ORDER NO. 90673

In the Matter of Transforming Maryland's Electric Distribution Systems to Ensure that Electric Service is Customer-Centered, Affordable, Reliable and Environmentally Sustainable in Maryland	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND Administrative Docket PC44

Issue Date: June 15, 2023

ORDER ON RECOMMENDATIONS OF RATE DESIGN WORKGROUP

1. On March 31, 2023, the PC44 Rate Design Workgroup (the "Workgroup") filed its Report on Time of Use Rate Offerings (the "Report"), concerning the future of the Commission's Time of Use ("TOU") programs. The Report provides an update to the Workgroup's June 3, 2022, report and responds to Commission Order No. 90298, dated July 26, 2022. There are currently three participating utilities offering TOU rates: Baltimore Gas & Electric Company ("BGE"), the Potomac Electric Power Company ("Pepco"), and the Delmarva Power & Light Company ("Delmarva"), (together, the "Participating Utilities"). On April 10, 2023, the Commission invited public comments on the Report. The Commission received comments from the Participating Utilities, the Office of People's Counsel ("OPC"), and Commission Staff.

2. The Commission notes the recommendations of the Workgroup and comments of stakeholders and directs the Workgroup to proceed as described below.

The Workgroup Recommendations

3. In response to Commission direction in Order No. 90298, the Report addressed several issues that had arisen in the expansion of the TOU Pilot authorized in Commission Order 90298.

1. Net-Metering Customers

4. In Order No. 90298, the Commission addressed a disagreement between members of the Workgroup regarding billing when the TOU's time differentiated rates, separated by on- and off-peak periods, resulted in a customer being an overall net generator (in kWh), while also incurring volumetric charges (in dollars) in a given month. The nature of TOU rates (with separate on- and off-peak periods) allows for a potential disconnection between generation and billing. This hypothetical scenario raised possible implications for the application of § 7-306(f)(4) of the Public Utilities Article ("PUA"), *Maryland Annotated Code,* which provides that an overall net generator customer "shall be billed only customer charges for that month".

5. The Commission directed a pause in the enrollment of new net metering customers onto TOU rates and directed the Workgroup to engage in two processes to aid in reaching an appropriate determination. First, the Commission directed the Workgroup to determine the scale of the problem through an analysis of actual historical net-metering customer data, covering the prior two years and broken out by utility, showing whether this problem exists, the timing and frequency with which it occurs, an estimate of the amount of money involved, and any other data the Workgroup found to be relevant. Second, the Commission directed the Workgroup to make recommendations as to whether this issue could be

resolved via changes in Commission regulations and, if so, to make recommendations on possible regulations.

6. The Report states that the Workgroup performed an analysis comparing both current utility "standard metering practices"[1] and an alternative method under which unbilled net consumption was carried over to future billing periods.[2] The utility method produced less bill volatility than the alternative method, but both resulted in the same total dollars billed and collected, although there were differences in the timing of when charges appeared on a customer's bill. The alternative method led to a customer carrying a balance at least once during the period in 5%, 13%, and 19% of cases for DPL, BGE, and Pepco, respectively. Reports on these analyses are included in Workgroup Report Appendices 4 and 5.

7. The Report states that the analysis is not a recommendation or endorsement as to how customers should be billed moving forward, and the alternative method is not recommended for actual implementation. The Report further states that the members were unable to reach consensus on possible regulations. The Office of People's Counsel and Commission Staff are convinced that this matter requires statutory changes. The Participating Utilities continue to argue that this issue can be resolved via tariff definitions of "standard metering practice."

[1] PUA § 7-306(f)(2).

[2] Report at 3-5.

8. The Report recommends that this issue would benefit from review within the Net Energy Metering Workgroup, which has more representatives of the solar industry. This proposal is opposed by the utilities, however, on the grounds that it is unnecessary.

