

# **PUBLIC SERVICE COMMISSION OF MARYLAND**

## **REPORT TO THE GOVERNOR AND THE MARYLAND GENERAL ASSEMBLY ON THE STATUS OF STANDARD OFFER SERVICE, THE DEVELOPMENT OF COMPETITION, AND THE TRANSITION OF STANDARD OFFER SERVICE TO A DEFAULT SERVICE**

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## **Introduction and Executive Summary**

Pursuant to statute,<sup>1</sup> the Public Service Commission of Maryland submits this report to the Governor and General Assembly every five years regarding the status of Standard Offer Service (SOS), Maryland's Competitive Retail Electric Market, and the transition of SOS to a default service.<sup>2</sup>

The investor-owned utilities (IOUs) within the State procure wholesale power for SOS through competitive bid solicitations, which are held four times per year.<sup>3</sup> The participating electric cooperatives either purchase power through long-term wholesale contracts (Choptank Electric Cooperative, Inc., or use a managed supply portfolio to procure power (Southern Maryland Electric Cooperative, Inc. (SMECO)).

In Maryland, SOS in its current form was established through formal proceedings before the Commission in 1999.<sup>4</sup> The Commission most recently reviewed and modified the SOS form for BGE, Pepco, and DPL in Case No. 9221, Case No. 9232, and Case No. 9226 respectively.<sup>5</sup>

Regarding Maryland's competitive retail electric market, the percentage of residential customers using retail choice at the start of 2018 was 19.9 percent and has since decreased to 12.8 percent by November 2023. The percentage of commercial and industrial (C&I) customers using retail choice at the start of 2018 was 37.9 percent and is currently 33.9 percent. As shown, there has been a decline in the number of customers utilizing retail choice over the last five years, but overall, commercial and industrial customers continue to be more active in seeking non-utility

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<sup>1</sup> Public Utilities Article §7-510(c)(3)(iii)(1).

<sup>2</sup> In 2008, the Commission provided the information required by the PUA in the annual report on Case Nos. 9056 and 9064, 99 MD PSC, pp. 163, 220, 231. The 2018 report was filed by the Commission on December 31, 2018. See <https://www.psc.state.md.us/wp-content/uploads/Final-Competition-Report.pdf>.

<sup>3</sup> The IOUs are Baltimore Gas and Electric (BGE), Potomac Electric Power Company (Pepco), Delmarva Power and Light (DPL), and Potomac Edison (PE).

<sup>4</sup> The initial form of SOS was established in 1999 through settlements in the IOU restructuring cases: Case No. 8974, *Re: Baltimore Gas & Elec. Co.*, 90 Md. P.S.C. 137 (1999) (BGE); Case No. 8975, *Re: Delmarva Power & Light Co.*, 90 Md. P.S.C. 115 (1999) (DPL); Case No. 8976, *Re: Potomac Elec. Power Co.*, 90 Md. P.S.C. 329 (1999) (Pepco); and Case No. 8797, *Re: Potomac Edison Co.*, 90 Md P.S.C. 439 (1999) (PE). The form of SOS used by the cooperatives SMECO and Choptank was established through their own later restructuring settlements, Case No. 8985, *Re: Southern Maryland Elec. Co-op Inc.*, 95 Md. P.S.C. 294 (2004) (SMECO), and Case No. 8987, *Re: Choptank Elec. Co-op, Inc.*, 96 Md. P.S.C. 115 (2005) (Choptank). The SOS provided by the IOUs was modified in two cases that were opened after the rate increases that occurred when the initial price freezes ended, respectively, *Re: Default Service for Type II Standard Offer Service Customers*, 99 Md. P.S.C. 163 (2008), and *Re: Competitive Selection of Electricity Supplier/Standard Offer or Default Service for Investor-Owned utility Small Commercial Customers*, 99 Md. P.S.C. 220 (2008).

<sup>5</sup> Respectively, Case No. 9221, *In the matter of a request by Baltimore Gas and Electric Company for Recovery of Standard Offer Service Related Cash Working Capital Revenue Requirement* 107 Md. P.S.C. 773 (2016); Case No. 9232, *In the Matter of the Review of Potomac Electric Power Company Standard Offer Service Administrative Charge*; Case No. 9226, *In the Matter of the Review of Delmarva Power & Light Company Standard Offer Service Charge*.

electricity supply relative to residential customers. The decline of residential customers in retail choice has been observed since 2014.<sup>6</sup>

The Commission's ongoing engagement on issues concerning the competitive market has brought together a diverse coalition of stakeholders and subject matter experts to navigate the changing landscape of retail choice in Maryland. In the last five years the Commission facilitated enforcement and market enhancement activities through a series of rulemakings, public conferences, and working groups. These include but are not limited to: Public Conference 55 (PC55), Case No. 9461/RM70 - Supplier Consolidated Billing (SCB), the Competitive Market and Customer Choice (CMCC) Work Group, and the current consideration of Purchase of Receivables (POR) reform.<sup>7</sup>

In addition to its broad and collaborative working groups, the Commission monitors the health of the retail supply market through engagement with individual suppliers and the customers who they serve. Enforcement activities most often occur on a case-by-case basis through response to consumer complaints, which are typically resolved by the Commission's Consumer Affairs Division (CAD).<sup>8</sup> Since 2018, the Commission has initiated enforcement actions against suppliers when complaint patterns suggested a pattern of regulatory noncompliance. Most recently, on February 1, 2023, amid a spike in complaints against retail suppliers, the Commission launched a six-month "Maximum Enforcement" initiative. During Maximum Enforcement, the Commission marshaled its staffing resources from multiple divisions to aggressively pursue retail supplier compliance. In the months that followed, complaints against retail suppliers declined and the Commission proceeded with enforcement cases against retail suppliers.<sup>9</sup> The Commission has and continues to take steps to prevent abuses, increase market transparency, and facilitate a competitive environment in the State.

### **The Status of Standard Offer Service**

Standard Offer Service is electricity supply service sold by electric utility companies to a customer who does not choose a competitive supplier. SOS is the default electricity service and is available to all customer classes. The statute requires that SOS be "designed to obtain the best price for residential and small commercial customers in light of prevailing market conditions at the time of the procurement and the need to protect these customers against excessive price

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<sup>6</sup> The previous SOS and retail choice report speculated that the initial decline in customers after 2014 was driven by market issues during and after the 2014 polar vortex weather event. The Commission does not have an explanation for the continued decline in customer participation in retail choice since then. Report to the Governor and the Maryland General Assembly on the Status of Standard Offer Service, the Development of Competition, and the Transition of Standard Offer Service to a Default Service, Dec. 31, 2018, pp. 9 - 10.

<sup>7</sup> Maillog No. 304421 Notice and Request for Comments Re: MEAC's POR Reform Petition August 2, 2023.

<sup>8</sup> Previously known as the Commission's Office of External Relations.

