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## PUBLIC SERVICE COMMISSION

January 31, 2017

Hon. Thomas M. Middleton  
Chair, Finance Committee  
3 East Miller Senate Office Building  
11 Bladen Street  
Annapolis, MD 21401

Hon. Dereck E. Davis  
Chair, Economic Matters Committee  
231 House Office Building  
6 Bladen Street  
Annapolis, MD 21401

**Re: Final Report of the PSC Regarding the Advisability of Establishing an Opt-in Electric Affordability Program for Residential and Small Business Customers**

Dear Chairman Middleton and Chairman Davis:

Together with the enclosed Report of the Commission's independent consultant, Gabel Associates, Inc. ("Gabel"), this letter constitutes the Commission's Final Report regarding the advisability of establishing an opt-in electric affordability program for residential and small business customers.

In response to your request of May 4, 2016, the Commission agreed to study and make recommendations regarding the advisability of establishing an opt-in electric affordability program for residential and small business customers, in accordance with the provisions of House Bill 927 and Senate Bill 1075 of 2016. The Commission engaged Gabel to conduct a study regarding these matters on behalf of the Commission. In conducting its own analysis, Gabel held an initial stakeholder meeting of interested parties at the Commission on September 28, 2016, engaged in one-on-one telephone conferences with numerous stakeholders and industry participants, and reviewed the Maryland electric market and the markets in numerous other retail choice states. Gabel submitted a report to the Commission detailing its evaluation on January 5, 2017.

The Gabel Report is comprehensive in scope and makes many observations about policy alternatives to facilitate retail market expansions and potentially achieve greater savings through retail choice, including market structure reforms, municipal/government energy aggregation programs, and choice-promoting initiatives. Specifically concerning the advisability of an opt-in electric affordability program, Gabel recommends a small, targeted pilot program effectuated through a Request for Proposals for an electricity supply product, potentially as part of an integrated, holistic affordability initiative. Gabel found that such a program could be focused either on a targeted group of low income utility customers or on a certain geographic area, perhaps with a high concentration of low income households. Gabel observed that based on the

results of such a pilot, the State could explore the potential for a broader application based upon lessons-learned and market outcomes.

Gabel did not recommend pursuing a broader, statewide program such as the Delaware Electric Affordability Program (DEAP). Although Gabel found that the DEAP showed early evidence of savings to consumers and benefits to the health of the Delaware retail choice market in general, Gabel was unable to make any conclusions regarding the long-term success and viability of such a program, due to the fact that the DEAP is still in its infancy. Further, Gabel observed that Maryland's retail choice market is, unlike Delaware's, generally established, well-functioning and vibrant, and that Maryland's market appears to be highly competitive, with a number of long-term fixed price offerings that provide extended price certainty and modest savings for consumers. Thus, Gabel recommended continued support of and focus on affordability initiatives especially for low income customers, as well as continued review of switching rules and shopping refinements that complement efforts to enhance value and affordability and improve the retail market as a whole.

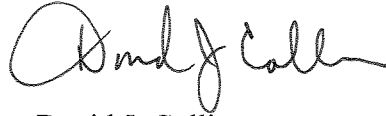
After receiving the Gabel Report, the Commission convened Public Conference 47 ("PC 47") for the limited purposes of receiving stakeholder comments and making them publicly available in the same location as Gabel's report. Stakeholders provided comments on and around January 20, 2017, and they are available in the PC 47 docket on the Commission's website. Commenting parties included the Institute for Energy and Environmental Research, Constellation NewEnergy, Inc. - Exelon Generation Company, LLC, the Retail Energy Supply Association, Direct Energy Services, LLC, the Commission's Technical Staff, the Fuel Fund of Maryland, the Office of People's Counsel, collective comments from BGE, Pepco, and DPL, and a public citizen, Laurel Peltier. As was reflected in the initial stakeholder meeting, the written comments varied widely in their positions, and there was no consensus among them.

