISSION MATTERS**

In 2013, the Commission's Office of General Counsel ("OGC"), filed a number of comments and protests in various FERC dockets on behalf of the Commission, including:

- (a) *FirstEnergy Solutions Corp v. PJM Interconnection, LLC* – Docket No. EL13-47-000 against FirstEnergy's proposal to allocate an alleged Financial Transmission Right ("FTR") revenue shortfall on end user customers;
- (b) *PJM Interconnection, LLC* – Docket No. ER13-1911 regarding PJM's proposed revisions to Black Start System Restoration Protocols;
- (c) *PJM Interconnection LLC* – Docket No. ER13-2140 regarding must offer provisions;
- (d) *PJM Interconnection LLC* – Docket No. ER13-1911 regarding Black Start procurement provisions;
- (e) *PJM Interconnection LLC* – Docket No. ER14-503 regarding capacity import limits; *PJM Interconnection LLC* – Docket No. ER14-504 regarding Demand Response clearing limit;
- (f) *WIRES Petition on Transmission Rates of Return* – Docket No. RM13-18;
- (g) *Complaint of Delaware Division of Public Advocated, et al.* – Docket No. EL13-48 regarding a complaint against the PHI and BGE Companies' transmission rates of return and formula rates; and

(h) *Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators* – Docket No. AD13-7.

Additionally, OGC, on behalf of the Commission, continued its challenge to unfavorable wholesale electric generation and transmission policies; including transmission plant abandonment cost recovery filings. Specifically, the Commission intervened in *PJM Interconnection, LLC and Potomac-Appalachian Transmission Highline, LLC (PATH)* – Docket No. ER12-2708-000 (challenging the PATH Companies’ request for plant abandonment cost recovery), and *Potomac Electric Power Company, Delmarva Power & Light Company, (PHI Companies) and PJM Interconnection, LLC* – Docket No. ER13-607-000 (challenging the PHI Companies MAPP-related plant abandonment cost recovery). Both cases were assigned to the FERC Administrative Law Judges Division for Settlement Judge Procedures and remain pending.

**X. PJM INTERCONNECTION, INC. – THE RELIABILITY PRICING MODEL 2016/2017 DELIVERY YEAR BASE RESIDUAL AUCTION RESULTS**

PJM conducted the Reliability Pricing Model (“RPM”) 2016/2017 delivery year base residual action (“BRA”) in May 2013. It was the third BRA under new rules that established two additional demand resource products.<sup>46</sup> The new BRA rules recognize the greater reliability value of more flexible resources.

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<sup>46</sup> FERC Order ER11-2288, dated January 31, 2011, accepted PJM’s filing that established two additional demand resource products - one available throughout the year (Annual DR) and another available for an extended summer period (Extended Summer DR). These new products have fewer limitations than the current Limited Demand Resource product (Limited DR).

The 2016/2017 BRA cleared sufficient capacity resources in PJM to provide a 21.1% reserve margin. The total quantity of demand resources offered into the 2016/2017 BRA decreased 16.3% over the demand resources that were offered into the 2015/2016 BRA.

The BRA annual resource clearing prices changed marginally in 2016/2017 as compared to 2015/2016 results. Three of Maryland’s investor-owned utilities – BGE, DPL and Pepco – experienced increases in resource prices of approximately 20%, while PE experienced a lower increase of approximately 8% in the resource clearing prices. The price increase in BGE, DPL and Pepco is largely attributable to the transmission constraints in the MAAC zone, which demands a higher price to procure capacity as compared to the rest of the Regional Transmission Organization zones. The following table illustrates the clearing prices for the last two BRAs for each of Maryland’s investor-owned utilities.

**Annual Resource BRA Clearing Prices (\$/MW-day)**

<b>Utility</b>	<b>2016/17 Clearing Price</b>	<b>2015/16 Clearing Price</b>	<b>Increase / (Decrease) 2016/17 vs. 2015/16</b>	<b>Percent Change 2016/17 vs. 2015/16</b>
<b>BGE</b>	\$119.13	\$167.46	(\$48.33)	(28.9%)
<b>DPL</b>	\$119.13	\$167.46	(\$48.33)	(28.9%)
<b>PE</b>	\$59.37	\$136.00	(\$76.63)	(56.3%)
<b>Pepco</b>	\$119.13	\$167.46	(\$48.33)	(28.9%)

In summary, the auction clearing prices were lower than the previous auction, driven largely by a flat demand growth, increased supply from a substantial amount of

new market entrants, uprates associated with repowering existing generating resources to natural gas, increased imports, and withdrawn power plant deactivations.

## **XI. BROADENED OWNERSHIP ACT**

In compliance with § 14-102 of the Economic Development Article, *Annotated Code of Maryland*, entitled the "Broadened Ownership Act," the Commission communicated with the largest gas, electric, and telephone companies in the State to ensure that they were aware of this law. The law establishes the need for affected companies to institute programs and campaigns encouraging 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 companies submitted reports outlining various efforts to encourage public and employee participation in the stock purchase program:

(a) PHI continues to encourage broadened ownership of the Company's capital stock, particularly among Maryland residents. PHI is the parent company of Pepco and Delmarva. As of September 10, 2013, more than 249 million shares of PHI common stock outstanding were held by more than 47,000 shareholders. PHI's records show that 8,657 shareholder accounts, representing 6.1 million shares, are registered directly to Maryland residents.

