BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE	)	
DEVELOPMENT AND DESIGNATION	)	
OF STANDARD OFFER SERVICE IN	)	FC 1017
THE DISTRICT OF COLUMBIA	)	

COMMENTS OF NRG ENERGY, INC.

NRG Energy, Inc. ("NRG") welcomes the opportunity to comment on the Commission's June 24, 2016 Order No. 18257 resuming its "review of the process for providing Standard Offer Service ("SOS") in the District of Columbia." NRG owns three companies licensed by the Commission to serve retail customers in the District of Columbia: NRG Home, Green Mountain Energy Company, and Energy Plus Holdings LLC. NRG is one of the country's largest power generation and retail electricity supply businesses. NRG owns and operates approximately 50,000 megawatts of generating capacity and its retail businesses serve nearly three million customers across more than a dozen states. NRG's retail companies have more than 25 years combined experience with retail energy competition and customer service. NRG's northeast retail business is headquartered in Philadelphia, Pennsylvania.

As noted in its Order, the Commission has the statutory authority to: (1) conduct competitive bid procedures for the selection of a retail electricity supplier or suppliers to provide SOS to the residents and businesses of the District of Columbia; (2) authorize the Potomac Electric Power Company ("Pepco"), as a wholesale electricity supplier, to conduct competitive bid procedures to obtain third-party contracts to provide SOS; or (3) employ both options.[1] To

[1] Formal Case No. 1017, *In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia* ("Formal Case No. 1017"), Order No. 18257 (June 24, 2016).

date, the Commission has employed a "wholesale" model in which Pepco, as the SOS Administrator, conducts competitive bidding to obtain electricity supplies from third-parties, but continues to administer SOS itself. In resuming its review of the SOS process, the Commission – among other things – now seeks comments on whether Pepco should continue to act as the SOS Administrator or whether the Commission should conduct bid procedures for the selection of a retail electricity supplier or suppliers to provide SOS to District residents and businesses.

Robust Retail Electricity Competition Benefits Consumers

NRG wholeheartedly supports the Commission's efforts to explore a retail model – where Pepco is removed as the SOS Administrator – as a "means to ensure that the price for SOS will not hinder the development of a competitive retail electricity supply market in the District . . . ."[2] The current wholesale SOS supply structure is a serious barrier to retail competition – just 12.7% of the residential customer load is shopping 15 years after the start of retail competition.[3] NRG's comments describe how the Commission could transition the current SOS structure to a retail SOS model, what that model should look like, and how the Commission might continue that transition further to create a fully competitive retail electricity market in the District so that customers realize the benefits that only a fully competitive retail electricity market can deliver.

Removing Pepco as the SOS provider in favor of retail supplier-provided SOS would put the District firmly on a path to a fully competitive retail electricity market structure. Successes in other markets – notably the Texas retail market – demonstrate that competition thrives when the utility is not the default service provider and default service is eliminated, and NRG has long

[2] Id. (citing D.C. Code §§ 34-1509(c), (d)(1)(A), and (e) (2012 Repl.)).
[3] *Status of Electric Retail Choice in the District of Columbia*, Public Service Commission of the District of Columbia, http://www.dcpsc.org/PSCDC/media/PDFFiles/Electric/electric_sumstats_cust_energyuse.pdf, June 2016.

supported this market design.[4] The District's current SOS structure is based on laddered, long-term supply procurements and produces a "boom-bust" market for both customers and suppliers, limiting how customers view and ultimately experience the benefits of the competitive retail market. Moreover, the systematic comparison to a "Price-to-Compare ("PTC")" that is based on laddered, long-term supply contracts further masks the benefits that a truly competitive retail market can deliver.[5]

The current market structure ensures that SOS rates will diverge from market prices over time (either up or down). As a result, retail suppliers view the market in the District as presenting only *intermittent* opportunities to attract customers, making it generally unattractive for suppliers to invest in the marketplace and consequently hindering customers' ability to experience the plethora of options that would otherwise be available from competitive suppliers. This may not seem like a significant problem to certain customers when SOS rates are low compared to the market price for electricity. It is, however, a major problem when SOS rates are high compared to the market price and those same customers have few or no competitive options that allow them to lower their electricity costs or to experience other benefits from the competitive marketplace. As outlined below, this structure must change to unshackle the innovation and benefits that are possible when the electricity market is allowed to function like all other commodity markets and suppliers compete against one another rather than against an administratively-determined SOS rate.[6]

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[4] See, e.g., *Comments of NRG Energy Inc*., Investigation of Pennsylvania's Retail Electricity Market, Docket No. I-2011-2237952, June 3, 2011.

[5] PTC comparisons encourage customers to consider only price when comparing competing offers that may offer additional value and inhibits an "apples-to-apples" comparison between competing offers – for example, Pepco's PTC reflects a "plain vanilla" SOS rate, whereas a value-added product or service offerings may have a higher price reflecting other valuable attributes of the offer.