Although the Commission has not decided whether to support any of the recommendations of the Gabel Report at this time, the Commission may further explore some of its recommendations, as well as some of the ideas expressed in the written stakeholder comments, in PC 44, the Commission's ongoing electric distribution grid modernization proceeding. In PC 44, the Commission has observed that "[u]niversal access to electricity for all Marylanders is a bedrock principle of Maryland public utility regulation, so limiting ratepayer impact – particularly for limited-income Marylanders – is always a significant decision factor;" and that "[c]ompetitive markets are an integral part of Maryland's electricity landscape that promote innovation, reduce costs, and increase customers' choices." Therefore, the Commission perceives PC 44's new working group on enhancing competitive markets and customer choice as a good vehicle for further exploration of the issues raised by PC 47. Additional opportunities may also arise in the context of the PC 44 new work group on innovative rate design options.

Thus, although neither the Technical Staff nor the Commission recommend legislation or the establishment of a particular program or policy at this time, the Commission looks forward to continuing to inform the General Assembly on these issues.

Please feel free to contact the Commission with any questions or if the Commission may be of further assistance.

By Direction of the Commission,

A handwritten signature in black ink, appearing to read "David J. Collins". The signature is fluid and cursive, with the first name "David" being the most prominent.

David J. Collins  
Executive Secretary

DJC:tj

Enclosure

cc: Senator Kathy Klausmeier

**A REPORT EVALUATING THE  
ADVISABILITY OF  
ESTABLISHING AN OPT-IN ELECTRIC  
AFFORDABILITY PROGRAM**

**Solicitation No: PSC #04.25.16**

**Prepared for the:**



**January 5, 2017**



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Appendix 1: Stakeholder Meeting Attendee List

## **Executive Summary**

Gabel Associates, Inc. (GA) was retained by the Maryland Public Service Commission (PSC or the Commission) to conduct a study to assist the Commission in making recommendations about the advisability of establishing an opt-in electric affordability program among retail electric companies for residential and small business customers, that would be based on the offer by a selected retail supplier(s) of multiple-year contracts for electricity at a fixed price per kilowatt-hour; value added products and services to help customers manage overall energy costs; and other potential customer benefits (such as customer arrearage management or reduction opportunities; increased awareness of or access to payment assistance programs; etc.), as well as potential provisions related to low-income customers to be assisted by the program.

To conduct this study, GA has relied upon several methods and sources of information, including: feedback and input from the Initial Stakeholder Meeting at the PSC on September 28, 2016; one-on-one telephone conferences with numerous stakeholders and active industry participants; review of the Maryland electric market and markets in numerous other retail choice states, which consisted of reviewing industry studies and reports, PSC websites, and other publicly available information; and review of websites of numerous active suppliers in several retail choice states, including most notably Maryland and Delaware.

In the course of our research of states with retail choice, we were able to identify only one other example of a state-sponsored opt-in electric affordability program similar to that postulated in the scope of work statement, from which potential lessons could be learned: the Delaware Electric Affordability Program (DEAP). The DEAP had its genesis in Senate Bill 160, which was enacted in July 2015 and directed the Secretary of State and other Delaware state agencies to evaluate energy programs that included a combination of a multi-year fixed price offer for power supply, value added products and services to help customers manage their overall energy bills, and other potential consumer benefits. This initiative culminated in the issuance of a competitive Request for Proposals (RFP) in December 2015 by the Delaware Public Service Commission (DE PSC) and, based upon the evaluation of proposals from six different suppliers, the award of a contract in April 2016 to a single supplier as the sole sourced electric supplier to contract with the state of Delaware. The selected supplier effectively became the state-endorsed retail supplier.

Under the DEAP, the selected supplier has a variety of product offerings to residential and small commercial customers, which “bundle” fixed-rate electricity price contracts of varying lengths with a number of goods and services that have been included. The supplier’s marquee electric supply offering to residential customers under the DEAP is a 24-month contract for electric supply, at a fixed price that is approximately 17% below the current Delmarva (RS) tariff price for standard offer service (SOS). In addition, there are no termination fees if a customer terminates the contract before the 24-month term is completed. Additional value-added services and products which a customer can select under the DEAP (in exchange for a smaller discount on electric supply) include such things as a 6-month HVAC appliance repair plan, remote-controlled Hive lights, Plenti Rewards points, and an option to receive a Nest Learning Thermostat. The DEAP product offerings were launched in July 2016, promoted by a combination of statewide television, radio and billboard ads, as well as direct mailings and other outreach mechanisms implemented by the supplier.