PHI reported that broadened individual ownership of PHI's common stock is encouraged through PHI's Shareholder Dividend Reinvestment Plan, which permits shareholders to purchase additional PHI common stock through reinvested dividends or voluntary cash contributions.

(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 two plans, which encourage broadened employee stock ownership: the Employee Stock Purchase (“ESP”) Plan and the NiSource Retirement Savings Plan. In addition, NiSource, Inc., maintains a Dividend Reinvestment and Stock Purchase Plan that broadens stock capital ownership by all stockholders, including employees, by enabling them to reinvest their dividends to acquire additional shares of common stock.

On August 31, 2013, the Parent had 313,025,691 shares of its common stock outstanding, of which 94,594 were acquired by employees during the previous 12 months through the ESP Plan and 1,365,631 through the NiSource Inc. Retirement Savings Plan (for an aggregate total of 1,460,225). As of August 31, 2013, the Parent had approximately 546 registered stockholders with Maryland addresses, holding approximately 208,504 shares of Parent common stock.

(c) As of September 30, 2013, Exelon, the indirect parent of BGE, reported that 15,085 Maryland residents, representing 11.44% of Exelon’s total registered shareholders, owned 7,052,513 (0.823%) of the outstanding shares of common stock. Of these Maryland shareholders, 5,634 (4.27%), of Exelon’s total registered shareholders owning 1,131,726 (0.132%) of the legal outstanding shares of common stock, were participants in the Direct Stock Purchase Plan.

As of September 30, 2013, 3,116,340 shares of Exelon common stock were held in the Constellation Energy Group, Inc. Employee Savings Plan for current and former employees of the legacy Constellation companies, many of whom are Maryland

residents. 361,811 shares of Exelon common stock were held in the Constellation Energy Nuclear Group Plan, a separate plan available to employees of that joint venture. In addition, 37,966 shares were held by 474 Maryland residents who are participants in the legacy Exelon Employee Savings Plan.

In the first quarter of 2013, Exelon's Employee Stock Purchase Plan was made available to all employees of the eligible legacy Constellation Energy companies. As of September 30, 2013, 342 Maryland residents held 65,059 shares in the Plan.

(d) The Potomac Edison Company was a wholly-owned subsidiary of Allegheny Energy, Inc. ("AE") through February 25, 2011, at which point it became a subsidiary of FirstEnergy Corporation ("FE"). In April 2012, the Allegheny Employee Stock Purchase Plan was merged into the FE Employee Savings Plan. FE continued its Employee Savings Plan throughout 2012. Approximately 90% of FE's employees were contributing to the Plan as of December 31, 2012, and 17,029 participants had FE stock as part of their account balance within the FE Plan. As of December 31, 2012, 2,410 Maryland residents held 735,240 shares of FE stock as stockholders of record, which represents approximately 2.225% of all FE registered stockholders and 0.1758% of all shares. In addition, as of December 31, 2012, 122 AE stockholders living in Maryland, owning the equivalent of 9,028 FE shares, had not yet exchanged their AE shares for FE shares.

(e) Washington Gas Light Company submitted its report on broadened ownership of the Company's capital stock, particularly among residents of Maryland and Company employees, on October 18, 2013. Approximately 26.65% of registered shareholders reside in Maryland, representing 3.06% of WGL's outstanding common

shares. WGL employees also actively participate in the ownership of the Company. As of October 1, 2013, 101 employees were actively participating in the Company's "Dividend Reinvestment and Common Stock Purchase Plan" through payroll deductions. Additionally, approximately 888 employees (both active and inactive) owned shares through its defined contribution plans. Of these, a total of 346 employees, former employees and retirees reside in Maryland.

(f) Verizon Maryland LLC is a wholly owned subsidiary of Verizon Communications Inc. Public stockholder ownership in the Maryland Company is obtained through the purchase of Verizon Capital Stock. The Verizon Savings Plan enables employees to purchase stock in Verizon Communications Inc. As of September 30, 2013, 19,366 Maryland residents held Verizon stock.

## **XII. REPORTS OF THE AGENCY'S DEPARTMENTS/DIVISIONS**

### **A. Office of 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, operations, fiscal and budget management, the

Commission's information technology system including databases and the official website and intranet website. The OES contains the following divisions:

**1. Administrative Division.**

**a. Case Management Unit**

The Case Management Unit creates and maintains formal dockets associated with proceedings before the Commission. In maintaining the Commission's formal docket, this Unit must ensure the security and integrity of the materials on file, while permitting access to 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 2013, this Unit established 24 new non-transportation-related dockets and processed 2,199 non-transportation-related case items. This Unit is also responsible for archiving the formal dockets based on the record retention policies of the Commission.

**b. Document Management Unit**

The Document Management Unit is responsible for developing the Commission's Administrative Meeting Agenda ("Agenda"), the official open meeting action agenda mandated by law. During 2013, this Unit scheduled 45 Commission administrative meetings to consider the Agenda at which 2,704 administrative items were considered and decided upon pursuant to the Commission's authority. Additionally, this Unit is responsible for docketing public conferences held by the Commission. Two

administrative docket public conferences were initiated in 2013.<sup>47</sup> This Unit also processed 7,251 filings, including 1,572 memoranda.

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<sup>47</sup> See Section IV, L (Rulemakings and Regulations – New and Amended).