<sup>9</sup> Case No. 9647, Complaint of the Maryland Office of People's Counsel against SunSea Energy LLC.; Case No. 9690, Complaint for Show Cause Against SFE Energy Maryland; Case No. 9691, Complaint of the Staff of the Public Service Commission of Maryland against Greenlight Energy Inc.

increases.”<sup>10</sup> The investor-owned electric companies provide SOS for residential and small commercial service by purchasing wholesale power through two-year supply contracts twice a year, via sealed bid procurements.<sup>11</sup> These procurements take place in the spring and fall, and each procurement covers roughly 25% of the total SOS demand (or load). The Commission chose this structure to enable SOS rates to reflect long-term changes in market prices, while still providing a form of price protection by reducing rate volatility and ensuring a degree of gradualism in rate changes. It was a direct response to the hardships customers experienced as a result of the large rate increases that occurred with the expiration of the SOS price freeze in 2006 and the statutory changes that followed these events.<sup>12</sup> The nature of this procurement structure helps to reduce rate volatility and ensure gradualism in rate changes.<sup>13</sup>

In contrast, SOS for mid-sized non-residential customers is procured through sealed bids for three-month contracts procured four times per year (versus the two-year contracts twice a year for residential SOS). Thus, the price of SOS for these customers at any given time reflects market conditions on the most recent bid day.<sup>14</sup> SOS for SMECO is procured by the Cooperative through an actively managed portfolio approach.<sup>15</sup>

The current version of the SOS bidding process for the IOUs was established in Case Nos. 9064 and 9056, in 2006 and 2007.<sup>16</sup> The Commission engages in an annual Procurement Improvement Process (PIP), designed to review the prior year’s bid activities and adjust the process as necessary to secure the most favorable outcomes through a competitive bidding process. SOS bids have been successful, as a whole, with only a few instances where a bid was found to be uncompetitive (and thus rejected).<sup>17</sup> For the vast majority of bids, the Commission’s consultants have reported competitive bidding conditions with a sufficient number of qualified bidders.<sup>18</sup>

There are anticipated impacts to SOS procurement for certain utility service territories sometime within the next five years caused by the implementation of the Montgomery County Community Choice Aggregation (CCA) Pilot. Within the CCA Pilot, Montgomery County will be the default load serving entity for existing residential and small commercial SOS customers, procuring and charging customers for their load, and an optional service for residential and small commercial

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<sup>10</sup> PUA §7-510(c)(4)(ii).

<sup>11</sup> Potomac Edison uses a combination of one-year and two-year supply contracts and conducts bidding for residential supply four times a year.

<sup>12</sup> Senate Bill 1, Spec. Sess. 2006.

<sup>13</sup> The SOS rate charged to customers may not reflect current price increases or decreases within the wholesale energy markets.

<sup>14</sup> Commission Order No. 81019, August 8, 2006.

<sup>15</sup> In the Matter of the Inquiry Into the Provision of Standard Offer Service by Southern Maryland Electric Cooperative, Inc. Commission Order No. 79503, September 29, 2004, Case No. 8985.

<sup>16</sup> Commission Order No. 80608, February 17, 2006 and Commission Order in Case No. 9064 on May 10, 2006.

<sup>17</sup> Order No. 82279, October 24, 2008 and Order No. 90588, April 13, 2023.

<sup>18</sup> Commission Case Nos. 9064 and 9056. The Commission retains a consultant to monitor SOS bidding in the utilities’ bid rooms and ensure that bidding is conducted fairly and according to the rules of the process. The Consultant reports to the Commission after each round of bidding, addressing the competitiveness of the bid round and the results as they relate to market conditions at the time the bid is conducted. The Commission’s Staff also takes part in monitoring the bidding and reporting the results.

retail choice customers. Montgomery County residential and small commercial customers may also select SOS from their local utility. The Montgomery County CCA Pilot was established by law in 2021 and the Commission established a work group shortly following the enactment. In 2023, the Commission held multiple rulemaking sessions to establish the rules by which the CCA Pilot will function.<sup>19</sup> The Commission is aware that the formation of the Montgomery County CCA Pilot will have impacts to Pepco and PE's SOS bidding due to an unknown, but likely sizable amount of load exiting the current SOS procurement for these utilities. This is because an unknown number of customers may participate within the Montgomery County CCA Pilot, and a measurable amount of Pepco and PE's load is within Montgomery County. Additionally, a formal start date to the CCA Pilot has not been established (Montgomery County has confirmed the Pilot will start no earlier than June 1, 2026).<sup>20</sup> Parties within the Commissions' SOS Process Improvement Plan process led by Staff are still considering solutions and will provide proposals for Commission consideration prior to April 2024.<sup>21</sup>

### **The Transition of Standard Offer Service to a Default Service**

SOS is the default service provided to new customers upon new service activation. SOS is also the service provided when a customer fails to select an alternative retail supplier, when a retail supply customer requests to receive SOS service, or when a retail supplier discontinues general operations or service to a specific customer. There are no current proceedings before the Commission that would significantly alter this arrangement or explore an alternative to SOS as the default service. For the largest industrial electricity customers, SOS is already a fully default service, with pricing linked to the hourly prices posted by the regional grid operator, the Pennsylvania-New Jersey-Maryland Interconnection (PJM).<sup>22</sup> Electric companies continue to

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<sup>19</sup> In 2021, the legislature enacted PUA §7-510.3 which created a CCA Pilot Program in Montgomery County. The Commission initiated Public Conference 54 on July 22, 2021, to establish a CCA Work Group and to receive comments and inquiries. The work group filed a report on January 24, 2023 and on January 25, 2023, the Commission initiated a rulemaking, RM80, and held a session on February 23, 2023. On March 15, 2023, the Commission issued an order directing the work group to revise the proposed regulations to be filed by April 25, 2023. A rulemaking session was held June 1, 2023 and further revisions were required to be filed by the work group by June 30, 2023, which were considered at rulemaking sessions on July 24 and were finalized as draft regulations for publication in the Maryland Register on August 8, 2023. The draft regulations were published in the Maryland Register on November 17, 2023, and public comments could be made until December 18, 2023.

<sup>20</sup> Staff Comments, filed Feb. 16, 2022, Case No. 9056 and 9064 (Maillog No. 239164) and Report on the 2023 Procurement Improvement Process, filed August 24, 2023, Case No. 9056 and 9064 (Maillog No. 304703).

<sup>21</sup> Report on the 2023 Procurement Improvement Process, filed August 24, 2023, Case No. 9056 and 9064 (Maillog No. 304703), pp. 8 - 10.