There are very early indicators that the DEAP may be having some positive results in Delaware as it relates to 1) producing a retail supply contract option for residential customers at a price and under terms generally more favorable than otherwise currently available in the retail market; 2) generating increased residential switching activity in the State; and 3) stimulating increased awareness of and interest in the choice market in Delaware, not only among customers but also among suppliers. However, given its short time in existence the jury is still very much out regarding the long-term success and viability of such a program. Moreover, no evidence exists to date to indicate whether those customers in Delaware that could most benefit from an electricity price reduction (i.e., low income customers or eligible for assistance) are participating in the DEAP in any significant numbers. In addition, no information was available to us concerning whether the value-added services products available as part of the program are achieving any significant traction in the market. Finally, there is little evidence that the DEAP product offering is providing any significant savings for small commercial customers, or that the DEAP has generated much interest among small commercial customers.

With no other examples of an opt-in electric affordability program, we focused on the prevailing market conditions in the State of Delaware leading up to the approval and implementation of the DEAP, and compared those to the current retail market in Maryland to ascertain if similar circumstances exist. We also undertook a review of other retail choice states to ascertain the state of the retail choice market in other states, to compare those states to the state of the retail market in Maryland, and to identify the different approaches that have contributed to active retail choice markets.

When comparing the retail choice market in Maryland to that in Delaware as well as other states, we have found that the retail electricity landscape in Maryland is generally established, well-functioning and vibrant, and that the Maryland retail choice market exhibits significantly different characteristics and intricacies as compared to the Delaware market at the time that the DEAP was conceived and launched, including substantially higher retail market participation rates in Maryland and a significantly larger number of licensed suppliers active in Maryland.

While the Maryland retail choice market is generally well-functioning, and exhibits characteristics significantly different than those prevailing at the time the DEAP was conceived and launched, there are a number of retail choice states where market participation rates are higher than in Maryland. In reviewing those retail choice states with the highest market participation rates, we identified three general categories of facilitation tactics that promote market expansion, enhance accessibility, and/or potentially achieve greater savings through retail choice, including:

1. **Market Structure** reforms such as, in the most extreme case, eliminating default service altogether (Texas), or substantially altering the manner in which default service is procured and/or priced (i.e., New York).
2. **Municipal/government energy aggregation** programs by which local government entities procure a power supply contract on a fixed-price basis on behalf of all residents in their jurisdictions (other than those who already have a third-party supply contract), subject to the ability of individual residents to ‘opt-out’ of the contract (Illinois, Ohio, Massachusetts,

New Jersey and, most recently, New York).

3. **‘Choice-Promoting’ Initiatives** including: Instant Connects; Seamless Moves; Enroll-by-Wallet; Robust Shopping Platform; and Referral Programs. *It is understood that these switching, enrollment and shopping platform issues discussed above are not new to the PSC and have been part of the retail choice market dialogue that the Commission has been facilitating on a regular basis with the EDC, supplier, and consumer community. Moreover, the Commission has already ordered the implementation of two very important choice-promoting initiatives, namely the implementation of Purchase of Receivables (POR) in 2009 and the very recent implementation of the 3-day switching rule, which have been and will be supportive of the retail market.*

There appears to be a general dearth of energy-related value-added service offerings in the competitive retail supply market in Maryland, which is similar to the general experience in retail choice states throughout the country. However, the State of Maryland has been proactive at offering, and refining, state-sponsored programs that provide ‘value added services’ that promote reductions in energy consumption to customers of all economic standings (including programs with a specific focus on low income communities), through EmPOWER MD and other initiatives. Moreover, market penetration and viability of the value-added services offered through the Delaware Electric Affordability Program has yet to be discerned. As such, it is unclear whether there are significant opportunities for market penetration of cost-effective ‘value-added services’ in Maryland that are currently un-realized and that could be tapped through an opt-in electric affordability program in Maryland.