**c. Regulation Management Unit**

This Unit 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 2013, this Unit managed three rulemaking dockets that resulted in emergency or final adoption of regulation changes to COMAR Title 20 – Public Service Commission, and three rulemaking dockets that remain active.

**d. Operations Unit**

This Unit is responsible for managing the Commission's telecommunications needs and its motor vehicle fleet, as well as being the liaison for building maintenance, repairs and construction needs of the Commission. In addition, this Unit is responsible for the Equal Employment Opportunity Program.

**2. Fiscal Division**

**a. Fiscal and Budget Management Unit**

This Unit manages the financial aspects of the daily operations of the Commission. The operating budget totaled \$16,750,354 for fiscal year ending June 30, 2013. This budget consisted of \$16,022,211 in Special Funds and \$728,143 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 Unit also administers the financial accountability of the Pipeline Safety Program and the Hazardous Liquid Pipeline Safety Program, which is partially reimbursed by the Federal Department of Transportation, by maintaining all associated financial records consistent with federal program rules, regulations, and guidelines that require additional record keeping.

**b. Purchasing and Procurement Management Unit**

This Unit is responsible for expert services procurement and any other procurements required by the Commission, as well as the overall control of supplies and equipment. This Unit is also responsible for agency forms management and record retention management. This Unit'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, 2013, this Unit was maintaining approximately 116 categories of disposable supplies and materials totaling \$7,078 and fixed assets totaling \$2,052,805.

**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 manages and maintains the Commission's internal and external websites and the information/databases conveyed therein. In 2013, IT: (a) completed migration and hardware upgrades of all physical servers to the new VMWare System comprised of three redundant servers and a shared network storage array offering complete availability/failover, while enhancing the PSC Network's survivability; (b) created an

online Transportation Inspection Application to be used by staff in conjunction with HP Ultrabooks, eliminating paper forms and redundant data entry; (c) designed and implemented the online Video stream archive (permitting the search and retrieval of archived public proceeding video streams); (d) deployed Windows 7/Office 2010 64-bit to all PSC staff; (e) implemented an online Transportation Investigator Work Distribution database and application to facilitate work-flow; and (f) designed, implemented, and trained pertinent staff regarding the new PSC website template and commensurate Content Management System (CMS), whereby PSC content managers will author and administer website pages via a review/approval chain that will enhance the integrity, accuracy, and timeliness of the website.

#### **4. Personnel Division**

The Personnel Division is responsible for day-to-day personnel transactions of the Commission, which include recruitment, testing, hiring, retirements and terminations, and all 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 Commission employees. During 2013, this Division provided the Commission's managers and personnel with advice, direction, and guidance on hiring, personnel matters, performance evaluations, salary issues under the Commission's independent salary plan, and retirement and training.

#### **B. Office of General Counsel**

OGC provides legal advice and assistance to the Commission on questions concerning the jurisdiction, rights, duties and powers of the Commission, defends

Commission orders in court, represents the Commission in federal and State administrative proceedings, and initiates and defends other legal actions on the Commission's behalf, as needed. OGC also supervises enforcement of the Commission's rules, regulations and filing requirements as applied to utilities, common carriers and other entities subject to the Commission's jurisdiction, and leads or participates in special projects as directed by the Commission.

During 2013, in addition to supporting the Commission in timely adjudication of numerous utility rate cases, OGC attorneys assisted the Commission in furthering its emphasis on utility service reliability, development of new electricity generation in Maryland, and responding to new developments in the taxicab and limousine industries. OGC also routinely provides legal support to the Commission in a variety of ways, including responding to requests for information pursuant to the Maryland Public Information Act.

Below is a summary of selected cases litigated by OGC on behalf of the Commission in State or federal courts.

***a. New Jersey Board of Public Utilities v. FERC, U.S. Third Circuit Court of Appeals, Nos. 11-4245***

The Commission intervened in *New Jersey Board of Public Utilities v. FERC*, U.S. Third Circuit Court of Appeals, Nos. 11-4245, and filed a Petition for Review of FERC's 2011 decision in ER11-2875-000, wherein FERC directly eliminated a long-standing exemption for state-sponsored generation projects, substituted a more restrictive unit-specific review provision, and rejected a proposed increase in the mitigation threshold. Briefs have been filed, and oral argument was held on September 10, 2013. A decision from the Court is pending.

***b. PPL Energyplus v. Nazarian, U.S. District Court for the District of Maryland, Case No. 12-CV-01286***

The Commission's April 12, 2012 Order (Case No. 9214), directing three of Maryland's electric utilities to enter into a long-term contract with a generating company to enable the construction of much-needed new generation capacity in Southern Maryland was challenged separately by a consortium of generators in U.S. District Court and by generators and Maryland electric utilities in the Circuit Court for Baltimore City. Following a six day trial, on September 30, 2013, the U.S. District Court entered a Memorandum of Decision finding that the Commission's use of a long-term Contract for Differences to enable the construction of a new generating plant in Maryland violated the Supremacy Clause of the U.S. Constitution. The Commission has appealed this decision to the United States Court of Appeals for the Fourth Circuit.