9. The Report also recommends that the Commission direct the Time of Use and the Net Energy Metering Workgroups to develop possible statutory changes to be considered in an upcoming legislative session. The Workgroup also states that it can continue to explore whether it can formulate and implement a billing process that satisfies the statute.[3]

10. In their joint filing, the Participating Utilities argue that their approach, of netting consumption/production separately for on- and off-peak periods, is compliant with PUA § 7-306(f)(4) because it is a "standard metering practice" that can be defined in regulation or tariff. The Utilities state that they conducted a search of other states' practices and could not find any examples that were materially different from the Utilities' current practice in Maryland. The Utilities argue that their current practice promotes energy efficiency by sending the appropriate price signals to customers because volumetric charges are based on actual usage in each TOU period. The Utilities argue that Staff and OPC have failed to propose an alternative system.

11. Both Staff and the Office of People's Counsel argue that the Participating Utilities' position cannot be reconciled with the plain language of PUA § 7-306(f)(4). They argue that neither tariff nor regulations can cure this conflict and that either utility practices or the statute need to change. The Office of People's Counsel recommends that the

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[3] *Id*. at 6.

Workgroup develop other reasonable billing methods and appropriate statutory amendments.

Commission Decision

12. The Commission finds that the analysis performed by the Workgroup suggests that this issue is real and affects customers. The Commission notes that no alternative to the status quo billing process has been recommended by the Workgroup or identified in other jurisdictions. The Commission is concerned by the Utilities' argument that changes to the TOU rate structure and billing process could result in inefficient price signals that could counteract the intended purpose of TOU rates. The Commission finds that, in the absence of a compelling alternative, the current Utility method should be continued, if possible.

13. Interpretation of a statute always begins with the normal, plain meaning of the language of the statute, reading the statute as a whole. *Montgomery Cnty. v. Robinson*, 435 Md. 62, 77, 76 A.3d 1159, 1168 (2013) (quotations and citations omitted). When the statute is part of a larger statutory scheme, the language of a provision is not interpreted in isolation; rather, a court will "analyze the statutory scheme as a whole considering the purpose, aim, or policy of the enacting body." *Anderson v. Council of Gables*, 404 Md. 560, 572, 948 A.2d 11, 19 (2008) (citations omitted).

14. The Commission finds that the plain meaning of PUA § 7-306, when read as a whole, is compatible with the Utilities' position that 7-306(f)(4) is subject to the Commission's authority to set "standard metering practices" under 7-306(f)(2). The Commission's review of PUA § 7-306 also finds no evidence of intent to exclude net-metering customers from TOU offerings. To the contrary, PUA § 7-306(e) evinces strong intent that net-metering customers be treated the same as other customers, which impliedly

includes TOU customers. The Commission is also persuaded that this approach is the standard metering practice in such cases in other jurisdictions and that there is no competing approach.

15. Accordingly, the Commission finds that the statutory concern raised by Staff and OPC regarding PUA § 7-306(f)(4) can and should be reconciled through a rulemaking that recognizes the "standard metering practice" for purposes of TOU ratemaking of permitting separate calculation of on- and off-peak consumption/generation as currently practiced by the Participating Utilities and in other jurisdictions. The Commission directs the Workgroup to develop and present for Commission consideration proposed regulations to the above effect. To aid in this process, the Commission is attaching to this Order strawman regulations to serve as a starting point.

16. Proposed regulations should be filed for Commission consideration in the Workgroup's next report.

2. Separate Bidding for TOU SOS

17. In Order No. 90298, the Commission directed the Workgroup to examine the possibility of separately soliciting an SOS rate for TOU customers.

18. The Report states that the load of the TOU customer class is currently too low to attract time-differentiated bids because a time-differentiated auction adds additional work and risk for bidders.[4] The TOU periods under current rate design are also not the same as PJM[5] peak periods, requiring utilities to shape rates to keep total recovery consistent. The

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[4] *Id*. at 2.
[5] PJM Interconnection, LLC (PJM) is the Regional Transmission Organization in which Maryland utilities operate.