[6] For example, in Texas, NRG's retail affiliate, Reliant, offers various innovative products and services including time of use and demand response plans (some of which include a Nest thermostat), flat bill plans, pre-payment plans, home security plans, net metering credit plans, etc.

The changes in the SOS pricing structure that need to occur are not limited to the SOS offered to residential or smaller commercial customers. The one-year SOS contracts in place to serve large commercial and industrial customers must also evolve to bring these customers the benefits of the competitive market that will continue to grow and develop as the market becomes more sustainable.

Moreover, the recent movement towards empowering customers with more real-time information about their electricity usage demonstrates customers' increasing desire for more knowledge about and control over when, and how, they consume electricity. For example, NRG retail affiliate, Reliant, offers a demand response product to customers in called Texas "Degrees of Difference." With Degrees of Difference, customers have the ability to receive a bill credit for using less electricity than normal during high demand hours. Degrees of Difference customers receive email or text alerts about upcoming periods of high electricity demand so they can reduce their usage.

Theoretically, utilities can deliver some of these benefits to customers via time of use offerings; however, competitive suppliers have much stronger incentives, as well as the appropriate entrepreneurial mindset, to develop and rapidly bring to market innovative ways to assist customers in taking advantage of these unique opportunities. Unlike utilities that have been given decades to realize this customer need and failed to appropriately respond with innovative options, competitive suppliers focus on meeting customer needs and reacting swiftly and aggressively to meet customer demands and changing market circumstances. If a supplier does not meet that demand, the customer will switch suppliers. There is no such incentive for a utility to react to customer needs in this manner or seek out the most cost-effective means to provide a competitive service. Utilities are the product of a cost-of-service regulatory environment with captive customers. Historical recovery of costs is based on a "reasonableness" standard. Thus, utilities did not have to be the most innovative or least expensive to recover costs incurred; the costs only had to be reasonable and necessary. In a robust competitive retail market, "reasonable and necessary" will not necessarily win the day. Allowing Pepco to provide SOS undermines the abilities of retail suppliers, who are used to a competitive standard to survive and thrive, to provide benefits to customers. Moreover, the overall costs to customers will be higher because "reasonable" will be good enough for utility cost recovery.

With Pepco out of the SOS provider role, competition will flourish as competitive suppliers will have incentives to develop value-added services and product offerings to meet their customers' needs and desires.[7] As stated above, competitive suppliers have strong incentives to attract and retain existing customers to maximize the lifetime value of the consumer to capture market share and enhance profitability. This is accomplished through better understanding of customer desires (*e.g.*, recognizing that customers are different and developing products that address customers' preferences: length of fixed price term, renewable energy, demand response, smart energy, quicker response times, eliminating busy signals, and so forth). In short, robust retail competition aligns the industry value chain with the customer as competitive suppliers have strong incentives to satisfy customer demand for supply and services.

Relieving Pepco of the SOS Administrator role will enable Pepco to focus on its core competencies and obligations for reliability and safety and focus its limited resources on the infrastructure investment needed to modernize and maintain its transmission and distribution system.

[7] As discussed more fully below, a key to suppliers making such offers is suppliers having the ability to bill customers directly for both their own and Pepco's services through supplier consolidated billing.

Transition Planning

Such a fundamental shift requires a rational and well-planned transition. To that end, NRG offers a work plan that includes both a transition phase and a competitive market "end-state" for the Commission's consideration. NRG believes that a phased approach to reaching a fully competitive "end-state" is necessary for at least three key reasons: (1) it gives customers time to learn about choice and gain experience with taking electricity service from entities other than Pepco; (2) it provides the parties time to address the complex issues that require stakeholder input and resolution; and (3) it allows for the identification and implementation of both Pepco's and retail suppliers' systems and programmatic changes needed to implement the proposed "end-state." These transitional steps will ultimately prove to be the most economically efficient in bringing the benefits of a robust competitive retail market to all consumers in the District. Furthermore, by transitioning to an "end-state" that allows the entities best suited to developing and delivering the innovative products and services customers demand – competitive retail suppliers – Pepco will be better positioned to focus its resources on providing safe and reliable distribution and transmission service to all District ratepayers.

The work plan described below is intended to achieve the following: (1) establish a Transitional SOS ("TSOS") structure that allows retail suppliers to step into the role of providing SOS for a period of two years; (2) provide a vision of the desired "end-state" in which SOS is eliminated and retail suppliers provide "backstop" service to customers whose supplier leaves the market; (3) identify the key issues that will require stakeholder collaboration/resolution during the implementation planning phase that will occur prior to the implementation of the desired "end-state." NRG provides a summary of the key responsibilities for Pepco, suppliers and stakeholders and a timeline for the proposed transition in **Attachment A**.