<sup>22</sup> SOS is already what most people would consider to be a default service, in that it is the service most customers receive when they choose not to seek electricity service from retail suppliers, or when they open an account with their utility at a new address. However, in referencing a transition from SOS to default service, the General Assembly appears to be invoking the concept of a more rigorous "true" default service, under which a customer would only receive SOS service from their utility if no supplier will provide service, generally when the customer in question is a poor credit risk.

have an obligation to provide SOS to residential and small commercial customers,<sup>23</sup> and the Commission approved the continuance of electric companies to provide SOS to mid-sized commercial customers in Case No. 9056.<sup>24</sup>

The Commission has most recently addressed the price structure and Utility compensation for providing SOS in Case Nos. 9221, 9226, and 9232. On March 11, 2010, Case Nos. 9226 and 9232 were initiated by Pepco and DPL in a joint request by the Companies to update their respective SOS Administrative Charge.<sup>25</sup> These cases eventually led to a Third Proposed Order issued on September 6, 2017 outlining the calculation of the SOS Administrative Charge.<sup>26</sup> Following this proposed order, the Office of People's Counsel and Commission Staff appealed the Order.<sup>27</sup> Following the Third Proposed Order and the Appeals of the Order, the Commission issued an Order on Appeals in Order No. 90035 on January 7, 2022,<sup>28</sup> which affirmed the Third Proposed Order of the Public Utility Law Judge and affirmed the details laid out on the calculation methodology for the SOS Administrative Charge. SOS Administrative Charges are updated periodically for BGE, Pepco, and Delmarva based on the established methodology. In Case No. 9221, the Commission adjusted the Utility compensation for providing SOS to include both the Utility's costs and a return on providing the SOS service, resulting in a reduced SOS administrative charge. The decision is currently on appeal to the Maryland Appellate Court. Similar reviews for Delmarva Power & Light Company (Case No. 9226) and Potomac Electric Power and Light Company (Case No. 9232) are currently under Commission review.

The Commission considers incremental changes to the SOS bid process through an annual review and report on the Standard Offer Service Procurement Process, docketed in Case Nos. 9064 and 9056.<sup>29</sup> At periodic intervals, if the Commission deems it necessary, the Commission can open a major policy review to consider broader changes to the way SOS and default service have been implemented in Maryland.

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<sup>23</sup> PUA §7-510(c)(3)(ii)(2).

<sup>24</sup> In the Matter of the Commission's Investigation into Default Service for Type II Standard Offer Service Customers, Order No. 81019, August 28, 2006.

<sup>25</sup> Case Nos. 9226 and 9232, Potomac Electric Power Company and Delmarva Power and Light Company – Request to revise the recovery of cash working capital costs, March 11, 2010.

<sup>26</sup> Third Proposed Order of Public Utility Law Judge in Case Nos. 9226 and 9232, September 6, 2017.

<sup>27</sup> Commission Staff Counsel Notice of Appeal of the Proposed Order of Public Utility Law Judge, Case Nos. 9226 and 9232, October 6, 2017. Office of People's Counsel Notice of Appeal of the Proposed Order of Public Utility Law Judge, Case Nos. 9226 and 9232, October 6, 2017.

<sup>28</sup> Commission Order No. 90035, Order on Appeals, Case Nos. 9226 and 9232, January 7, 2022.

<sup>29</sup> In the Matter of the Competitive Selection of Electricity Supplier/Standard Offer or Default Service for Investor-Owned Utility Small Commercial Customers; and for the Potomac Edison Company D/B/A Allegheny Power's, Delmarva Power and Light Company's and Potomac Electric Power Company's Residential Customers.

## **The Development of Retail Electric Competition in Maryland**

The Commission began studying the issue of retail electric competition as early as 1994, and a Staff report on the subject was issued in 1995 in Case No. 8678. The Commission ordered a phase-in of retail electric competition in Order No. 73834, issued in Case No. 9738 in 1997.<sup>30</sup> Early in the transition to customer choice, the Commission recognized that the possibility of more supplier choices could result in the introduction of innovative services and lower electric commodity prices.<sup>31</sup> With the Electric Customer Choice and Competition Act of 1999, the Maryland General Assembly ratified the Commission's Order and established the statutory framework for the restructuring of the electric industry in Maryland. The Electric Choice Act altered the Commission's role relative to electricity generation and provided that the retail electric market structure (electric choice) would be available to all customers in the affected service territories. Beginning on July 1, 2000, all retail electric customers of IOUs were given the opportunity to choose their electricity supplier, and since July 1, 2003, customers of Maryland's large electric cooperatives have had the right to choose suppliers.<sup>32</sup> Additionally, customers of Maryland's municipal electric utilities could theoretically choose a retail choice supplier if their utility elects to make its service territory open to customer choice, and the Commission approves their plan for doing so.<sup>33</sup> However, to date, no municipal electric utility in Maryland has presented the Commission with a plan to implement customer choice in its service territory.

Customers shopping for electricity in Maryland may choose to buy electricity from a competitive supplier or to take SOS from their local electric company. This framework was established by the Electric Choice Act.<sup>34</sup> The Act deregulated the pricing of electric generation and opened retail markets to competitive suppliers, which in turn, has attracted competitive suppliers to Maryland. The number of active suppliers in November of 2008, 2013, 2018, and 2023 is shown in the tables below.<sup>35</sup>

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<sup>30</sup> *Re: Provision and Regulation of Electric Service*, 88 Md. P.S.C. 249 (1997).

<sup>31</sup> *e.g. Re: Provision and Regulation of Electric Service*, 88 Md. P.S.C. 249, 257 (1997); *Re: Potomac Electric Power Company*, 90 Md. P.S.C. 329, 335 (1999).

<sup>32</sup> PUA §7-505 Transition to a Restructured Electric Industry.

<sup>33</sup> PUA §7-510(a)(2).

<sup>34</sup> Electric Customer Choice and Competition Act of 1999.

<sup>35</sup> The tables include data from: November – 2008, November – 2013, November – 2018, and November – 2023, the most recent data available at this time. <https://www.psc.state.md.us/electricity/electric-choice-monthly-enrollment-reports/>.

<b>Number of Electricity Suppliers Serving Enrolled Customers - November 2008</b>				
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>
Allegheny Power	5	13	16	13
Baltimore Gas and Electric	15	22	23	19
Delmarva Power & Light	10	18	19	13
Potomac Electric Power	8	18	21	18

<b>Number of Electricity Suppliers Serving Enrolled Customers - November 2013</b>				
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>
Potomac Edison (formerly Allegheny Power)	22	25	28	13
Baltimore Gas and Electric	53	54	50	23
Delmarva Power & Light	34	41	37	20
Potomac Electric Power	42	43	44	21

<b>Number of Electricity Suppliers Serving Enrolled Customers - November 2018</b>				
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>
Potomac Edison (formerly Allegheny Power)	36	38	35	16
Baltimore Gas and Electric	65	71	60	18
Delmarva Power & Light	46	51	43	18
Potomac Electric Power	59	55	49	26
Southern Maryland Electric Co-Op	7	5	3	1