***c. In the Matter of the Petition of Calpine Corporation, Circuit Court for Baltimore City, Case No. 24-C-12-002853***

On October 1, 2013, the Circuit Court for Baltimore City upheld the Commission's Order on appeal, holding that Commission orders directing Maryland EDCs (Electric Distribution Companies) to negotiate and enter into a Contract for Differences, requiring the utilities to purchase output of a new merchant power plant authorized by the Commission, were within the Commission's statutory authority. (The Contract for Differences authorized the utilities to recover their costs, or return credits to their ratepayers through the SOS provisions of the Companies' tariffs). The Petitioners have appealed to the Maryland Court of Special Appeals.

**d. *Electric Power Supply Association v. FERC*, U.S. Circuit Court of Appeals for the District of Columbia Circuit, Nos. 11-1486**

The Commission intervened in *Electric Power Supply Association v. FERC*, U.S. Circuit Court of Appeals for the District of Columbia Circuit, Nos. 11-1486, in support of FERC Order No. 745. That order found that when a demand response resource has the capability to balance supply and demand as an alternative to a generation resource, and when dispatching and paying Locational Marginal Prices (“LMP”) to that demand response resource is shown to be cost-effective under a net benefits test, then payment of LMP to these resources will result in just and reasonable rates for ratepayers. The court held oral argument on September 23, 2013. The decision of the court remains pending.

**e. *Perini/Tompkins Joint Venture v. PSC*, Circuit Court for Montgomery County, Case No. 369793-V**

*Perini/Tompkins Joint Venture v. PSC*, Circuit Court for Montgomery County, Case No. 369793-V, Perini/Tompkins filed a Petition for Review of Commission Order No. 85126 issued in PSC Case No 9210. (Commission Order No. 85126 provided that Pepco could bill Perini/Tompkins JV \$971,165.31 to recover undercharges incurred over a 29 month period.) After a hearing on April 17, 2013, the Circuit Court affirmed Commission Order No. 85126.

**f. *Chris Bush v. Public Service Commission of Maryland*, 212 Md. App. 127 (2013)**

In a published opinion issued on May 29, 2013, the Court of Special Appeals held that a property owner's petition, seeking judicial review of an order of the Public Service Commission was properly dismissed as untimely where it was not filed within the 30-day

period allowed by Md. R. 7-203(a); the mailbox rule of Md. R. 1-203(c) was inapplicable where the owner did not receive the order by mail.

***g. In the Matter of the Petition of Washington Gas Electric Services, Case No. 24-C-12-004362***

On December 13, 2013, the Circuit Court for Baltimore City issued an order affirming the Commission's decision to reset all negative discount rates for the utilities' purchase of receivables to 0%. WGES had claimed that this violated the language in BGE's electric supplier tariff, which includes language on the calculation of the purchase of receivables discount rates.

***h. Valentino Mofor v. Public Service Commission, Baltimore City Circuit Court Case No. 24-C-12-003451/AA***

On March 26, 2013, the Circuit Court for Baltimore City, Maryland, dismissed Mr. Mofor's appeal against the Commission's decision not to renew his taxi cab driver's license. The Commission denied renewal of Mr. Mofor's taxi cab driver's license after his driver's license had been suspended by the Maryland Motor Vehicle Administration.

**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**

The Accounting Investigation Division is responsible for auditing utility books and records and providing expertise on a variety of accounting, taxation and financial issues. The Division's primary function includes developing utility revenue requirements, auditing fuel costs, auditing the application of rates and charges assessed by utilities, monitoring utility earnings, examining the effectiveness of cost allocations, analyzing the financial integrity of alternative suppliers seeking licenses to provide services, and assisting other Divisions and state agencies. Historically, the Division has also been responsible for project management of Commission-ordered utility management audits. Division personnel provide expertise and guidance in the form of expert testimony, formal comments on utility filings, independent analyses on specific topics, advisory services and responses to surveys or other communication with the Commission. The Division keeps up to date with the most recent changes in accounting pronouncements and tax law, and applies its expertise to electric, gas, telecommunications, water, wastewater, taxicabs, maritime pilots, and toll bridge matters.

During 2013, the Accounting Investigation Division's work responsibilities included assisting other divisions, conducting audits of utility fuel programs and other rate adjustments, ongoing evaluation of utility base rates, STRIDE rates, and providing appropriate analysis of utility filings and rate initiatives. Division personnel provided expert testimony and recommendations relating to the performance of ongoing audits of 15 utility fuel programs and 10 other rate adjustments, and provided appropriate analysis

and comment with respect to 82 filings submitted by utilities. In addition, Division personnel participated in approximately 18 formal proceedings and a number of special assignments.

## **2. Electricity Division**

The Electricity Division focuses most of its work on regulation, policy and market activities related to the provision of retail electricity. Specifically, the 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 generally includes: analysis of retail competition policies and implementation related to restructuring in the electric utility industry; rate of return on equity and capital structure; pricing structure and design; load forecasting; analysis of low-income customer policies and statistics; 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 work group processes established by the Commission, or formal comments on other filings made with the Commission.

As part of rate proceedings, the Division's work lies in three main areas: (1) rate design, which allocates cost recovery (annual revenue requirements) to a specific class of customers (*e.g.*, residential); (2) cost of service studies, which classify and allocate utility operating costs and plant investments to the customer classes causing them; and, (3) cost

of capital, the financial analysis that determines the appropriate rate of return on a utility's plant investment. In addition to traditional rate-of-return expertise, the Division employs technical and analytical professionals who 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 2013, the Division's work included expert testimony and/or policy recommendations in approximately 62 administrative proceedings, three rate cases, and two public conferences. In addition to traditional regulatory analysis, Electricity Division personnel facilitated several stakeholder work groups on net energy metering, retail market electronic data exchange, and retail market supplier coordination. The Division also was tasked with evaluating legislation on renewable energy programs and smart meters.