Electric bill affordability is most critical for low-income households. There are extensive state-supported and administered financial assistance programs in place, facilitated by nonprofits and local community entities, including electric grants, heating grants and arrearage grants, to provide assistance to Maryland customers of limited means to pay their energy bills. A significant initiative has very recently been proposed at the state level (the Supplemental Targeted Energy Plan or ‘STEP’ proposed by the Maryland Department of Human Resources or ‘DHR’), in consultation with nonprofits and local agencies and community groups, to create a supplemental assistance benefit that would result in enhanced coordination and a more holistic approach in the provision of financial services, access to energy efficiency programs, and customer education concerning behavior and energy consumption -- all aimed at achieving sustainable energy affordability for income-limited households.

While in theory affordability for low income households could be improved through supply contracts obtained in the retail choice market that are below the price for Standard Offer Service, some low-income customers have encountered flawed experiences with retail choice, including not receiving savings relative to default service. Concerns regarding adverse results (i.e., customers entering into contracts that ultimately led to electricity costs higher than default service rates) for low income customers that have participated in the retail choice market have led at least three states (Ohio, Pennsylvania and New York) to restrict those customers’ ability to participate in the retail choice market. Some concerns have been raised regarding adverse experiences for some low-income customers in Maryland as well; low income consumer advocate stakeholders indicated that



their constituents are generally aware of the retail choice market, but many are wary of the market after poor experience and looking for guidance from trusted advisors.

While the use of affinity groups (such as churches and civic organizations) to form voluntary partnerships between retail suppliers and aggregated groups of customers is not a new concept in the marketplace, there is an initiative being explored by a Maryland nonprofit to procure a long term fixed price electricity supply contract specifically for constituents participating in low-income assistance programs, although this initiative is still under investigation and future implementation is unknown. This initiative is intended to provide a pre-negotiated retail supply contract option for a group of customers (perhaps as many as 10,000 statewide) that receive low-income assistance and that have completed an energy education program. That effort is ongoing and the results are uncertain at this time.

It is our conclusion that the implementation of a statewide opt-in electric affordability program similar to that employed in Delaware, with the selection of a single, state-sponsored supplier to offer a pre-approved line of product offerings, is not warranted in Maryland at this time. Moreover, we do not believe that a statewide, state-sponsored program with multiple selected suppliers, as some have advocated, would be the most appropriate course at this time.

The primary issues that we believe should be considered and addressed by the Commission at this time are:

- 1) While the Maryland market appears to be highly competitive, and there are a number of long-term fixed price offerings in the market that provide extended price certainty for consumers, by and large the savings to consumers from these offers are relatively modest, thereby having limited impact on affordability in general; and
- 2) Continued support of, and particular focus on, affordability initiatives for low income customers;

We do not recommend any major market structure reforms to stimulate additional switching. Maryland's SOS procurement and pricing policies appear to be well thought-out and aimed at striking the appropriate balance between having SOS prices that are reasonably reflective of the market, while also mitigating against price volatility. This effective combination results in a reasonable product for non-switching customers. Rather than make major reforms, we recommend an approach more surgical in nature that focuses on initiatives to supplement ongoing efforts to enhance value and affordability amongst the low-income population, and continued review of switching rules and shopping refinements that complement efforts to enhance value and affordability amongst the low income population (and that may have the additional benefit of making the retail market as a whole more efficient and effective).

Rather than an electricity supply product offered via a mass-marketed, state-wide affordability program such as the DEAP, we recommend for Maryland a more focused approach that can target a specific population or area. Such a focused approach, if designed appropriately, could have the benefits of: 1) potentially providing affordability benefits to a targeted population, which avoids the potential market disruption associated with a more broad-based, mass-marketed program;

and/or 2) serve as a pilot for potential broader application based upon lessons-learned and market outcomes.

We have identified two potential options for developing a target population for a pilot electricity supply affordability program: 1) a targeted group of low income utility customers; or 2) a targeted geographic area, such as a City(s).

