

ORDER NO. 90298

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: July 26, 2022

ORDER ON RECOMMENDATIONS OF RATE DESIGN WORKGROUP

1. On June 3, 2022, the PC44 Rate Design Workgroup (the “Workgroup”) filed its Report and Recommendations on Full-Scale Time of Use Offerings (the “Report”).¹ The Report identified both consensus recommendations and areas of disagreement within the Workgroup concerning the future of the Commission’s Time of Use (“TOU”) Rate Pilot (the “Pilot”), which had three participating utilities: Baltimore Gas & Electric Company (“BGE”); the Potomac Electric Power Company (“Pepco”); and the Delmarva Power & Light Company (“Delmarva”), (together, the “Participating Utilities”).

¹ Maillog No. 240945

2. The Commission notes the recommendations of the Workgroup and directs that the Participating Utilities may expand TOU enrollment, as described below. The Commission also directs the Workgroup to proceed as described below.

The Workgroup Recommendations

3. As outlined in the Report, the Pilot tested TOU Rates between June 2019 and May 2021 across a sample of approximately 3,800 customers, in order to evaluate customers' willingness and ability to respond to electric rates that vary by time of day by shifting consumption patterns away from high-cost hours of day. The Pilot results indicated that both overall and low- and moderate-income customers responded to TOU rates by shifting a significant amount of consumption usage off-peak during both summer and winter months. Based on those results, the Commission directed the Workgroup to develop recommendations for a full scale TOU offering available on an opt-in basis for Maryland customers. The Report outlines the Workgroup's recommendations, including areas of consensus and disagreement.

4. Ultimately, the Workgroup recommended moving forward with a full-scale opt-in roll-out of TOU rates. The Workgroup noted that TOU rates may require periodic revisions as more renewables are brought onto the grid and as customer consumption changes because of increased adoption of electrical vehicles and electric-heat pump technologies. The Report also identified areas where Commission direction was required or invited before full-scale TOU rates are implemented.

1. Customer Rates

5. The Workgroup recommended that TOU distribution rates be updated during distribution rate cases, with TOU supply rates updated along with residential SOS rates and through the transmission rate update processes. The Workgroup explained that, starting with the auction-based SOS rates, the Participating Utilities will add transmission and estimated capacity costs into the peak periods to create the on- and off-peak differential. The Workgroup did not determine a timeframe for when to consider separately bidding the TOU rate schedule in the supply procurement process.

6. The Workgroup was unable to reach consensus, however, on the specific rate options to be offered to customers. It ultimately settled on two potential options, one recommended by Commission Staff and the Participating Utilities, and the other recommended by the Office of People’s Counsel (“OPC”).² The Staff/Utility proposal calls for continuing the Pilot rate approach, which shifted all primary distribution system costs into the on-peak period. Staff and the Participating Utilities argue that their proposal creates the strongest price incentive to encourage customers to conserve energy and creates the greatest bill savings, reduces complexity, and better aligns rates with cost causation.

7. The OPC proposal calls for an average-and-peak approach that assigns a portion of primary distribution costs to off-peak periods in recognition that the distribution system must serve load in those hours as well. The OPC proposal first places approximately 60%

² The Workgroup provided illustrative rates for both proposals calculated from historical data. *See Report, Table 1, at 6-7.*

of primary distribution into the on-peak period, with the remaining 40% then distributed across all hours. OPC argues that its proposal will create a lower ratio of peak to non-peak rates, which may be less threatening to potential customers and lead to higher enrollment.

8. Both proposals were designed to allow an average load profile customer to achieve approximately the same billed amount, even if they did not engage in load shifting, as they would under non-TOU rates. For Pepco and Delmarva, which have seasonal distribution rates, all proposals have been designed to be seasonally revenue neutral relative to flat distribution rates. BGE does not have seasonal distribution rates, and its proposals were therefore not adjusted for seasonality.