### **3. Energy Analysis and Planning Division**

The Energy Analysis and Planning Division ("EAP") is primarily responsible for evaluating and reporting to the Commission on the results of Advanced Metering Infrastructure and the EmPOWER Maryland energy efficiency and demand response programs, which are operated by the electric utilities in accordance with the EmPOWER Maryland legislation.

Division members have analytical and/or oversight responsibilities on a wide range of subjects including: energy efficiency and demand response programs, regional power supply and transmission planning through participation in PJM working groups

and committees; advanced metering infrastructure and smart grid implementation; oversight of the 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 2013, EAP was directly responsible or involved in several significant initiatives including:

- Preparing the "Ten-Year Plan (2013-2022) of Electric Companies in Maryland."
- Preparing semi-annual reports for the utilities' energy efficiency and demand response programs.
- Conducting work groups related to the approval of the 2012-2014 EmPOWER Maryland energy efficiency and demand response plans.
- Preparing the "Renewable Energy Portfolio Standard Report of 2013."
- Monitoring wholesale electricity prices in Maryland, including spot prices as measured by locational marginal prices.
- Monitoring and analyzing residential market penetration by competitive retail suppliers in Maryland for the respective four investor-owned utilities.
- Participating in the PJM planning processes to put in place a new long-term transmission planning protocol that addresses both reliability and market efficiency.
- Actively participating in several PJM committees and work groups, including the Transmission Expansion Advisory Committee, Markets and Reliability Committee, Planning Committee, Market Implementation Committee, Members Committee, Demand Response Subcommittee, Resource Adequacy Analysis Subcommittee, and Regional Planning Process Task Force.
- Monitoring and analyzing the PJM Reliability Pricing Model capacity procurement process and related costs to meet Maryland's electric reliability needs.
- Participating in Smart Grid work groups to develop customer education and evaluation metrics for BGE, Pepco, DPL and SMECO Smart Grid proposals.

- Monitoring the SOS procurement processes to ensure they were conducted according to codified procedures consistent with the Maryland restructuring law.
- Continuing to work with electricity and natural gas suppliers to bring retail choice to the residential and small commercial markets.
- Participating with electric vehicle industry stakeholders to assess an electric vehicle pilot program proposal presented by BGE and Pepco pursuant to Senate Bill 176.
- Participating in NARUC activities.
- Monitoring, and where appropriate, participating in initiatives of the PJM, FERC, and OPSI.

#### **4. Engineering Division**

The Commission's Engineering Division monitors the operations of public service companies. Engineers check the utilities' operations for safety, efficiency, reliability, and quality of service. The Division's primary areas of responsibility include electric distribution and transmission; metering; electric, private water and sewer distribution; certification of solar renewable energy facilities; and natural gas and hazardous liquid pipeline safety.

In 2013, the Engineering Division was deeply involved in implementing the new reliability regulations known as RM43 as published in COMAR 20.50.12. During 2013, the Division received the first annual reliability reports from each of the electric utility companies pursuant to the new reliability and service quality regulations from the utilities, including operations and maintenance manuals, vegetation management plans, and major outage event plans. Staff reviewed each of the reports and provided the Commission with its analysis and recommendations in the Commission's August 20, 2013 RM43 hearings. In that hearing, Staff recommended a uniform reporting template to accompany future annual report filings, which was then created and revised internally before being presented to the utilities in December 2013. Staff determined that all of the

utilities appear to be taking the correct measures to improve their electric distribution systems and comply with reliability indices specified by RM43 regulations. The Engineering Division has and will continue to monitor the activities and subsequent filings of each utility company to ensure each is in compliance with COMAR regulations.

Pursuant to the contact voltage regulations adopted in 2012, the Engineering Division spent significant resources evaluating the contact voltage risk zone maps and forms submitted by the utilities and analysis of the contact voltage plans filed by each utility in 2013.

The Division made improvements to the website for processing applications for Solar Renewable Energy Credits ("SREC"). Applications for 2,419 photovoltaic ("PV") systems were received in 2013. PV SREC application volume increased from 98 in 2008 to 396 in 2009, 922 in 2010, 1,863 in 2011 and 1,776 in 2012. This represents a 36% increase from 2012 to 2013, and a 1712% increase from 2008 to 2013. Approximately 64 MW of PV generation was approved in 2013, which amounts to more than half of the total approved between September of 2008 through December of 2013 (130 MW). Most solar systems have been small residential installations (1-20 kW), with some commercial or institutional installations as large as 20 MW. Additionally, 252 applications for solar hot water heating systems were received in 2013.

The Division's Pipeline Safety Group 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 Prince George's County, and assessing the plans for bare steel and cast iron replacement in 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 Pipeline Safety Group also aided the Commission in the completion of the Interstate Pipeline Agency study, which was required under § 15-102 of the Public Safety Article, *Annotated Code of Maryland*. The law requires the Commission to perform a study to assess whether it is in the best interest of the people of Maryland for the Commission to apply to the U.S. Department of Transportation to become an Interstate Pipeline Agent.