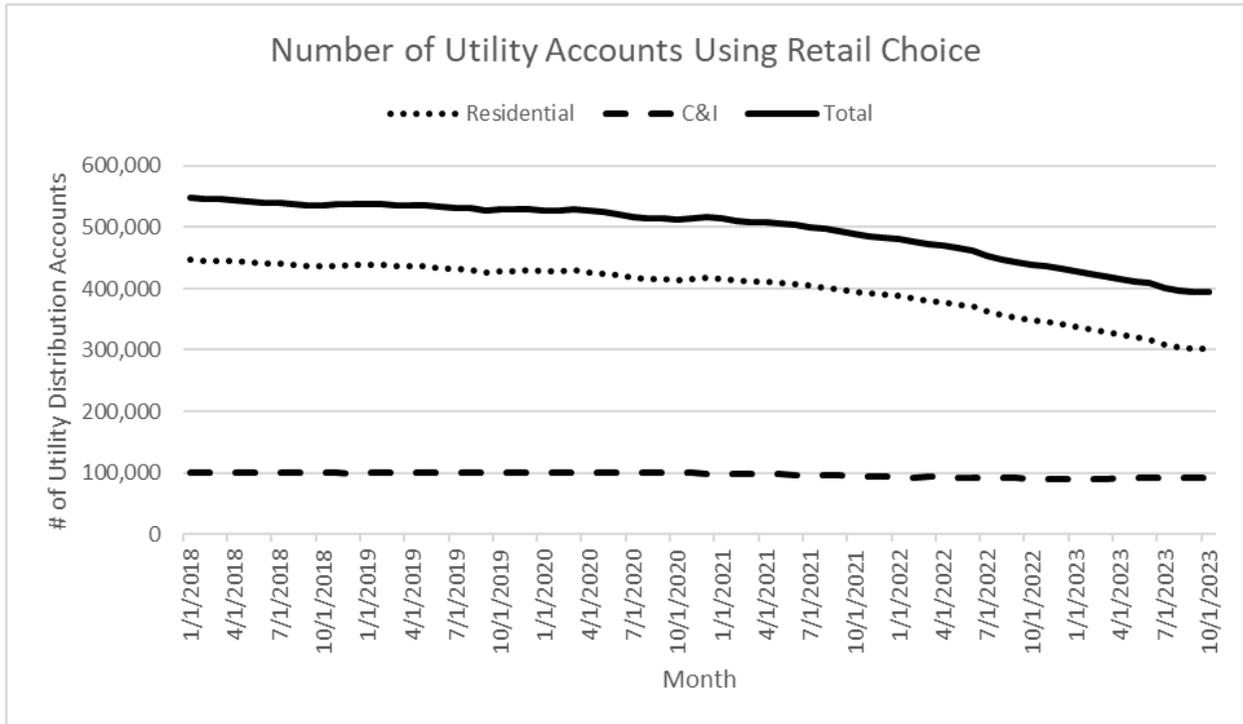
<b>Number of Electricity Suppliers Serving Enrolled Customers - November 2023</b>				
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>
Potomac Edison (formerly Allegheny Power)	44	45	41	18
Baltimore Gas and Electric	63	64	53	19
Delmarva Power & Light	49	50	43	17
Potomac Electric Power	58	58	59	2
Southern Maryland Electric Co-Op	8	4	3	1

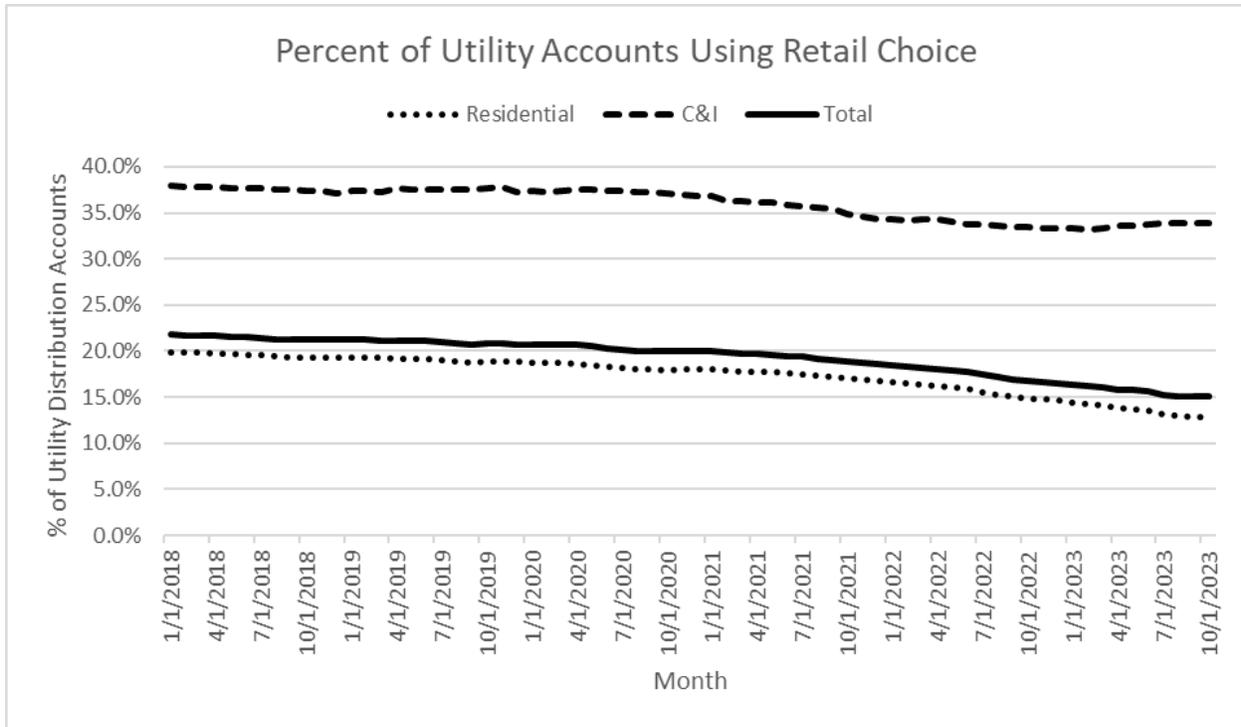
### Customer Participation in Electric Choice

Customer participation in retail choice for both residential and C&I customers has decreased steadily since the Commission’s previous report regarding SOS and Retail Choice, however C&I customers still opt to use retail choice at a greater rate than residential customers.

As of November 2023, 13% of residential customers, 28% of small commercial customers, 54% of mid-sized commercial and industrial customers, and 88% of large commercial and industrial customers were served by retail electricity suppliers. In terms of total electricity supply, just under half of the load (45%) was served by retail electricity suppliers as of November 2023.

From 2008 to 2023, the number of residential choice customers increased by over 439% statewide, however, over the last five years, enrollment has decreased by 30.6% (approximately 134,002 accounts less), leaving about 303,558 Maryland households receiving electricity supply from a competitive supplier in 2023. The following charts show the monthly state of customers in retail choice over the last five years.





Between November 2008 and November 2023, the total number of customers statewide served by electricity suppliers increased from 112,593 to 395,805 customers.<sup>36</sup> However, between November 2018 and November 2023, the total number of customers served by electricity suppliers statewide decreased 26.3% from 536,901 to 395,805. In 2008, residential participation in retail choice was 3% of customers. Switching to retail suppliers for residential customers increased to 26% in 2013, decreased in 2018 to 19%, and continued to decrease to 13% in 2023. Large C&I customers chose retail suppliers by margins of 87% in 2008, 89% in 2013, 82% in 2018, and 88% in 2023. This is a continued decrease in customers participating in retail choice that was observed in the Commission's previous SOS and Retail Choice Report.<sup>37</sup> The Commission cannot definitively state what is driving the continuous decrease in residential customers participating in retail choice over the last five years.

