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PUBLIC SERVICE COMMISSION

August 2, 2023

NOTICE OF PETITION AND REQUEST FOR COMMENTS

To: All Interested Persons

On June 2, 2023, the Maryland Energy Advocates Coalition (“MEAC”) filed with the Commission a Petition for Rulemaking and Request for a Rulemaking Session (“Petition”), requesting that the Commission initiate proceedings to modify Code of Maryland Regulations (“COMAR”) 20.53.05.06 and 20.59.05.03 to eliminate the purchase of receivables (or “POR”) by investor-owned electric and natural gas utilities in Maryland.¹ In its Petition, MEAC requests that the Commission: (1) establish a public conference regarding this matter, and accept comments from interested parties for a period of 60 days regarding its proposal; (2) establish a rulemaking at the end of the comment period to review any proposed COMAR revisions; and (3) grant any additional relief the Commission deems necessary.

The Commission hereby gives notice of the Petition and invites comments regarding MEAC’s requests.² In this Notice, the Commission also requests comments from the utilities, retail energy suppliers, Staff, Office of People’s Counsel and other stakeholders regarding other potential energy retail market reforms that, if implemented, should enhance the benefits of retail choice to consumers in Maryland.

Purchase of receivables by utilities was first discussed by the Commission in Order No. 75722,³ shortly after the enactment of the Electric Choice and Competition Act of 1999 (“Retail Choice Act”). At that time, the utilities proposed that mandated POR occur only when a supplier fails to render a timely bill, while suppliers proposed that the purchase of receivables should apply to all consolidated billing situations, not just when a supplier fails to bill its customers. In Order No. 75722, the Commission rejected the suppliers’ preferred proposal, and concluded that

¹ Maillog No. 303295. MEAC is a coalition of energy advocates, founded and led by Laurel Peltier. The Petition also lists a number of supporting organizations and entities as signatories, including AARP Maryland, Cancer Support Foundation, Chesapeake Physicians for Social Responsibility, Climate Access Fund, Govans Ecumenical Development Corporation (GEDCO), Fuel Fund of Maryland, Institute for Energy and Environmental Research, Interfaith Power & Light (DC.MD.NoVA), Laurel Peltier (Chair of Maryland Energy Advocates), Maryland Legislative Coalition Climate Justice Wing, National Consumer Law Center, Nuclear Information and Resource Service, Paula Carmody (citizen, former People’s Counsel), Public Employees for Environmental Responsibility, Richard Energy Jr. (former State Delegate, Assistant Attorney General for DNR and MDE, now retired from US EPA) and Solar United Neighbors. A revised Petition was also filed on June 2, 2023 under Maillog No. 303297.

² Maillog No. 303426, filed June 8, 2023, titled “Petition for Rulemaking - Attachment A” is a legislative markup of MEAC’s proposed COMAR revisions.

³ Order No. 75722, *In the Matter of the Commission’s Inquiry Into the Provision and Regulation of Electric Service*, Case No. 8738 (Oct. 29, 1999).

the purchase of receivables should be left to an agreement between individual utilities and each supplier.⁴ In RM17, however, the Commission adopted regulations under COMAR 20.53.06 and 20.59.05.03 which allowed the utilities to modify their payment posting procedures—to account for supplier charges in their collection protocols—or utilize a POR approach to account for supplier charges. The retail energy market has continued to evolve with recent implementation of requirements pursuant to Md. Code, Public Utilities Article § 4-308, requiring Commission approval of retail supplier offers for households in the State that receive energy assistance through a program administered by the Office of Home Energy Programs,⁵ the authorization of a third retail choice billing option—supplier consolidated billing (“SCB”) in Order No. 89116,⁶ and adoption of SCB regulations in RM70.⁷

The Petition filed by MEAC—and supported by the organizations and entities identified above—proposes modifications to the Commission’s regulations to remove or eliminate the utilities’ ability to use POR and would instead require utilities to use a pro-rata approach for posting customer payments. In its Petition, MEAC argues that (1) the use of POR is no longer needed to “level the playing field” between utilities and suppliers, (2) the use of POR provides an incentive for suppliers to engage in deceptive marketing practices—without the risks of being unable to collect charges assessed on their customers, and (3) the use of POR puts scrupulous suppliers at a competitive disadvantage to those who use POR as a device for collecting revenues from customers while engaging in deceptive practices.⁸

Without assessing the merits of MEAC’s Petition at this time, the Commission notes that the retail choice market has matured significantly since 1999, when the Retail Choice Act was enacted, and the subsequent changes in RM17, including the recent enactment of low-income supply offers and supplier consolidated billing. Additional market reform may be warranted at this time. The utilities, retail suppliers, the Commission’s Technical Staff, Office of People’s Counsel and other market participants may have comments that extend well beyond POR’ In addition to comments on MEAC’s Petition, the Commission requests comments on the appropriateness of pursuing market reform at this time and what those reforms may be which could include but not limited to, additional or modified customer protection, alternative modifications to POR in lieu of MEAC’s Petition, changes to utility consolidated billing (UCB) with the establishment of SCB, supplier licensing and bonding requirements, or other possible

⁴ Order No. 75722, slip op. at 20.

⁵ RM78.

⁶ Order No. 89116, *In the Matter of The Petition of NRG Energy, Inc., Interstate Gas Supply, Inc., Just Energy Group, Inc., Direct Energy Services, LLC, and Engie Resources, LLC for Implementation of Supplier Consolidated Billing for Electricity and Natural Gas in Maryland*, Case No. 9641 (May 6, 2019).

⁷ The current utility/supplier billing options are utility consolidated billing (UCB), whereby the utility sends a bill with both the commodity and distribution charges; dual billing, whereby the utility sends a bill for distribution charges and suppliers send a bill for commodity charges; and supplier consolidated billing (SCB), whereby the supplier sends a bill for both commodity and distribution charges. In Order No. 90606 (Jun. 27, 2023), the Commission directed that cost recovery be shared between ratepayers and retail suppliers participating in SCB pursuant to Option 5 of the March 20, 2023, Supplier Consolidated Billing Work Group Request for Advice Regarding Cost. (Maillog No. 301889.)

⁸ MEAC Petition at 1-2.

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reforms. Any proposed market reforms should be structured, with phase-in and phase-out timelines as they pertain to any existing and proposed requirements.

Based upon stakeholder comments, the Commission may establish a public conference, and a rulemaking proceeding as requested by MEAC, or the Commission may direct workgroup proceedings to develop POR-focused or other market reform proposals, including rulemaking proceedings that address POR or other energy retail supplier issues.

Any party wishing to submit comments in response to MEAC's Petition and this Notice shall e-file using the Commission's e-File system by October 2, 2023.⁹ Comments should be addressed to Andrew S. Johnston, Executive Secretary, Maryland Public Service Commission, William Donald Schaefer Tower, St. Paul Street, 16th Floor, Baltimore, Maryland 21202.

By Direction of the Commission,

/s/ Andrew S. Johnston

Andrew S. Johnston
Executive Secretary

ASJ/st

⁹ Details of the e-File system can be found on the Commission's website, www.psc.state.md.us.