The Division also worked with the transmission owners and relevant State agencies to review the plans for several transmission lines proposed in Maryland. New transmission requirements are based upon the need to replace existing aging infrastructure and to meet anticipated load growth. PJM peak load forecasts anticipate future electric demand growth of approximately 1%, reflecting continued low economic activity, demand response programs and solar installations. On the other hand, as of February 4, 2014, PJM has 14,333.9 MW of requested generator deactivation (retirement) capacity for the period June 1, 2013 to June 1, 2017.

During 2013, the Division received 15 applications for issuance of a CPCN to construct either new generation (8) or transmission facilities (7). As of December 31, 2013, the Commission issued two certificates for new generation and three for transmission facilities. Three applications were withdrawn by the applicants after review and seven are currently in various stages of evaluation.

The Division saw a decrease in gas meter referee test requests in 2013, compared to the past five years. Seven requests for gas meter referee tests were received in 2013, compared to 12 in 2012, 6 in 2011, 12 in 2010, and 32 in 2009. Electric meter referee

test requests increased to 49 in 2013, compared with 39 in 2012, 72 in 2011, 11 in 2010, and 223 in 2009. During 2013, new advanced meters represented 59.9% of the total meters installed; less than 20% of the electric meter tests were conducted on advanced meters.

During 2013, the Engineering Division devoted staff time and effort to storm-related activities resulting from the Commission's participation in the Maryland Emergency Management Agency's ("MEMA") emergency preparedness and response efforts. This included participating in state-wide emergency training sessions, drills and coordination meetings; updating the agency's MEMA Event Storm Manual that outlines the Commission's contacts and procedures for staffing the State's Emergency Operations Center ("SEOC"); participating in the Joint Operations Group responsible for establishing situational awareness and initial management and coordination during emergent situations prior to activation of the SEOC; and staffing the SEOC during emergencies. During major outage event restoration emergencies, the Commission is required to provide sufficient staff coverage to ensure that MEMA's SEOC is covered on a 24-hour basis whenever it is activated in response to an actual or perceived emergency.

The Engineering Division also attended the 2013 MACRUC Staff Summit on December 12-13, 2013 in Washington, DC. At the summit, Staff interacted with government staff from other states and shared each of the Division's experiences with recent storms such as the derecho storm, Superstorm Sandy and other major outage events; the enactment of new regulations centering around improving service quality and reliability; and discussion of resiliency and reliability work being done in each of our

states. There were also sessions/workshops on other topics such as legislative changes, resiliency, and distributed generation.

Members of the Engineering staff participated in the Governor's task force investigating the need for more generation in Prince George's County. As a result of the Order in Case No. 9298, Division staff also participated in work groups convened to address Estimated Time of Restoration during major outages and service restoration for priority/vulnerable customers. The Engineering Division also provided testimony in several filed rate cases.

## **5. 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 identifies issues in public service company applications, and evaluates the applications for legal sufficiency and compliance with the Public Utilities Article of the *Annotated Code of Maryland*, the Code of Maryland Regulations, utility tariffs, and other applicable law. In addition, the Staff Counsel may support Staff in initiating investigations or complaints. 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 2013, Staff Counsel 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, consideration of several requests for Certificates of Public Convenience and Necessity, taxi matters, and reliability matters. The Staff Counsel Division was also involved in a variety of efforts intended to address the EmPower Maryland Act of 2008, smart meter proceedings and the continued implementation of the Maryland Renewable Energy Portfolio Program.

## **6. Telecommunications, Gas and Water Division**

The Telecommunications, Gas, and Water Division assists the Commission in regulating the delivery of wholesale and retail telecommunications services, 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, similar to other Technical Staff divisions, this Division assists the Commission's Office of External Relations in the resolution of consumer complaints, on an as-needed basis, and leads or participates in industry work 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. During 2013, the Division reviewed 251 tariff filings, including rate revisions, new service offerings and related matters. Of

those, 219 were telecommunications, 29 were natural gas, and 3 were water. The Division also presented testimony in nine cases before the Commission. Staff participated in three base rate proceedings, two STRIDE natural gas cases, three natural gas purchased gas adjustment charge proceedings, one water case concerning the issuance of debt, and one natural gas proceeding dealing with the conversion of a centralized propane distribution system to natural gas.

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, is responsible for reviewing Federal Communications Commission compliance filings filed by carriers, administers the certification of all payphone providers in the state, and monitors the provision of low income services, E911 and telecommunications relay services. In 2013, the Commission authorized 12 new carriers, and certified 48 payphone service providers and 1,423 payphones in Maryland. In addition, Staff recommended, and the Commission approved, 2 additional eligible telecommunication carriers, making them eligible to receive federal universal service funds for providing service to low-income households.

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 economical 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 economical water services in the State. During 2013, Division personnel testified in a case involving water company issuance of debt.

## **7. 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 (total 1,348), intrastate for-hire railroads, as well as taxicabs in Baltimore City, Baltimore County, Cumberland and Hagerstown (total 1,398). The Commission is also responsible for licensing drivers (total 7,957) 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 (currently 7,012), 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 civil penalties.

During 2013, the Transportation Division continued to conduct vehicle inspections and report results via on-site recording and electronic transfer of inspection data to the Commission's databases and to the Federal Motor Carrier Safety Administration's Safety and Fitness Electronic Records ("SAFER") System. SAFER provides online carrier safety data and related services to the industry and the public.