Report states that this issue is expected to be resolved once the TOU customer class has a load of approximately 50MW. The Report recommends the Commission monitor rate class enrollment and to consider separate bidding when the class reaches 50MW.[6]

19. The Report makes recommendations for if and when the Commission decides to separately bid the TOU rate class. Each utility would need to separate the TOU rate class from all standard offer service (SOS) reporting and invoicing. Each utility will require incremental IT costs and approximately 12 months to implement once the changes are scheduled. Scheduling will vary depending on the existing queue of IT projects at that time. Any new rate class should be vetted through the Commission's existing Procurement Improvement Process ("PIP"), which occurs annually each summer. Through the PIP, the utilities could gauge supplier interest and prepare the rate class for finalization and participation in the fall auctions.

Commission Decision

20. The Commission notes the recommendations of the Workgroup and directs the Workgroup to monitor enrollment in the TOU customer class and notify the Commission when the TOU class reaches 50MW.

[6] Report at 3.

3. Reporting and Metrics

21. In Order No. 90298, the Commission directed the Workgroup to continue to study the feasibility and value of reporting on estimated reductions in energy, capacity, and transmission costs associated with TOU.

22. The Report states that the Workgroup has continued discussions about developing estimated reductions in energy, capacity, and transmission costs.[7] The Workgroup is considering whether the Brattle Group's pilot evaluation data will be sufficient or whether additional data will need to be collected by the utilities. The Workgroup considered but rejected requesting PJM to perform a study, finding that participation rate in the TOU class was too low.

23. The Report recommends continued discussions to develop calculations for use at the quadrennial review, then revisiting and reassessing the valuation of the TOU rates at that time based on customer recruitment and participation numbers.

Commission Decision

24. The Workgroup is directed to continue work on this issue and provide an update in its next report.

4. Customer Recruitment and Outreach

25. In Order No. 90298, the Commission directed the Workgroup to monitor utility recruitment efforts and provide an update.

26. The Report states that the utilities have proposed an outreach plan with a launch date in the second quarter of 2023. The utilities propose a mix of traditional and digital

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[7] *Id*. at 7.

tactics to deliver information to residential customers, including social media, bill inserts, marketing modules, and direct mail/email. The utilities will also maintain web pages where customers can learn more about their TOU rate. The utilities will provide the Workgroup with marketing materials when they are available.

27. The utilities expect their outreach campaigns to run for a few months, with varying outreach tactics and tracking of customer engagement across each tactic. The utilities will provide the Workgroup with a summary of recruitment results in terms of enrollment and the impact of specific tactics.

Commission Decision

28. The Commission notes the utility plans and directs the Workgroup to provide an update in its next report.

5. Review of existing utility tariff offerings

29. The utilities have a number of legacy TOU rates with existing customer enrollments. In Order No. 90298, the Commission directed the Workgroup to begin a review of those existing tariff offerings and to consider whether the TOU rate class should become its own cost-of-service class in the future.

30. The Report states that the Workgroup has begun reviewing existing TOU offerings and recommends that this review should continue with an eye toward further discussion after the initial recruitment and outreach push for the new TOU offering is complete.[8]

[8] *Id*. at 9.

31. The Report states that an individual cost of service analysis is only useful with sufficient enrollment and load. The Office of People's Counsel presented a cost allocation report that suggests the class should have 5% of customers or sales.

32. The Report requests further time to monitor these issues and states that resolution should not be necessary before the first quadrennial review.

Commission Decision

33. The Commission notes the recommendations and directs the Workgroup to continue, with a progress update in the Workgroup's next report.

IT IS THEREFORE, this 15th day of June, in the year of Two Thousand Twenty-Three, by the Public Service Commission of Maryland, **ORDERED** that the Workgroup is directed to file its next report with the Commission by September 29, 2023, addressing the items identified in this Order for inclusion in that report and any additional issues the Workgroup wishes the Commission to consider.

/s/ Jason M. Stanek

/s/ Michael T. Richard

/s/ Anthony J. O'Donnell

/s/ Odogwu Obi Linton
Commissioners