9. The Workgroup reached consensus as to on- and off-peak hours for each Participating Utility, as follows:

Summer Peak:

BGE 3:00 PM - 8:00 PM

Pepco and Delmarva 2:00 PM - 7:00 PM

Non Summer Peak:

All Utilities 6:00 AM - 9:00 AM and 5:00 PM - 9:00 PM

Commission Decision

10. The Commission finds that the Staff/Utility proposal of continuing the Pilot rate calculation is most appropriate. That proposal produces a strong price incentive that has already been tested in the Pilot and shown to be effective. The Commission is encouraged by the results of the Pilot that all customers, including low- and moderate-income, shifted

usages off-peak. TOU rates can be a tool for low- and moderate-income customers in controlling their bills, especially with rising energy costs. Although OPC raised concerns about enrollment, the Report only identifies difficulty with enrollment by Delmarva, while BGE reached its full Pilot enrollment without needing to contact the majority of its customers. The Commission finds that any altering of the TOU rate calculation to improve enrollment should be addressed at a later time, when more data exists on the effectiveness of customer recruitment strategies, as discussed below.

11. The Commission directs the Workgroup to address the possibility and potential timeline for separately bidding the TOU rate schedule in its next report, including identifying any legal or practical challenges.

12. The Commission accepts the consensus recommendation regarding on- and off-peak hours, finding the hours to be reasonable.

2. Net-Metering Customers

13. The Pilot capped net metering customers at 10% of total participants. The Pilot did not allow participation by aggregated net metering customers, such as community solar subscribers. For full-scale implementation the Workgroup recommended lifting the 10% cap for net metering customers and allowing all such customers to take advantage of the TOU rate. The Workgroup noted, however, that the Participating Utilities would need to make system changes in order to implement TOU rates for customers participating in *aggregated* net metering, as these customers were not included in the Pilot. The

Workgroup recommended the Commission exclude aggregated net metering customers from TOU offerings at this time, with the issue revisited at the first quadrennial review.

14. In expanding to full-scale TOU offerings, the Workgroup recommended that the yearly net generation (trued-up in April) should be compensated at the average residential rate in effect in the prior 12-month period. However, the Workgroup participants sought to adjust the generation and consumption credit and charge mechanics for TOU net metering customers that had been in use during the Pilot. This resulted in two proposals.

15. The Participating Utilities proposed to net and carry generation separately for the on- and off-peak periods, so that on-peak generation would offset on-peak consumption, etc. Customers would be charged monthly for any net consumption in each period (on- or off-peak) individually. Credits would be carried forward in each period individually, and any net balances would be carried forward and payable in the annual April true-up.

16. Staff and OPC raised concerns that the Participating Utilities' proposal could violate Public Utilities Article ("PUA"), *Annotated Code of Maryland*, § 7-306(f)(4) – which prohibits charges, other than the fixed customer charge, in a month where a customer has net generation – if a customer's total monthly generation exceeded its total monthly consumption but their pattern of peak versus off-peak net consumption resulted in a positive monthly bill. Staff and OPC proposed that, in such cases, the monthly volumetric charges (those other than the customer charge) be carried until the next month when the customer does not generate more electricity than they consume, at which point it would appear on the customer's bill.

17. The Participating Utilities argue that their proposal is consistent with PUA § 7-306(f) because subsection 2 provides that “Net energy produced or consumed on a regular basis shall be measured in accordance with standard metering practices.” The Participating Utilities argue that standard metering practices call for separately netting on- and off-peak periods for time-varying rates.

Commission Decision

18. The Commission notes the concerns raised by Staff and OPC. The Commission finds preliminarily that the current record is inadequate to answer the question of whether the statutory concerns raised present a real or merely hypothetical scenario. The Commission directs the Workgroup to present, in its next report, an analysis of actual historical net-metering customer data,³ 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 finds to be relevant.