Transitional Standard Offer Service

Replacing Pepco as the SOS provider and engaging retail suppliers to fulfill that role is very achievable. NRG recommends the Commission provide clear direction to the parties by setting out a framework for a transitional SOS structure. To assist the Commission in laying out that framework, NRG proposes the following for the residential and small commercial customer rate classes:

- Establish a date certain (transition date) upon which the market will transition from the current wholesale SOS structure to TSOS. This transition date must be set far enough in advance to allow for adequate planning and, most importantly, customer education, to ensure a smooth transition occurs. NRG recommends June 1, 2019.

- Customers who have elected not to choose a new supplier by May 1, 2019 will be transitioned to a TSOS Provider ("TSOSP") on the transition date (June 1, 2019). An objective, fair process will be used to transition customers to a TSOSP on the transition date.

- A competitive selection process should be used to identify TSOSPs. For example:
    - The Commission could hold a descending clock auction to select TSOSPs;
    - The TSOS auction would result in a minimum of four winning bidders;
    - Suppliers will bid to serve TSOS customer tranches of 10,000 customers each;
    - The four lowest bids win – no bidder may be awarded more than 25% of the number of tranches for each rate class.[8]

- A single transition price is established at the fourth lowest winning bid (assuming only four winners) that all winning TSOSPs will be required to charge to the customers assigned to them as a result of the transition. By requiring that all suppliers charge the same price, no customers are disadvantaged or negatively impacted as a result of being transitioned to any of the TSOSPs.

[8] NRG recommends that limits should be adopted on the number of customers that any single TSOSP can serve. Because all customers remaining on SOS as of May 1, 2019 will be transitioned to a TSOSP, and because the purpose of instituting a transitional SOS is to further promote the development of the competitive retail electricity market, different customer limits may be necessary depending on the rate class. For example, for the residential and small commercial customer classes, no single TSOS provider should be able to serve more than 25% of the SOS customers that exist on May 1, 2019. A single TSOS could be selected to serve all SOS customers (comprised of customers 100 kW and larger) that exist on May 1, 2019.

- Winning suppliers will provide TSOS for a two-year period beginning June 1, 2019. The competitive selection process should be conducted with sufficient time to allow customers to be transferred to winning TSOS providers beginning on the customer's first meter read date on or after June 1, 2019.

This competitive selection process has many advantages, including: (1) it is auditable;(2) the Commission can watch the auction happen in real time; (3) there are no closed bids where bidders are required to hold prices open for extended periods of time, which reduces risk premiums that are passed on to customers; (4) bidders will know right away if they win or not, and winners are able to lock in pricing very quickly; (5) the Commission can be assured that customers are getting competitive, market reflective prices. A descending clock auction process has been used by the New Jersey Board of Public Utilities for their wholesale default service auctions every year since the start of competition without problems. In addition:

- The transitional SOS product will be a 24-month price with semi-annual price adjustments indexed to a monthly NYMEX natural gas futures contract (averaged for six month periods) – similar to current seasonal price adjustments used by Pepco today, but highly formulaic so that all TSOSPs can calculate the same price; price adjustments happen January 1 and July 1. Enabling price adjustments is necessary given that the TSOSP must take any new customer throughout the TSOS period. TSOSPs must be able to manage that risk.

- Customers who shop with a supplier can return to a TSOSP at any time during the period TSOS is available. New and moving customers will also be permitted to elect TSOS or the product or service offering of their choice at the time of establishing service. In essence, TSOS will function in the same way as the current Pepco provided SOS.

- Between January 1 and June 1, 2019, Pepco should provide at least three notices to existing SOS customers informing them of the scheduled transition process and their options both prior to and as a result of the process.

- Pepco will continue to provide "backstop" provider of last resort service ("POLR") for customers whose supplier leaves the market or fails to perform.[9] Pricing for this product

[9] Should a TSOSP default, all customers assigned to the defaulting TSOSP will be allocated to the remaining TSOSPs.

should be a monthly variable indexed price. Recommendations for the precise methodology should be proposed by the Transition Stakeholder Work Group.

- In the period leading up to the transition date, the Commission would undertake a series of actions to enable the transition to occur. Such actions include:
    - **Pre-qualifying suppliers**: a set of specific and agreed-upon criteria, including participation of utility affiliates, and the ability of bidders to meet reasonable and necessary financial fitness and bonding criteria to serve in the TSOS role must be established and a process implemented to pre-qualify suppliers interested in bidding to become TSOS providers.
    - **Customer Education**: an aggressive customer education campaign should be developed and implemented to ensure customers are aware of the transition and what it means for them. The campaign should be paid for, at least in part, via a per customer fee collected from winning TSOSPs. At this time, NRG recommends that winning TSOSPs be required to pay a one-time $5.00 per customer fee to fund the customer education campaign.[10]
- Pepco will continue to offer consolidated billing service with POR, and suppliers will have the option to offer either dual billing or utilize supplier consolidated billing with POR.
- Pepco will maintain its customer call center; however, some of the functions of the call centers will change. For example, all new and moving customers that contact Pepco to initiate service will be asked to select either TSOS or a competitive retail supplier and Pepco will send such referrals to either the selected supplier, TSOSP, or randomly to suppliers who agree to take referred customers.
- Pepco will continue to provide its universal service program with a plan to transition the program to suppliers at the conclusion of the two year transition period.
- Net metering credits will continue to be provided to customers with qualifying generation, however, responsibilities for providing those credits should shift. For example, Pepco would continue to provide credits for distribution charges per the requirements of 15 DCMR § 902.3, while retail suppliers, rather than Pepco, would be required to provide credits to customers for any energy those facilities put onto the distribution grid at competitive prices similar to any other supplier product offer.[11]