The Division maintained its regular enforcement responsibilities in 2013 by utilizing field investigations and joint enforcement projects efforts with local law enforcement officials, Motor Vehicle Administration investigators, and regulators in other jurisdictions.

With the support of IT Staff, the Transportation Division continued to streamline its processes through automation, electronic filings by the industry, and better intra-agency communication among the Commission's internal databases.

#### **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 2013, the OER investigated 5,278 consumer complaints, a decrease of approximately 8% from 2012 (5,734). Of those complaints, 4,606 involved gas and electric issues (an approximate 5.4% decrease from 2012 at 4,870); while 424 were telecommunication complaints (a decrease of 38.5% from 2012 at 689); 46 complaints related to water companies (approximately 30.3% decrease from 2012 at 66); and 202 complaints involved issues outside of the PSC's jurisdiction (an approximate 11.8% decrease from 2012 at 229). OER also investigated 1,218 complaints

against suppliers. 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 1,437 requests for information concerning the Commission, utilities and suppliers (an increase of 142% over 2012 at 592). The OER intake unit received 6,275 requests for payment plans or extensions. Overall, OER received 30,580 telephone calls in 2013, or approximately 7.5% less than in 2012 (33,059).

OER, after noticing a significant number of complaints regarding the practices of Starion Energy, referred the matter to Staff. Based on the information, Staff filed a Petition for a Show Cause Order with the Commission. As a result, the Commission initiated Case No. 9324 and issued a Show Cause Order to Starion Energy as requested.<sup>48</sup>

OER staff members work proactively to provide the public with timely and useful utility-related information based on the feedback received from consumers. OER also continued to have regular meetings with the utilities to ensure that all parties are responding appropriately to customer concerns.

### **E. Public Utility Law Judge Division**

As required by the Public Utilities Article, the Division is a separate organizational unit reporting directly to the Commission, and is comprised of four attorney Public Utility Law Judges, including the Chief Public Utility Law Judge, a part-time attorney License Hearing Officer, and two administrative support personnel. Typically, the Commission delegates proceedings to be heard by the Public Utility Law

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<sup>48</sup> See Section IV, H.7 at 69.

Judges that pertain 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 review; bus, passenger common carrier, water, and sewage disposal company proceedings; plant and equipment depreciation proceedings; and consumer as well as other complaints which are not resolved at the administrative level. The part-time License Hearing Officer 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. The Public Utility Law Judges also hear transportation matters.

While most of the Division's activity concerns delegated cases from the Commission, the Commission may also conduct its proceedings in three-member panels, of which may include one Public Utility Law Judge. As a panel member, a Public Utility Law Judge 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.

The Public Utility Law Judges and the License 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 2013, 286 cases were delegated by the Commission to the Division: 29 non-transportation-related matters; and 257 relating to transportation matters, of which 66 were taxicab-related. These transportation matters include license applications and disciplinary proceedings involving requests for imposition of civil penalties against carriers for violations of applicable statutes or regulations.

The Division held 390 hearings and issued 279 Proposed Orders. 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 as noted in the Proposed Order, which may be no less than seven days and no more than 30 days. There were 28 appeals/requests for reconsideration filed with the Commission resulting from the Proposed Orders – the Commission issued five orders reversing a Proposed Order and ten orders remanding the matter to the Division for further proceedings.

## IX. RECEIPTS AND DISBURSEMENTS FY 2013

### Receipts and Disbursements

#### C90G001 – General Administration and Hearings

Salaries and Wages	\$	6,338,589
Public Utility Regulation Fund	\$6,338,589	
Federal Fund	\$0	
Technical and Special Fees		270,307
Public Utility Regulation Fund	\$138,204	
Federal Fund	\$132,103	
Operating Expenses		<u>2,086,812</u>
Public Utility Regulation Fund	\$2,017,087	
Federal Fund	\$69,725	
Total Disbursements for Fiscal Year 2013	\$	8,695,708
Public Utility Regulation Fund	\$8,493,880	
Federal Fund	\$201,828	
Reverted to State Treasury		<u>795,217</u>
Public Utility Regulation Fund	\$635,887	
Federal Fund	\$159,330	
Total Appropriation for Fiscal Year 2013	\$	9,490,925
Public Utility Regulation Fund	\$9,129,767	
Federal Fund	\$361,158	

#### C90G002 – Telecommunications Division

Salaries and Wages	\$	475,226
Operating Expenses		420
Total Disbursements for Fiscal Year 2012	\$	475,646
Reverted to State Treasury		<u>28,301</u>
Total Appropriation for Fiscal Year 2012	\$	<u>503,947</u>

C90G003 – Engineering Investigations Division

Salaries and Wages	\$	1,394,994
Public Utility Regulation Fund	\$1,065,965	
Federal Fund	\$329,029	
Technical and Special Fees		2,485
Public Utility Regulation Fund	\$2,485	
Operating Expenses		59,166
Public Utility Regulation Fund	\$21,212	
Federal Fund	\$37,954	
Total Disbursements for Fiscal Year 2013	\$	1,456,645
Public Utility Regulation Fund	\$1,089,662	
Federal Fund	\$366,983	
Reverted to State Treasury		33,171
Public Utility Regulation Fund	\$33,169	
Federal Fund	\$2	
Total Appropriation for Fiscal Year 2013	\$	<u>1,489,816</u>
Public Utility Regulation Fund	\$1,122,831	
Federal Fund	\$366,985	