19. The Commission also notes that the Participating Utilities, in their argument, rely on a potential Commission interpretation of the term “standard metering practices” from PUA § 3-306(f)(2). That term is not defined elsewhere in the PUA, nor has the Commission established “standard metering practices” via regulation for net-metering customers. The Commission therefore directs the Workgroup to address in its next report

³ This analysis should include *all* net-metering customers, not just those who participated in the Pilot.

whether this interpretive disagreement may be resolved via changes in Commission regulations and, if so, to make recommendations on possible regulations. The Workgroup should also present any other proposed regulatory changes its members believe are necessary for full implementation of residential TOU rates and identify any other possible statutory issues that may arise in the future of TOU rate expansion.

20. Pending resolution of the issues identified above, the Commission directs that the expanded TOU enrollment authorized by this Order shall not extend to enrolling new net-metering customers. Existing Pilot net-metering customers who have remained on TOU rates subsequent to the Pilot may continue their enrollment under the generation and consumption credit and charge mechanics previously in use during the Pilot and approved by the Commission. The Commission accepts the other consensus recommendations on this issue.

3. Appropriate metrics for tracking

21. The Workgroup found that meeting the goals of TOU rates required a comprehensive reporting regimen, for which the Workgroup proposed both annual and quadrennial reporting. The Participating Utilities did not agree that the level of detail requested by other parties for annual reporting was necessary. However, all parties agreed on a list of reporting metrics that the Participating Utilities could provide with additional

effort.⁴ The Workgroup recommended that the Commission order the Participating Utilities to report to Staff and OPC on those metrics.

22. The Workgroup was unable to reach consensus on the feasibility and value of reporting on estimated reductions in energy, capacity, and transmission costs. The Workgroup requested additional time to fully develop that issue for Commission consideration. The Workgroup also invited Commission input on additional reporting metrics.

Commission Decision

23. The Commission directs the Participating Utilities to report to Staff and OPC on the recommended metrics at the annual and quadrennial frequencies described in the Report. TOU rates are beneficial to both the participants and the distribution grid. Accordingly, the Commission expects to see demonstrable benefits from these rates. The Commission may revise the reporting metrics as necessary. The Commission directs the Workgroup to continue to study the feasibility and value of reporting on estimated reductions in energy, capacity, and transmission costs and update the Commission as to the progress of that study in its next report.

4. Customer recruitment and outreach

24. The Report explained that, during the Pilot, each Participating Utility took a different approach to customer recruitment, in order to reach the Pilot's participation goals,

⁴ Report at 11-12.

with BGE engaging in a less intensive enrollment program and Delmarva engaging in a high intensity recruitment program. Accordingly, both OPC and Staff agree that recruitment approaches should differ by utility based on the differing Pilot enrollment rates. The Participating Utilities stated that they are prepared to provide whatever level of recruitment that the Commission directs.

25. The Workgroup recommended that the Commission direct the Participating Utilities to take a staged approach, beginning with the least expensive levels of recruitment, and then adding additional recruitment outreach based on enrollment levels and trends. The Workgroup proposed to reconvene after one year of recruitment to determine whether to increase marketing efforts. The Workgroup also invited the Commission to provide guidance, such as addressing participation goals or timeframes to revisit recruitment thresholds.

26. The Workgroup recommended expanding eligibility to customers participating in other Commission pilot programs and to customers participating in retail supply choice—though customers receiving Standard Offer Service (“SOS”) would only be able to select combined TOU rates for distribution and supply, with the question of pairing TOU distribution rates with a flat SOS rate to be revisited at the first quadrennial review.

Commission Decision

27. The Commission directs the Participating Utilities to follow the recommended staged approach, beginning with the least expensive levels of recruitment. The Workgroup is directed to monitor recruitment efforts and provide an update as part of its next report.

28. The Commission accepts the consensus recommendation to allow expansion of TOU rates to customers participating in other pilot programs and retail supply choice. The Commission directs the Workgroup to provide a more thorough explanation of the challenges and risks to expanding TOU distribution rate eligibility to customers with flat SOS supply rates in its first quadrennial review.