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[10] NRG would expect the working group to consider and recommend an appropriate fee after also considering the elements and cost of an appropriate customer education campaign.

[11] 15 DCMR § 902 currently allows suppliers the *option* of providing net metering credits at their discretion as outlined in their supply agreements with customers. This section should be revised to require retail suppliers to make at least one product offer available that includes net metering credits to any customer who demands such a product.

- TSOSPs are free to market alternative products and services to customers taking TSOS service.

The above transitional process creates a level playing field for all qualified suppliers by allowing them to elect to participate/bid or not on the same terms. It empowers customers to realize the price benefits of a retail market and ensures that all TSOS customers are treated equally. And, it establishes a fair threshold market structure for suppliers to compete on both price and non-price services, and sets the District on a path to realizing a fully functioning, robust, sustainable competitive retail electricity market.

In addition, while a large percentage of the non-residential load has switched to a competitive supplier and is realizing the benefits of competition, 11% of the commercial customer load has not, for whatever reason, taken advantage of the opportunities before them. Therefore, a similar process should be developed for non-residential customers with pre-qualified TSOSP(s) who bid to provide service to these non-shopping commercial customers.[12] As explained above, until Pepco completely exits the SOS role for all customer classes and subsequently all customers are actively participating in the competitive market, a robust, sustainable market characterized by innovative, value-added product and service offerings will not develop.

Should the commission determine that moving to retail supplier-provided SOS is as far as they are willing to go at this time, or that more time is needed to transition to a fully competitive retail market, this auction process could easily be repeated so that every two years, an auction is held, a clearing price is established and customers are assigned to the winning TSOSPs.

[12] NRG recommends that the TSOS products for non-residential customers should be as follows: 12-month, fixed price service for all non-residential customers < 100 kW peak demand; hourly priced service for all non-residential customers 100 kW and larger.

However, NRG strongly encourages the Commission to proceed to the next "end-state" phase effective June 2021, as described below.

Competitive Retail Market "End-State"

At the conclusion of the two year TSOS period that ends on May 31, 2021, the TSOSPs' obligation to provide SOS would cease. Customers would no longer be able to choose SOS from either Pepco or a TSOSP. To ensure a smooth transition, TSOSPs would be required to notify customers who remain on TSOS at the end of the TSOS period that SOS is expiring. NRG recommends that at least two notices be sent, including an Initial Notice 45-60 days before the end of TSOS, and an Options Notice at least 30 days prior the end of TSOS. The content of such notices can be determined during the implementation phase of the proceeding, but could include the following:

- **The Initial Notice:** will provide the customer with a general description of how and why SOS is ending, the date that change will occur, and a statement that an Options Notice will be sent that will lay out the detailed options available to the customer.
- **The Options Notice**: will be provided by first class U.S. Mail and must explain the options available to the customer including the new offer(s) available to the customer and how to accept it, what will occur if the customer takes no action, and that the customer has the option of selecting a different supplier. Such notice should clearly specify the price per kWh and include a copy of the terms and conditions associated with the new "take no action" offer.

Pepco's obligation to provide "backstop" POLR service will end and the TSOSPs will become POLR suppliers and will be obligated to provide "backstop" POLR service to a customer whose chosen retail supplier has left the market or is unable to perform in its capacity as a retail supplier. The POLR product that the supplier will offer will be a monthly variable product indexed to PJM's PEPCO-DC LMP[13] that includes no penalties for switching. POLR suppliers should be encouraged to work with customers to ensure they are enrolled on a product that best meets their needs, prior to their being placed on POLR service if possible. In addition:

- Pepco would cease to provide any billing service directly. Pepco may (but would not be required to) transfer its billing and customer service functions into a structurally-separated affiliate and offer those services to the market at large at competitive prices. Costs for billing services and customer service operations unrelated to the utility's distribution function would be removed from Pepco's distribution rates, without regard to whether the Pepco has chosen to form a competitive billing and customer service affiliate.
- Suppliers would be responsible for providing supplier consolidated bills to customers. Alternatively, suppliers may contract with a third party agent to provide those services on their behalf (similar to what suppliers to today by paying fees to Pepco for billing services).
- Suppliers would be required to purchase Pepco's receivables at zero discount rate within five (5) days of receiving an invoice from Pepco and would be precluded for imposing any charges for billing services.
- Suppliers will assume responsibility for providing universal service to low income customers, including Pepco's Residential Aid Discount ("RAD") program.