The implementation of utility purchase of retail supplier receivables (POR) in 2010 for suppliers that use utility consolidated billing (UCB)<sup>38</sup> likely contributed to the increase in residential customers served by retail electricity suppliers between 2010 - 2013. Prior to POR, suppliers either received payment directly from customers or billed customers in a consolidated bill with the utility, with a payment made to suppliers by the utility according to a payment posting schedule. Under both retail billing methods, suppliers were exposed to the risk of non-payment

<sup>36</sup> An increase of 252%.

<sup>37</sup> Report to the Governor and the Maryland General Assembly on the Status of Standard Offer Service, the Development of Competition, and the Transition of Standard Offer Service to a Default Service, Dec. 31, 2018, pp. 9 - 10.

<sup>38</sup> Utility Consolidated Billing is when the utility collects the customer's money for supplier charges.

from customers, while lacking the ability to terminate electric service to those customers.<sup>39</sup> However, POR directs utilities to collect the amount due to the supplier from the customer, and then remit payment to the supplier, potentially at a slight discount, which covers utility costs. The utilities keep the discounted portion of the supplier receivables to cover billing, collections, and system costs. The utility is required to pay the discounted amount to the supplier within five days after its customer's due date, regardless of the timing or amount of the customer's payment. The POR discount rate is typically on the order of 0-2%. In recent years, concerns over the operation of the POR mechanism and its impacts on the retail supply market have been raised, and this is discussed in further detail below.

Since 2013, the amount of total retail choice peak load obligation has decreased, with a majority of the decrease coming from residential customers. The large commercial electricity market has since stabilized at about 88% of customers and 94% of load as of 2023. Thus, the change in industrial customer retail participation since 2013 has been small relative to the residential market because the majority of commercial and industrial customers have already selected a supplier other than default SOS.<sup>40</sup>

In November 2018, 46% of the total peak load in Maryland's five largest utilities was provided by retail choice suppliers. As of November 2023, this number has decreased to 41% of peak load being served by retail choice suppliers. As noted previously, much of the industrial and large commercial load switched during the previous years of competition. Residential and small commercial markets made significant gains in percent of competitive peak load from 2008 to 2013, moving from 3% to 28% and 20% to 40% respectively. However, these figures have steadily dropped in the period between 2013 and 2023 from 28% to 13% and 40% to 29% respectively.

<b>Number of Customers Served by Competitive Electricity Suppliers - November 2008</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Allegheny Power	26	3,574	2,465	108	6,147	<b>6,173</b>
Baltimore Gas and Electric	27,870	15,626	12,433	614	28,673	<b>56,543</b>
Delmarva Power & Light	1,101	3,363	2,050	86	5,499	<b>6,600</b>
Potomac Electric Power	27,360	7,816	7,613	488	15,917	<b>43,277</b>
<b>Total</b>	<b>56,357</b>	<b>30,379</b>	<b>24,561</b>	<b>1,296</b>	<b>56,236</b>	<b>112,593</b>

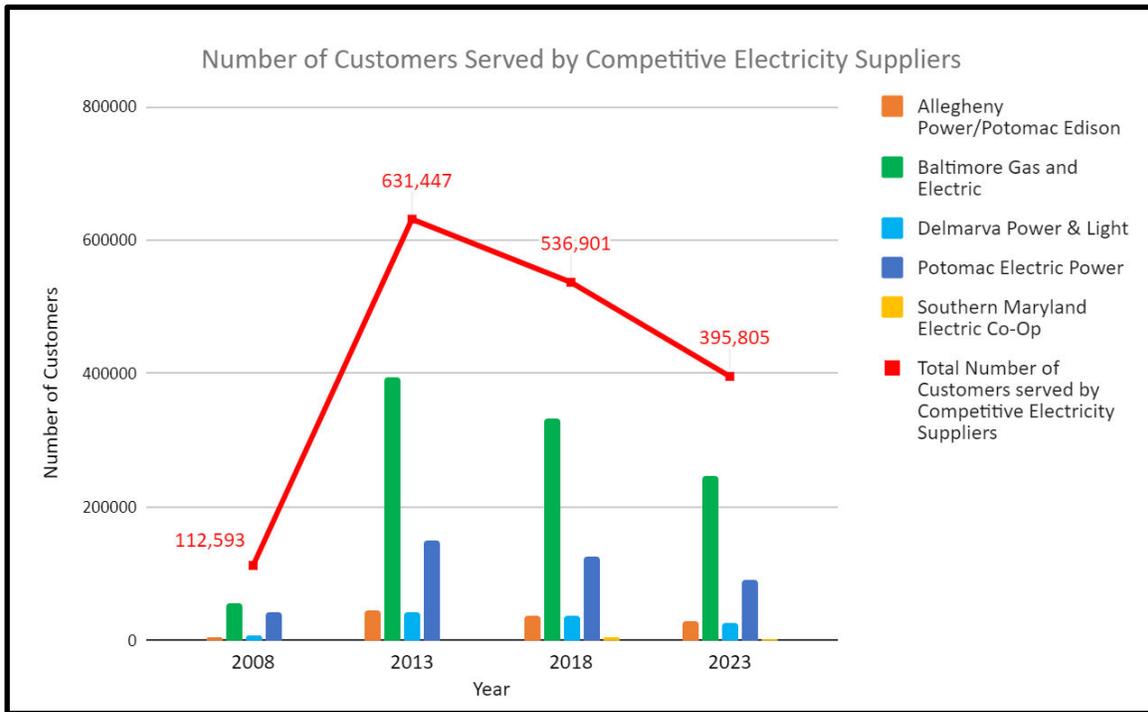
<sup>39</sup> COMAR does permit utilities to pay suppliers through a pro-rata option, under which the utilities would divide customer payments between the utility and the supplier. Utilities were given both choices, but none chose to use pro-rata payment to suppliers.

<sup>40</sup> The only SOS still available to a customer whose peak load contribution is greater than 600 kW is Hourly-Priced Service, in which the price paid by the customer tracks the hourly Locational Marginal Prices ("LMP") charged by the PJM Interconnection LLC.