5. Additional tasks for the TOU workgroup

29. The Report also identified several possible future courses for the Workgroup. Staff and OPC both advocate for a broader look at existing utility tariff offerings, including legacy TOU rates, after approximately one year of offering this new TOU rate. The goal of that process would be to consider the future of legacy rates with low enrollment or price signals, as well as seasonality in residential rates and the promotion of beneficial electrification.

30. Staff and OPC also propose that the Workgroup begin determining when it would be appropriate for this new TOU offering to be considered as a separate cost of service class in future rate cases. The Workgroup did not make any specific recommendation on a timeline for this analysis.

Commission Decision

31. TOU rates can be a tool for meeting State policy goals, while also providing direct benefits to customers. Therefore, the Commission directs the Workgroup to undertake a broader look at existing utility tariff offerings following the filing of its next report.

32. The Commission finds that the question of moving TOU customers into a separate cost of service class is premature at this time. The Workgroup is directed to provide a recommendation in its next report regarding potential timelines for this analysis.

33. The Commission directs the Workgroup to file its next report with the Commission by March 31, 2023, addressing the issues identified in this Order for inclusion in that report and any additional issues the Workgroup wishes the Commission to consider.

IT IS THEREFORE, this 26th day of July, in the year of Two Thousand Twenty-Two, by the Public Service Commission of Maryland, **ORDERED** that:

- (1) Participating Utilities are authorized to expand Time of Use enrollment;
- (2) Participating Utilities file revised tariffs consistent with this Order; and
- (3) the Rate Design Workgroup file its next report with the Commission by March 31, 2023, as described herein.

/s/ Jason M. Stanek _____

/s/ Michael T. Richard _____

/s/ Anthony J. O'Donnell _____

/s/ Odogwu Obi Linton _____

/s/ Patrice M. Bubar _____

Commissioners⁵

⁵ Commissioner Richard filed a dissenting opinion in part, in this matter.

Partial Dissent of Commissioner Michael T. Richard

The Workgroup pilot report findings support what many other states have already confirmed: Time-of-Use (TOU) rates (along with other tariffs that send appropriate electricity cost price-signals) work to advance State policies related to providing reliable, economic and decarbonized electricity. While I join the majority in instituting and making TOU available to *some* Maryland ratepayers, I am disappointed that this Commission would bar new net-metering (NEM) customers from participation in future TOU tariff offerings.

Maryland was an early adopter in setting a NEM policy, which incentivizes and rewards Marylanders who lean forward in taking actions to support Maryland's clean energy and climate-change goals. The 2020 legislative session reinforced Maryland's commitment to NEM by doubling the statutory cap to 3,000MW – a clear indication that Maryland legislators place great value in NEM as an important tool in advancing State policy. Barring NEMs customers from participation in TOU rates – the very group that is a proven early-adopter of energy efficiency and renewable energy initiatives and therefore the most likely to avail themselves of these tariffs – seems out of step with State policies and an extreme measure in reaction to a perceived ambiguity in statute that is within the Commission's authority to clarify.

I can find no compelling reason for Maryland net metering customers to be barred from participation in TOU rates while the clarification observed in the Order is crafted.

There were no legal objections raised during the pilot over NEM participation, and the issue to be clarified is simply – but importantly – at what level should NEM customers be compensated. Using the pilot-set rate has worked to-date, has not been opposed, and is a conservative compromise pending clarification.

For these reasons, I dissent in this decision to bar NEM customers from participating in TOU rates resulting from this Order, and would move expeditiously to offer to all Marylanders TOU rates using the protocols employed by the pilot. I would also direct the Commission Staff to propose regulatory language clarifying what is perceived as an ambiguity in statute to ensure NEM ratepayers are provided the full incentive intended by the legislature, noting that the current TOU pilot tariff and the utilities’ proposal, respectively, do not and would not provide NEM’s customers with the intended level of incentives. This should be addressed and resolved without delay in proposed regulations.

/s/ Michael T. Richard

Commissioner