Stakeholder Collaborative – Implementation Planning

The proposed transition outlined above – both to TSOS and the competitive retail market "end-state" – requires input from various stakeholders to ensure that all issues that are impacted by such a transition are identified and addressed. NRG recommends that, upon deciding to move forward with TSOS, the Commission direct Commission Staff to convene a Transition Stakeholder Work Group to develop a comprehensive Transitional Standard Offer Service Plan ("Plan") that includes: (1) a supplier qualification process (including technical and financial standards); (2) limits on the number of customers winning TSOS can serve; (3) an

[13] The ultimate price to consumers would be an indexed energy price plus Capacity, NITS, Ancillaries and Administrative Adder. Capacity, NITS, and Ancillaries would be pass-through charges and suppliers would compete on the Adder.

implementation timeline; (4) a competitive selection process to designate TSOSPs; (5) a plan for transitioning current SOS customers to the newly designated TSOSPs; (6) changes required to implement supplier consolidated billing; and (7) identification of additional issues that require resolution to transition to an "end-state" when TSOS ends. The Plan should be submitted for Commission approval no later than December 31, 2017. The Plan should be divided into two parts or phases – Phase I should address issues and plans for transitioning to TSOS (i.e., 2017 – May 31, 2019), while Phase II should address the issues and plans that will be required to reach the "end-state" effective June 2021). The winning suppliers will provide TSOS for a two year period commencing June 1, 2019 and extending until May 31, 2021. This two-year transition period will provide a reasonable time frame to allow for additional planning and implementation of any longer term changes required to achieve NRG's proposed "end-state".

The proposed Plan timeline should also include a customer education campaign that includes a plan for informing customers about the impending changes to SOS, their need to choose a supplier by May 1, 2019, and the transition to a Commission approved TSOSP for customers who choose not to make an election. The two year TSOS period will provide electricity consumers with the opportunity to become more educated about their choices, gain experience with taking service from retail suppliers, and allow the market to more fully develop.

A. Current Standard Offer Service Procurement Structure Revisions

In addition to the recommended transition planning proposed above, and in preparation for the transition to TSOS, starting with the next SOS procurement scheduled for March 2017, NRG recommends that the Commission direct Pepco to revise its Wholesale Full Requirements Service Agreement ("WFRSA") and Request for Proposals ("RFP") to redefine the wholesale supply product that prospective bidders will provide to ensure that all Pepco procured wholesale supply contracts end on May 31, 2019. **Attachment B** to this document illustrates a revised procurement plan that should be adopted for this transition. Requiring this modification will put the entire market on notice that as of June 1, 2019, SOS will become a retail supplier provided service for a two year transitional period, and that by June 1, 2021, the retail electricity market will be fully competitive.

1) Residential and Small Commercial Customer Procurement

It is NRG's understanding that currently SOS is procured through a Request for Proposal ("RFP") from wholesale suppliers to provide fixed-price, full requirements service. Each March, Pepco seeks electricity supply to serve one-third of the residential and small commercial load via thirty-six month contracts for delivery on June 1. A load-weighted average rate/kWh is then derived for each customer class that includes the newly procured supply and the existing two-thirds supply procured in the prior two years.

NRG proposes that starting with the March 2017 RFP, the term for the supply procured for the one-third of the load that expires on May 31, 2017 be shortened from thirty-six months to twenty-four months. Shortening this term has two benefits. *First*, it ensures that a slightly more market reflective price is folded into the load-weighted average rate/kWh that customers will receive (benefiting retail competition), and second, those contracts will expire on May 31, 2019 – facilitating the transition to TSOS described above. *Second*, for the RFP released in March 2018, we propose that the term for the supply procured for the one-third of the load that expires on May 31, 2018 be shortened from thirty-six months to twelve months, making the rate/kWh yet more market reflective and facilitating the transition to TSOS on June 1, 2019. Gradually shortening the terms of the SOS supply contracts procured by Pepco will benefit SOS customers since, as the SOS rate becomes more market reflective, customers will very likely experience access to more competitively priced offers from retail suppliers, prompting more customers to shop and reducing the number of customers that will need to be transitioned to TSOS on June 1, 2019.

2) Large Commercial Customer Procurement

Non-shopping large commercial customers currently are served by Pepco under twelve-month, fixed price, full requirements service. Supply is procured annually (each March) to serve 100% of the non-shopping large commercial customer load in this segment. These customers also have the option of taking service directly from the SOS Administrator – in this case, Pepco – under market based pricing (i.e., hourly priced service).