Under the *Targeted Group of Low Income Customers* scenario, a Request for Proposals (RFP) process could be conducted by a state agency such as the DHR, or the PSC in consultation with the DHR, for an electricity supply product for some or all customers enrolled in the energy assistance programs. Under such an initiative we envision an electricity supply procurement as an added part of an integrated, holistic affordability initiative, such as the STEP program recently proposed by the DHR or other initiative; essentially adding another leg to the affordability stool, along with financial assistance, energy education, and participation in available state-sponsored energy efficiency programs.

The RFP would set forth the specifications of the program, and would also include a master form of contract that would be executed between the selected supplier and the procuring agency. The specifications and master contract would set forth the specific desired terms of service, including the desired length of contract, specifying a fixed contract price, addressing any issues with respect to any circumstances under which the contract price could be adjusted, and addressing customer termination rights and whether any fees would be permitted. In short, the terms of service would be established by the procuring agency, and those terms and conditions of the supply offering would presumably include sufficient protections to guard against the types of adverse outcomes that may have affected customers in past retail choice experiences. In effect, the procuring agency, through the establishment of master terms and conditions, would serve as the customers' advocate.

We envision a two-stage RFP process. Stage 1 would consist of a qualification or 'vetting' stage. The RFP would specify the qualification documents and information to be submitted by interested suppliers, including required legal forms. Interested bidders would need to have a PSC-issued supplier license in good standing, and would be required to submit information pertaining to such items as prior experience, customer service capabilities (including description of customer service staffing levels, hours of operation of a toll-free customer service center, multi-lingual capabilities, etc.), capabilities concerning calculating equal payment plan amounts for submittal to the electric utility for billing, and mechanisms for computing and implementing equal payment plan true-ups. There would also be a review of consumer complaint records of the prospective suppliers.

Stage 2 of the process would consist of a sealed bid, electronic bid or reverse auction among qualified suppliers for the product and contract specified in the RFP. Fixed price bids would be accepted for several different contract lengths, ranging from one to three years, as specified in the RFP. The contract award would be based primarily upon price, with added consideration given in the selection of a specific contract term to the desire for and prioritization of long-term price stability. The procuring agency would only be permitted to award a contract if the low bid price was lower than the applicable electric utility SOS price. The procuring agency may in fact determine to establish a minimum savings threshold for the award of a contract to assure sufficient benefits and based, in part, upon projections of SOS tariff price changes over the applicable

contract period. We envision a separate contract award for qualified low-income residential customers in each electric utility. The eligibility pool of customers in each electric utility pool should be large enough to: a) represent an attractive base of customers for suppliers to bid on; and b) create the potential for providing affordability benefits to as wide a pool of income-challenged households as possible.

Under a low-income opt-in affordability program, the selected winning supplier would develop a short-form of contract that individual customers would have to sign. Ideally, the short-form would consist of one page of simple terms/rights that encapsulate the customer's rights and terms and conditions set forth in detail in the RFP and master contract. We envision that the marketing of an opt-in program limited to energy assistance program participants could be very focused and cost-effective in nature, with reliance on existing channels of communication and outreach within the assistance programs, including through nonprofits and local community organizations.

If the STEP as proposed by the DHR, or some other initiative to enhance and integrate low-income customer services, is implemented, the affordability offering could also be promoted through that initiative. This type of targeted marketing through an existing infrastructure of trusted advocates and advisors may well: 1) reduce the supplier's marketing costs; and 2) substantially increase the success or 'hit' rate for the supplier, thereby lowering expected transaction costs relative to a more broadly-targeted program, which would hopefully translate into better pricing at the front end.

In addition, the pool of prospective customers available to the selected supplier(s) (i.e., we understand the number of energy assistance program participants statewide in Maryland to be about 130,000) should be large enough to generate supplier interest and (hopefully) attractive pricing, without being so large that resultant migration adversely impacts pricing under existing SOS contracts. Moreover, without the need for a broad-based, multi-media marketing campaign for this more targeted program, there is less likely to be a 'spill-over' effect on the balance of the market.