C90G004 – Accounting Investigations Division

Salaries and Wages	\$	534,761
Operating Expenses		<u>148</u>
Total Disbursements for Fiscal Year 2013	\$	534,909
Reverted to State Treasury		<u>38,537</u>
Total Appropriation for Fiscal Year 2013	\$	<u>573,446</u>

C90G005 – Common Carrier Investigations Division

Salaries and Wages	\$	1,266,959
Public Utility Regulation Fund	\$1,266,959	
For-Hire Driving Services Enforcement Fund	\$0	
Technical and Special Fees		120,307
Public Utility Regulation Fund	\$0	
For-Hire Driving Services Enforcement Fund	\$120,307	
Operating Expenses		<u>43,928</u>
Public Utility Regulation Fund	\$31,628	
For-Hire Driving Services Enforcement Fund	\$12,300	
Total Disbursements for Fiscal Year 2013	\$	1,431,194
Public Utility Regulation Fund	\$1,298,587	
For-Hire Driving Services Enforcement Fund	\$132,607	
Reverted to State Treasury		<u>8,077</u>
Public Utility Regulation Fund	\$8,077	
For-Hire Driving Services Enforcement Fund	\$0	
Total Appropriation for Fiscal Year 2013	\$	<u>1,439,271</u>
Public Utility Regulation Fund	\$1,306,664	
For-Hire Driving Services Enforcement Fund	\$132,607	

C90G006 – Washington Metropolitan Transit Commission

Operating Expenses	\$	<u>294,654</u>
Total Disbursements for Fiscal Year 2013	\$	294,654
Reverted to State Treasury		<u>5,059</u>
Total Appropriation for Fiscal Year 2013	\$	<u>299,713</u>

C90G007 – Rate Research and Economics Division

Salaries and Wages	\$	439,904
Operating Expenses		<u>4,727</u>
Total Disbursements for Fiscal Year 2013	\$	444,631
Reverted to State Treasury		<u>14,118</u>
Total Appropriation for Fiscal Year 2013	\$	<u>458,749</u>

C90G008 – Hearing Examiner Division

Salaries and Wages	\$	746,610
Operating Expenses		<u>2,299</u>
Total Disbursements for Fiscal Year 2013	\$	748,909
Reverted to State Treasury		<u>13,009</u>
Total Appropriation for Fiscal Year 2013	\$	<u>761,918</u>

C90G009 – Office of Staff Counsel

Salaries and Wages	\$	856,207
Operating Expenses		<u>1,500</u>
Total Disbursements for Fiscal Year 2013	\$	857,707
Reverted to State Treasury		<u>8,820</u>
Total Appropriation for Fiscal Year 2013	\$	<u>866,527</u>

C90G0010 – Integrated Resource Planning Division

Salaries and Wages	\$	858,698
Operating Expenses		<u>251</u>
Total Disbursements for Fiscal Year 2013	\$	858,949
Reverted to State Treasury		<u>7,093</u>

Total Appropriation for Fiscal Year 2013	\$	<u>866,042</u>
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Summary of Public Service Commission  
Fiscal Year Ended June 30, 2013:

<b>Salaries and Wages</b>	\$	<b>12,911,948</b>
Public Utility Regulation Fund	\$12,582,919	
Federal Fund	\$329,029	
For-Hire Driving Services Enforcement Fund	\$0	

<b>Technical and Special Fees</b>		<b>390,614</b>
Public Utility Regulation Fund	\$138,204	
Federal Fund	\$132,103	
For-Hire Driving Services Enforcement Fund	\$120,304	

<b>Operating Expenses</b>		<b><u>2,496,390</u></b>
Public Utility Regulation Fund	\$2,376,411	
Federal Fund	\$107,679	
For-Hire Driving Services Enforcement Fund	\$12,300	

<b>Total Disbursements for Fiscal Year 2013</b>	\$	<b><u>15,798,952</u></b>
Public Utility Regulation Fund	\$15,097,534	
Federal Fund	\$568,811	
For-Hire Driving Services Enforcement Fund	\$132,604	

<b>Reverted to State Treasury</b>		<b><u>951,402</u></b>
Public Utility Regulation Fund	\$792,070	
Federal Fund	\$159,332	
For-Hire Driving Services Enforcement Fund	\$0	

<b>Total Appropriations</b>	\$	<b><u>16,750,354</u></b>
Public Utility Regulation Fund	\$15,889,604	
Federal Fund	\$728,143	
For-Hire Driving Services Enforcement Fund	\$132,607	

Assessments collected during Fiscal Year 2013: \$ 16,816,391

Other Fees collected during Fiscal Year 2013:

1) Fines & Citations	\$ 74,741
2) For-Hire Driving Services Permit Fees	\$ 178,210
3) Meter Test	\$ 630
4) Filing Fees	\$ 252,921
5) Copies	\$ 620
6) Miscellaneous Fees	\$ 204
Total Other Fees	\$ <u>507,326</u>

Assessments collected that were remitted to other State Agencies during Fiscal Year 2013:

1) Office of People(s) Counsel	\$ 3,173,893
2) Railroad Safety Program	\$ 444,927