For this customer class, NRG has two recommendations. *First*, NRG proposes no change to the term for the supply procured to serve this customer load. It is reasonable to continue with twelve-month, fixed price service for these customers and such contracts will not interfere with the transition to TSOS, as the second one will expire on May 31, 2019 – facilitating the transition to TSOS described above.

Second, NRG proposes that the size of the customers eligible to be served under a twelve-month, fixed price service be reduced to those customers with peak demand less than 100kW (e.g., customers like convenience stores, small office buildings (2 to 3 floors and below and one building), restaurants, small schools, etc.). Customers with peak demand of 100 kW and greater should be transitioned to hourly priced service. All customers in Pepco's service territory now have smart meters installed, making hourly priced service operationally possible. In addition, retail competition has been in place in the District of Columbia for 15 years and customers that are 100kW and larger have access to information about shopping and are sophisticated enough to make informed decisions about their electricity supply. These customers include hospitals, grocery stores, large commercial buildings, colleges, large schools, and single metered apartment complexes. Moreover, other jurisdictions have moved hourly priced service for customers this size without incident. The Pennsylvania Public Utility Commission encouraged its utilities to reduce the hourly price threshold to 100kW in its Retail Market Investigation Final Order issued in 2013 and approved default service plans for both PPL and PECO in 2015.[14] Those utilities now provide hourly priced default service to customers for all customers 100 kW and greater. Most importantly, to NRG's knowledge, there have been no problems raised by customers as a result. NRG proposes that the hourly price threshold be reduced starting with the March 2017 RFP. Should the Commission decide that more time for customer education about this change is necessary, NRG proposes that the threshold be reduced to 300 kW beginning with the March 2017 RFP and to 100 kW in the March 2018 RFP.

3) Eliminate the Minimum Stay for Non-Residential Customers

Non-residential customers that shop and return to Pepco SOS and who do not affirmatively elect market-based pricing at the time they return to SOS are subject to a minimum stay requirement and must remain with Pepco for a minimum of 12 months. NRG proposes that the Commission eliminate the minimum stay requirement. NRG is aware of no other jurisdiction that is open to retail competition with such a limitation on customer choice. Pepco's affiliated

[14] *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952 (Final Order entered February 15, 2013 at 29); See also *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2015 Through May 31, 2017*, Docket No. P-2014-2417907 (Opinion and Order entered January 15, 2015 at 42-45); *Petition of PECO Energy Company for Approval of its Default Service Program for the period from June 1, 2015 through May 31, 2017*, Docket No. P-2014-2409362 (Opinion and Order entered December 4, 2014 at 39-40).

EDCs in Maryland and Delaware do not have minimum stay requirements. In NRG's experience, non-residential District customers returning to SOS can unwittingly find themselves on this fixed price service and be precluded from switching to their chosen supplier and their desired electricity product. The minimum stay is an antiquated policy intended as a consumer protection. Instead of protecting customers, it leaves them with a negative shopping experience and denies these customers their statutory right to shop. Moreover, if the concern is that a minimum stay is necessary to reduce the risk premiums that are embedded in the SOS wholesale contracts, the answer is not to restrict choice and hamper the development of the District's competitive retail energy market. Rather, Pepco should adopt a procurement model that includes shorter-term contracts that are likely to include lower risk premiums, if any. An even better idea would be to adopt the TSOS model as explained above. Thus, NRG recommends eliminating the anti-competitive and non-consumer-friendly minimum stay requirement.

B. Phase II Transition Issues

1) Provider of Last Resort ("POLR") Service

As explained previously, during the TSOS period, NRG proposes that Pepco continue to provide "backstop" POLR service for customers whose supplier leaves the market or fails to perform. This is necessary for the purpose of providing some continuity to current practices during the transition period and to give the market participants time to implement the changes necessary to enable the TSOSPs to assume the POLR provider role at the conclusion of the transition period. Under NRG's proposal, beginning June 1, 2021, Pepco's obligation to provide POLR service will end, and the TSOSPs will be obligated to provide POLR service to customers that need it. In addition, retail suppliers not previously designated as a TSOSP should be permitted to apply to the Commission to qualify to become a POLR supplier.

Additionally, the POLR product should be a monthly variable priced based on PJM's PEPCO-DC LMP that includes no penalties for switching. POLR suppliers should be encouraged to work with customers to ensure they are enrolled on a product that best meets their needs prior to their being placed on POLR service if possible. The stakeholder group convened to develop the TSOS Plan should also be charged with developing a plan for transitioning POLR service and making recommendations, including the POLR product pricing, for the Commission's approval. Such recommendations should be filed with the Commission no later than January 30, 2020.

2) Supplier Consolidated Billing ("SCB")

As explained above, NRG proposes that beginning June 1, 2019 and continuing for the two year TSOS period, suppliers, including TSOSPs, will have the option of using utility consolidated billing ("UCB") with POR, dual billing, or providing an SCB which includes all supplier and Pepco charges for all customers. Suppliers that opt to provide SCB will be responsible for handling all retail-related customer service inquiries.