<b>Number of Customers Served by Competitive Electricity Suppliers - November 2013</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Potomac Edison (formerly Allegheny Power)	32,709	7,807	3,368	100	11,275	<b>43,984</b>
Baltimore Gas and Electric	336,684	39,622	17,477	609	57,708	<b>394,392</b>
Delmarva Power & Light	30,938	9,672	3,033	79	12,784	<b>43,722</b>
Potomac Electric Power	126,920	12,229	9,731	469	22,429	<b>149,349</b>
<b>Total</b>	<b>527,251</b>	<b>69,330</b>	<b>33,609</b>	<b>1,257</b>	<b>104,196</b>	<b>631,447</b>

<b>Number of Customers Served by Competitive Electricity Suppliers - November 2018</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Potomac Edison (formerly Allegheny Power)	26,153	7,982	3,730	101	11,813	<b>37,966</b>
Baltimore Gas and Electric	280,023	36,969	16,200	491	53,660	<b>333,683</b>
Delmarva Power & Light	24,250	8,719	3,031	61	11,811	<b>36,061</b>
Potomac Electric Power	102,947	11,281	9,991	483	21,755	<b>124,702</b>
Southern Maryland Electric Co-Op	4,187	172	129	1	302	<b>4,489</b>
<b>Total</b>	<b>437,560</b>	<b>65,123</b>	<b>33,081</b>	<b>1,137</b>	<b>99,341</b>	<b>536,901</b>

<b>Number of Customers Served by Competitive Electricity Suppliers - November 2023</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Potomac Edison (formerly Allegheny Power)	16,903	8,176	3,757	97	12,030	<b>28,933</b>
Baltimore Gas and Electric	197,697	32,964	15,502	495	48,961	<b>246,658</b>
Delmarva Power & Light	14,671	8,069	3,327	67	11,463	<b>26,134</b>
Potomac Electric Power	71,630	9,325	9,677	435	19,437	<b>91,067</b>
Southern Maryland Electric Co-Op	2,657	246	109	1	356	<b>3,013</b>
<b>Total</b>	<b>303,558</b>	<b>58,780</b>	<b>32,372</b>	<b>1,095</b>	<b>92,247</b>	<b>395,805</b>

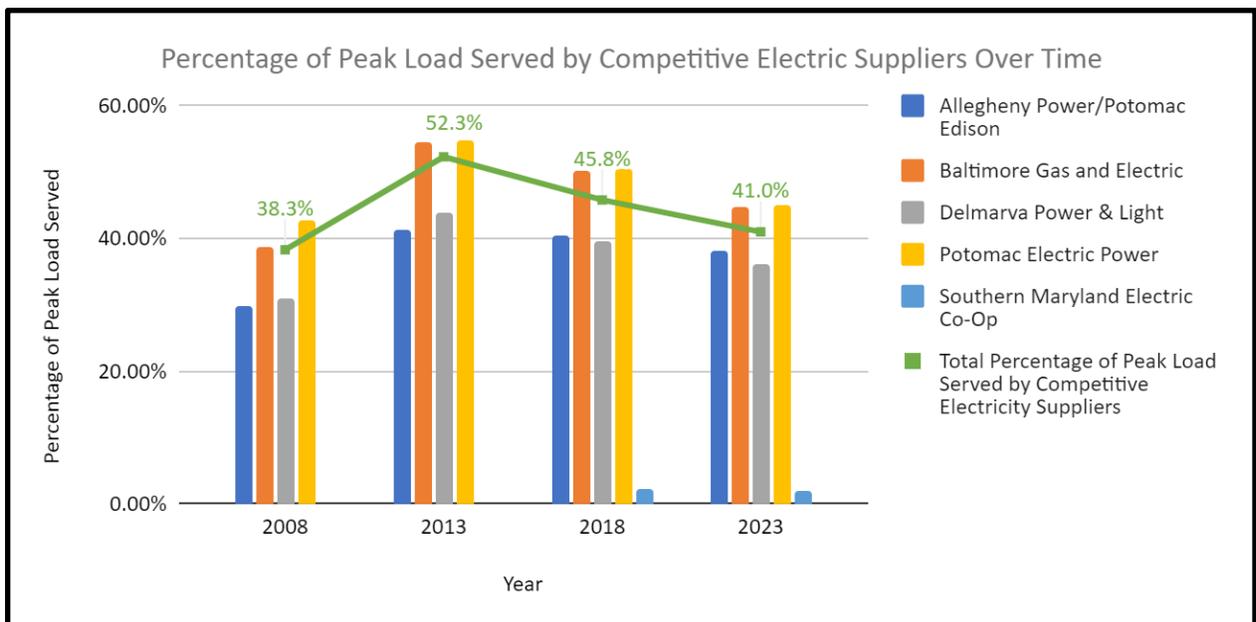


<b>Percentage of Peak Load Served by Competitive Electricity Suppliers - November 2008</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Allegheny Power	0.0%	18.7%	56.1%	84.4%	63.8%	<b>29.8%</b>
Baltimore Gas and Electric	2.7%	18.2%	63.7%	95.9%	72.5%	<b>38.6%</b>
Delmarva Power & Light	0.8%	22.7%	61.4%	95.0%	64.4%	<b>31.0%</b>
Potomac Electric Power	6.8%	25.3%	65.8%	64.4%	74.3%	<b>42.8%</b>
<b>Total</b>	<b>3.3%</b>	<b>20.4%</b>	<b>63.4%</b>	<b>94.3%</b>	<b>71.6%</b>	<b>38.3%</b>

<b>Percentage of Peak Load Served by Competitive Electricity Suppliers - November 2013</b>						
<b>Distribution Utility</b>	<b>Residential</b>	<b>Small C&amp;I</b>	<b>Mid C&amp;I</b>	<b>Large C&amp;I</b>	<b>All C&amp;I</b>	<b>Total</b>
Potomac Edison (formerly Allegheny Power)	15.4%	27.6%	66.6%	89.1%	70.0%	<b>41.3%</b>
Baltimore Gas and Electric	31.6%	40.1%	73.7%	95.0%	79.0%	<b>54.5%</b>
Delmarva Power & Light	20.2%	45.2%	71.7%	96.5%	73.5%	<b>44.0%</b>
Potomac Electric Power	27.2%	45.7%	72.7%	91.1%	79.0%	<b>54.7%</b>
<b>Total</b>	<b>27.7%</b>	<b>39.9%</b>	<b>72.5%</b>	<b>93.3%</b>	<b>77.7%</b>	<b>52.3%</b>

Percentage of Peak Load Served by Competitive Electricity Suppliers - November 2018						
Distribution Utility	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
Potomac Edison (formerly Allegheny Power)	10.9%	31.6%	72.5%	94.2%	75.6%	40.4%
Baltimore Gas and Electric	24.9%	35.3%	75.7%	97.7%	79.2%	50.1%
Delmarva Power & Light	15.2%	41.7%	70.7%	97.6%	72.9%	39.7%
Potomac Electric Power	20.1%	43.9%	76.0%	93.6%	81.5%	50.5%
Southern Maryland Electric Co-Op	2.7%	2.3%	1.9%	0.2%	1.6%	2.3%
<b>Total</b>	<b>20.0%</b>	<b>35.6%</b>	<b>71.3%</b>	<b>94.1%</b>	<b>75.9%</b>	<b>45.8%</b>

Percentage of Peak Load Served by Competitive Electricity Suppliers - November 2023						
Distribution Utility	Residential	Small C&I	Mid C&I	Large C&I	All C&I	Total
Potomac Edison (formerly Allegheny Power)	6.7%	34.2%	75.7%	95.8%	79.0%	38.0%
Baltimore Gas and Electric	16.6%	28.7%	74.2%	96.7%	77.7%	44.6%
Delmarva Power & Light	8.4%	35.1%	73.1%	99.8%	74.5%	36.0%
Potomac Electric Power	13.2%	32.9%	74.0%	90.7%	78.5%	45.0%
Southern Maryland Electric Co-Op	1.6%	2.4%	3.6%	1.6%	3.1%	2.0%
<b>Total</b>	<b>13.1%</b>	<b>29.1%</b>	<b>71.0%</b>	<b>93.6%</b>	<b>75.1%</b>	<b>41.0%</b>



## *Activity Since 2018*

The Commission has used a series of litigated proceedings and settlements, rulemakings, and working groups to develop Electric Choice. Changes to regulations and tariffs relating to Electric Choice have been implemented using technical working groups and the Commission's administrative and rulemaking processes to address ongoing issues and changes to retail choice.