Beginning June 1, 2021, Pepco will cease to offer billing and customer care services directly. Pepco will have the option to transition its billing and customer service functions into a structurally-separated affiliate and offer those services to the market at large at competitive rates. Costs for billing services and customer service operations unrelated to the utility's distribution function would be removed from distribution rates for all utilities, without regard to whether the utility had chosen to form a competitive billing and customer service affiliate.

The ability for suppliers to offer their own consolidated billing is critical to moving the competitive market in the District, and elsewhere, forward. It is imperative that suppliers, the entities best suited to provide end-use customers with unique products and services tailored to meet individual needs, have the opportunity to create and maintain an on-going relationship with their customers. To maximize the benefits of a competitive market, retail suppliers must have the option of frequent, regular access to the customers making decisions about the products and services they are purchasing. Absent frequent communication with the supplier via customer service, billing, etc., customers will not see or understand the competitive market because it will be limited by artificial and unnecessary restrictions. Customers will have less information upon which to base their purchasing decisions, and the market will be less likely to flourish as suppliers will not have incentives to innovate to differentiate their products offerings.

In basic terms, a supplier providing SCB will be responsible for billing and collecting from the customer for both the supplier's generation and transmission service and Pepco's distribution charges. To provide SCB, the supplier would be required to purchase Pepco's receivables. NRG proposes that the purchase be without recourse and at no discount for all Pepco charges and, otherwise, on the same terms that Pepco purchases supplier receivables for UCB. The supplier, in turn, would be responsible for collecting from the customer all the charges relating to electricity distribution, transmission, and generation services. Importantly, Pepco would continue to be responsible for actually terminating service to a non-paying customer, when termination is permitted by Commission rules. The difference is that the SCB supplier would communicate to Pepco via EDI, instructing it to institute the termination protocol and Pepco would be required to follow that instruction upon receipt or be subject to non-payment for any subsequent usage by the customer at the premise.

Customers choose products and services for any number of reasons: price, renewable energy content, flexibility, brand name, expected service quality, and value-added products and services, to name a few. If the provider of the product and service does not have the opportunity to frequently access the customer to differentiate what they are offering from a competitor's products, the customer will not have complete information on which to base a decision.

With retail suppliers in the primary billing agency role, they can market their products and services, field customer inquiries about their electricity usage and send customers their bills. Pepco will send the retail supplier their charges for transmission and distribution service, and the retail supplier pays those charges within a Commission-approved time period, regardless whether the end-use customer pays the retail supplier.

With this design, the Pepco's bad debt risk and operational costs are significantly reduced because Pepco will be agnostic as to whether the end-use customer has paid. Additionally, absent the requirement to handle a majority of billing and general customer service inquiries, the utility overhead to support these operations is significantly reduced, resulting in lower overall utility costs that customers must bear. While this model can increase bad debt exposure to the supplier, it is a necessary by-product of true competition. This risk should lie with the entities that are competing with each other, not the regulated entity that is providing a tariffed service. With supplier consolidated billing, suppliers assume the bad debt risk that utilities would otherwise have.

Direct access to the customer through the electricity bill is part and parcel of an overall model that further enables suppliers to bring customers a myriad of choices from which to choose – an option that has become possible with the full deployment of AMI and smart meters to all District of Columbia customers. Suppliers eager to deliver these innovative new products, services and pricing plans to customers will be stymied due to the inability of suppliers to bill for these products. SCB will ensure that customers in the District of Columbia realize the full value of their AMI investment.

NRG understands that there are a variety of EDI, Pepco and supplier system changes that must be made prior to implementing SCB, as well as tariff changes and, possibly, changes to the Commission's regulations. The Commission should direct the Transition Stakeholders Work Group, in its Phase I plan, to: 1) identify and develop the necessary EDI protocols to implement supplier consolidated billing; 2) review and modify Pepco's tariffs to enable SCB; 3) review and identify Commission regulations impacted by the implementation of SCB and propose revisions; develop an implementation plan. Recommendations from the Transition Stakeholder group should be submitted for the Commission's review and approval no later than November 30, 2017 so that all proposed changes can be completed no later than June 1, 2019.