### The Competitive Market and Customer Choice Workgroup:

The Commission held public proceedings (in Public Conference 44 or PC44), and created five stakeholder work groups to explore topics related to the grid of the future, one of which, the CMCC Work Group, is intended to address competitive markets and customer choice. This Work Group has submitted various reports that address issues such as data access, companies that act as "energy consultants," customer protections, instant connects,<sup>41</sup> seamless moves,<sup>42</sup> modification of offers posted on the Commission website, budget billing, and background checks. These reports have led to various rulemaking sessions with final rules adopted on February 6, 2019 as published in the *Maryland Register*.<sup>43</sup> The final approved rules address customer protection issues such as clarifying the switching period for non-residential customers, requiring suppliers to honor the more favorable offer to a customer when offers displayed on the Commission's website and the supplier's website do not match, and amended requirements of the criminal history check required to be performed by supplier agents conducting door to door activities.<sup>44</sup>

The Commission did not adopt rules that would have required the utilities to implement instant connections and seamless moves. However, on March 31, 2021, the General Assembly passed legislation requiring electric utilities to accommodate seamless moves for retail electric supply service, beginning July 1, 2022. On December 10, 2021, the CMCC work group finalized a consensus, model business process plan with details on how the electric utilities would propose to implement the seamless moves requirement through utility tariffs. The utilities made tariff filings in early 2022, prior to the July 1 deadline. The Commission considered and approved the seamless move tariffs in the absence of any stakeholder objections.

### Supplier Consolidated Billing:

Since 2018, various efforts have been underway to implement Supplier Consolidated Billing (SCB) for retail suppliers through work conducted in Case No. 9461, Rulemaking 70, and the Supplier Consolidated Billing Workgroup. Implementing SCB would create a mechanism that allows for customers to receive a single bill from their supplier inclusive of all applicable

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<sup>41</sup> "Instant Connect" refers to the initiation of a customer's retail choice supply service on the first day of new utility service, without the customer first having to rely on the utility's default standard offer service.

<sup>42</sup> "Seamless Moves" refers to the ability of a customer's choice of supplier to move with the customer to a new service address within the same service territory, without interruption.

<sup>43</sup> Maillog No. 223895, COMAR Rulemaking Session 131 February 6, 2019 (Minutes of Rulemaking Session)

<sup>44</sup> Maryland Register, Volume 45, Issue 25, Dec. 7, 2018. pp. 1215 - 1218.

charges rather than a utility bill. On September 7, 2017 a coalition of various retail supply companies filed a petition with the Commission requesting the Implementation of Supplier Consolidated Billing for Electricity and Natural Gas supply in Maryland.<sup>45</sup> By letter order issued on September 15, 2017, the Commission initiated a new docket, Case No. 9461, to consider the petition, and requested comments on the petition. After considering this matter in a legislative-style hearing, the Commission issued Order No. 89116 on May 7, 2019, authorizing supplier consolidated billing and established a workgroup to propose a timeline and develop implementation guidelines.

On September 23, 2020, the Commission's Technical Staff filed a petition for rulemaking including proposed revisions to the Code of Maryland Regulations (COMAR) in Sections 20.51, 20.53, 20.54 and 20.59, proposed billing processes, and a detailed explanation of the workgroup's progress. The Commission voted to approve the proposed regulations, with certain modifications on March 10, 2021, and the regulations were approved as final at a rulemaking session on February 3, 2022 and were considered effective as of March 7, 2022.

The SCB work group has continued to meet throughout 2022 and 2023 to determine technical implementation of the rules so that the market can begin providing SCB. This includes the development of the electronic transactions that gas and electric utilities and suppliers will use to send bill and payment information back and forth under the approved Commission regulations, as well as cost recovery by the utilities.

#### Purchase of Receivables Reform:

The Commission received a petition from the Maryland Energy Advocates Coalition (MEAC) related to recent concerns over the operation of the POR mechanism for UCB and its impacts on the retail supply market. This petition was filed by MEAC on June 2, 2023, and petitioned for a Commission rulemaking as well as the establishment of a Commission Public Conference to initiate proceedings to modify Code of Maryland Regulations<sup>46</sup> in order to eliminate the purchase of receivables by investor-owned electric and natural gas utilities in Maryland. 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.<sup>47</sup>

The Commission issued a notice of petition and request for comments on the issue as well as comments on other retail market reforms on August 2, 2023. As of the writing of this report, the Commission has not taken a position on the efficacy of the issues raised in the petition and is

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<sup>45</sup> *Petition of NRG Energy, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; 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* In Case No. 9461 on September 7, 2017.

<sup>46</sup> COMAR Sections 20.53.05.06 and 20.59.05.03.

<sup>47</sup> MEAC Petition, Maillog No. 303295, pp. 1 - 2.

currently considering potential next steps to address MEAC's petition and additional parties' concerns.

Supplier Enforcement and the Dispute Resolution Process:

Regarding supplier enforcement actions, the Commission enforces its regulations and addresses complaints by customers of retail suppliers through a variety of approaches. To initiate the dispute resolution process,<sup>48</sup> a customer must first file their complaint with the Commission's Consumer Affairs Division (CAD). CAD is the department within the Commission responsible for the investigation and resolution of complaints against regulated companies in accordance with applicable laws, regulations, and tariffs. Maryland law allows the Commission to regulate aspects of supplier marketing practices, but not the rates that suppliers charge their customers. CAD collects and tracks information regarding complaints received to identify broader patterns of regulatory noncompliance. Any party to a complaint that is not satisfied by the decision of CAD may request further review, in which CAD's Assistant Director may review the existing evidence or conduct additional investigation as appropriate. The Assistant Director's disposition may be appealed to the Commission.

The Commission balances its dual statutory obligations to protect consumers from abusive practices while also ensuring that Maryland customers can exercise their choice to obtain the benefits of a properly functioning retail supply market. The ability to bring enforcement actions against suppliers that exhibit patterns of regulatory noncompliance is a necessary component to achieving that balance. When, in CAD's assessment, a company demonstrates a pattern of noncompliance, CAD makes a recommendation to initiate an enforcement action, and a docketed proceeding in front of the Commission is established. A list of enforcement actions from 2010 through the present can be found in the table below. As parties may avail themselves of the right to judicial review of Commission decisions to circuit and appellate courts, some enforcement actions may take extended time to close.

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<sup>48</sup> COMAR 20.32.01.04.

Case #	Company	Date Opened or Reopened	Date Closed	Duration (Days)	Civil Penalty
9691	Greenlight Energy	2/14/2023	4/20/2023	65	\$ 40,000.00
9647	SunSea Energy	2/13/2023	-		
9690	SFE Energy	1/26/2023	12/29/2023	337	\$ 150,000.00
9661	StateWise Energy	12/10/2020	1/11/2022	397	\$ 150,000.00
9647	SunSea Energy	6/4/2020	8/18/2021	440	\$ 400,000.00
9624	Atlantic Energy	5/15/2019	6/15/2021	762	\$ 250,000.00
9615	Maryland Gas & Electric	5/15/2019	-		
9614	Direct Energy	5/15/2019	-		
9617	Smart One Energy	5/10/2019	3/6/2020	301	\$ 561,000.00
9613	SmartEnergy	5/10/2019	-		
9382	Blue Pilot Energy	5/29/2015	4/28/2016	335	\$ 57,000.00
9347	Maryland Gas & Electric	4/1/2014	11/5/2014	218	\$ 2,500.00
9346	American Power Partners	4/1/2014	12/17/2014	260	\$ -
9346	Blue Pilot Energy	4/1/2014	12/1/2016	975	\$ 140,000.00
9346	Xoom Energy	4/1/2014	12/1/2016	975	\$ 40,000.00
9346	Major Energy	4/1/2014	2/26/2016	696	\$ 300,000.00
9324	Starion Energy	5/13/2013	3/7/2014	298	\$ 350,000.00
9255	Viridian Energy	1/26/2011	6/12/2012	503	\$ 60,000.00
9253	North American Power & Gas	1/14/2011	6/9/2011	146	\$ 100,000.00

One of the keys to CAD’s ability to continue to be effective in monitoring compliance is the recent acquisition of a cloud-based complaint data management system (CDMS). This CDMS launched in February 2022 and contains data through the present as well as data from our legacy system from 2018 through the February 2022 launch. Prior to the CDMS launch, CAD’s customer complaint information was stored in a database created in Microsoft Access. That system was outdated and, following data migration to the new CDMS, was taken offline and retired.

CAD investigates each individual complaint it receives, and in 2023 CAD conducted nearly 2,500 investigations. On a broader scale, CAD utilizes its CDMS to monitor supplier compliance by evaluating trends by company, by ZIP code, or by issue.

On February 1, 2023, the Commission launched a six-month initiative of “Maximum Enforcement” in which the Commission dedicated additional resources to investigate and prosecute retail suppliers. This action was the direct result of the Commission receiving a sudden and dramatic increase in complaints against suppliers. The goal of the Maximum Enforcement effort was to marshal more internal resources to investigate and, if necessary, prosecute retail energy suppliers who were failing to abide by the state’s laws and regulations. It also used these resources and expedited procedures to, when necessary, invoke civil penalties and/or consider revocation of supplier licenses.<sup>49</sup> During this time period, the Commission adjudicated cases against retail suppliers which resulted in the suspension of retail supply licenses, the halting of

<sup>49</sup> Commission Press Release Major Retail Energy Supplier Ordered to Halt Enrollment of New Customers on March 24, 2023.

supplier marketing practices, and the issuance of substantial civil penalties to the suppliers the Commission found had engaged in abusive practices.<sup>50</sup>

As a result of the multi-division collaboration on Maximum Enforcement, CAD's supplier complaint intake numbers returned to levels at or below its historic average. Comparing the first quarter of the 2023 calendar year to the third quarter, complaints against suppliers decreased by 61%. For the three suppliers that incurred the most complaints during the first quarter of 2023, complaints against these suppliers dropped from 79 in the first quarter, to 14 in the third quarter, a decrease of 82%. Enforcement and noncompliance remediation are effective; however, there are difficulties in the ability to sustain Commission staff's time commitment, across multiple divisions, to rigorously pursue these matters for a significant duration while balancing other competing commitments.

#### Low-Income Retail Supply Offers:

On May 30, 2021, Maryland enacted Chapter 637 of the Laws of Maryland (2021), amending PUA §4-308. The Commission was required to establish an administrative process to approve supply offers (the contract between a customer and supplier) for electricity or gas for households in the State that receive energy assistance through a program administered by the Maryland Department of Human Services' Office of Home Energy Programs (OHEP). The law provides minimum standards for approved supply offers and further provides restrictions on the ability of suppliers without an approved offer to do business with customers who are currently or have within the prior fiscal year received assistance through OHEP-administered programs. It also requires the Commission to publish an annual report that includes, among other things, the total number of submitted supplier enrollments that were denied because the supplier was not approved to service energy assistance households, as reported by the utility. The Commission through Public Conference 55 and Rulemaking 78 established the regulations to implement this law. No supplier has yet applied to the Commission for approval of a contract that allows the supplier to provide energy under the law; thus, no supplier should have entered into a contract after July 1, 2023 to provide customers identified as OHEP recipients in the current or previous fiscal year.

#### Maryland Energy Choice Websites:

In March 2020, the Commission launched the Maryland Electric Choice website, [MDElectricChoice.com](http://MDElectricChoice.com). This website was required by Senate Bill 517 in the 2019 Session of the Maryland General to launch by October 1, 2020.<sup>51</sup> In September 2020, the Commission launched a companion shopping website for gas customers, [MDGasChoice.com](http://MDGasChoice.com), followed in October 2021 by a landing page, [MDEnergyChoice.com](http://MDEnergyChoice.com), linking residential utility customers to both sites. The websites were launched with the specific intention to help residential utility customers learn more about their energy supply options and make informed decisions when choosing whether to

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<sup>50</sup> Case No. 9647, Complaint of the Maryland Office of People's Counsel against SunSea Energy LLC.; Case No. 9690, Complaint for Show Cause Against SFE Energy Maryland; Case No. 9691, Complaint of the Staff of the Public Service Commission of Maryland against Greenlight Energy Inc.

<sup>51</sup> Enacted as PUA §7-510.2.

get their energy supply from their utility or a retail supplier. The energy choice websites feature a comparison of supplier rates, outline the rules suppliers must follow, and display what customers should know before signing a contract with an energy supplier.<sup>52</sup>

## **Conclusion**

Within Maryland, Standard Offer Service and the competitive electricity market have evolved since 2008 and have continued to develop in the past five years. While the Commission, by statute, does not regulate supplier rates, the Commission takes seriously its responsibility to guide the development of the market, including the vigorous exercise of its enforcement powers. In the past five years, the Commission has been particularly active in enforcing its existing rules and regulations, as well as creating new ones. This has been apparent by the Commission's actions since 2018 including but not limited to: Public Conference 55 (PC55), Case No. 9461/RM70 - Supplier Consolidated Billing (SCB), Maximum Enforcement of Retail Suppliers, the current consideration of Purchase of Receivables (POR) reform, as well as the efforts of the various Commission Work Groups. The Commission continues to advance work for both Standard Offer Service and the competitive retail electric market while continuing to consider the findings of reports by ratepayer advocates and other interested parties. In continuing these efforts, the Commission aspires to create an exceptional energy environment within the State of Maryland.

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<sup>52</sup> Maryland Public Service Commission Press Release on October 4, 2021 Maryland PSC Unveils New Tools to Assist Energy Shoppers. Additional information can be found at: <https://www.mdenergychoice.com/>