3) Universal Service

NRG proposes that Pepco will continue to provide its universal service program – known as Residential Aid Discount, or RAD – during the TSOS period that ends May 31, 2021. Beginning June 1, 2021, retail suppliers will assume responsibility for providing these benefits to qualifying low income customers. As the Commission is aware, the RAD program offers eligible District residential customers a monthly credit – the Residential Aid Credit ("RAC"). The RAC covers the full customer charge and energy charge for distribution, as well as exemption from the Residential Aid Discount Surcharge, the Sustainable Energy Trust Fund, and the Energy Assistance Trust Fund. Credits for these charges are individually listed on customers' Pepco bills as "RAC – Distribution" and "RAC Surcharges." Customers receive the RAC whether or not they take energy supply service from a competitive retail supplier. The full RAC is equal to approximately 30% of a typical RAD customer's bill.[15]

Beginning June 1, 2021, the date when retail suppliers will begin providing all consolidated billing services, the credits that Pepco currently puts directly on the RAD customer bills can be included along with the monthly charges Pepco sends to the supplier, so that the retail supplier can place those credits directly on customer bills. A plan for ensuring these credits can be passed to suppliers to include on customer bills effective June 2021 should be included in the Transition Stakeholder recommendations that are submitted to the Commission for review and approval on November 30, 2019.

4) New and Moving Customers

The removal of Pepco from the default supplier role raises the need to more fully address the provision of electricity service to new and/or moving customers. Currently, all customers wishing to establish new service call Pepco to set up that service. Going forward, the process for establishing new service will change. New and moving customers will be required to initiate new electric service through a supplier, not through Pepco.

For the TSOS period (June 1, 2019 – May 31, 2021), customers will continue to contact Pepco to establish service. Pepco will advise customers that they can facilitate their service start with one of the TSOSPs or any other retail supplier. Customers will be permitted to make an affirmative selection of a TSOSP or alternative retail supplier, or they can be randomly assigned to a TSOSP or alternative retail supplier by Pepco. Pepco will notify the TSOSP or alternative

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[15] The District of Columbia Department of Energy and Environment estimates the discount to an eligible participant of up to $475 per year on electric bills ($300 per year if the customer does not have electric heat), see: http://doee.dc.gov/udp.

retail supplier of the customer's desire to enroll and the supplier will arrange the service start via EDI as usual.

For the post-transition "end-state" period, NRG recommends that the Commission direct the Staff to work with the Transition Stakeholders Work Group to develop a system that allows customers to contact suppliers directly to establish service. We anticipate that the changes needed to effectuate this change are somewhat more complex and time consuming, however it is doable. The Stakeholder group should include its recommendation in the report filed with the Commission for review and approval on November 30, 2018.

5) Data Management

The transition being proposed requires consideration of how to secure and protect customer information. Because a retail supplier can serve as both the TSOSP and a competitive retail supplier, care must be taken to assure that the retail supplier as TSOSP does not have any advantage over other retail suppliers through its access to customer information and data. Today, Pepco manages all customer data. However, given the changing role of Pepco, it is not clear that Pepco is the entity best suited to maintain this data going forward.

For the TSOS period, Pepco's continued data management responsibilities would include metering, billing, settlements, service terminations, POR programs, and universal service programs. For the post transition period, Pepco's role in managing data will be significantly reduced to include metering and PJM settlement. Beyond these vital functions, there is no need for the EDC to be in the middle of managing customer data.

For the post TSOS period, NRG recommends that the Commission direct Staff to work with the Transition Stakeholders to (1) identify an independent third-party that could fulfill the role of data manager; (2) identify key Pepco systems/data that will need to be transferred to that third-party; (3) establish a process and timeline for transitioning the data management responsibilities to this third-party; and (4) develop the new third-party process for suppliers to utilize to obtain customer information and process customer transactions through this third-party. Staff and the Stakeholders should file their recommendation to the Commission for review and approval no later than May 31, 2019.

6) Cost Recovery

NRG recognizes that changes being proposed for both the transition period and post-transition will result in transition costs. While it may be appropriate for some of these costs to be recovered from all customers through a non-bypassable surcharge, it is reasonable for some of these costs to be recovered through direct assessments on both Pepco and suppliers. NRG recommends that the Commission instruct Pepco and the stakeholders to develop a detailed cost assessment with proposals for cost recovery and to submit that proposal to the Commission no later than November 30, 2018 for consideration and action.

Conclusion

For the reasons stated herein, NRG requests that the Commission make a determination that for the consumers of the District of Columbia to realize the benefits of robust, sustainable fully competitive retail market, it is necessary for the Standard Offer Service structure to evolve and ultimately be eliminated. Transitional Standard Offer Service should be implemented on June 1, 2019 and qualified retail suppliers selected through a competitive process to fulfill the role of SOS provider. Beginning on June 1, 2021, Standard Offer Service will end and all customers will choose their electric retail supplier. Commission Staff should convene a

Transition Stakeholder Working Group process to develop the technical plans, recommendations and timeline consistent with NRG's above recommendations for the Commission's consideration per the timeline proposed by NRG.

Respectfully Submitted,

NRG ENERGY, INC.

By Counsel

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CERTIFICATE OF SERVICE

I certify that on August 23, 2016, the foregoing Comments of the NRG Energy, Inc. were emailed to all individuals on the official Service List for Formal Case No. 1017.

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Brian R. Greene