***Targeted Geographic Area such as a City(s):*** Under this scenario, there could be a procurement of an electricity supply product applicable to residents in a specific locale; by way of example, a procurement could be run for the residents of Baltimore City, providing a significant scale of customers for suppliers to bid on and, due to the demographics of the City, also encompassing a fair number of low income households. Such a City-based initiative would also have the characteristic of a more diverse income demographic than a strictly low income customer-based program. The two-stage RFP process could be conducted by the governing body of the particular area (e.g. the governing body of the City of Baltimore would issue the RFP and make the decision on a contract award for a program targeted at City of Baltimore residents).

To the extent that the Commission wished to proceed with an electric affordability program targeted to low income customers as set forth above, either targeted to assistance-eligible households or to specific local government jurisdictions where there are relatively high low-income populations, we envision a target customer group that is relatively limited in size such that, combined with the advanced notice and potential phasing of tranches, this initiative would not result in such a significant migration of customers to third party supply as to adversely impact standard offer service contract pricing. As well, a program of somewhat limited scope in terms of

the identified target group of customers or geographic areas could serve as a form of ‘pilot’ for potential wider application, based upon lessons learned, depending upon the results achieved.

Finally, recognizing the more transient nature of low-income households and the resultant risk on suppliers associated with a high rate of customer moves, we recommend that if a low-income focused affordability program such as described above is pursued, that the PSC prioritize the implementation of ‘seamless moves’ as the next ‘choice-promoting’ logistical initiative.

## **A. Introduction**

Gabel Associates, Inc. (GA), an energy consulting firm with principal offices located in Highland Park, New Jersey, has been retained by the Maryland Public Service Commission (PSC or the Commission) to conduct a study to assist the Commission in making recommendations about the advisability of establishing an opt-in electric affordability program among retail electric companies for residential and small business customers, and the manner in which such program, if advisable, should be conducted. GA was retained by the PSC as a result of the PSC's Request for Proposals (RFP) under Solicitation No. PSC #06.15.16 in which it requested Energy Related Studies.

## **B. Background**

During the 2016 Session of the Maryland General Assembly, House Bill 927 (HB927) was introduced. This bill, if passed and signed into law, would have required the Commission to study and make recommendations about (i) the advisability of establishing an opt-in electric affordability program for residential and small business customers of investor-owned electric companies (as well as allowing electric cooperatives to participate) based on certain programmatic features; and (ii) the manner in which the program, if advisable, should be conducted.

While the bill did not pass during the 2016 Session, on May 4, 2016, the House Economic Matters Committee Chairman Dereck F. Davis wrote to the Commission requesting that the PSC study and report back to the House Economic Matters Committee and Senate Finance Committee as HB 927 would have required. The Commission has agreed to report its findings to these Committees no later than January 31, 2017, and has retained GA to conduct this study to support the PSC's response to meet the request of Chairman Davis.

The specific scope of work assigned to GA includes the following:

**Task A.1.:** Study and make recommendations about the advisability of (a) establishing an opt-in electric affordability program among retail electric companies for residential and small business customers in the service territories of the Potomac Electric Power Company (Pepco), Potomac Edison, Baltimore Gas and Electric Company (BGE), or Delmarva Power and Light Company that would be based on the offer of multiple-year contracts for electricity at a fixed price per kilowatt-hour; value added products and services to help customers manage overall energy costs; and other potential customer benefits; and (b) allowing electric cooperatives to participate in the program. Other potential customer benefits may include things such as: customer arrearage management or reduction opportunities; increased awareness of or access to payment assistance programs; etc... The contractor is expected to use their collective expertise to assess the advisability of Maryland offering an opt-in electric affordability program, which should at a minimum assess the success of comparable programs offered in other jurisdictions as well as possible ratepayer impacts stemming from the implementation of such a program contrasted with current State bill payment assistance offerings.

**Task A.2.:** Study and make recommendations about the manner in which the program described in Task A(1) should or could be conducted, including provisions relating to: low-income customers to be assisted by the program; the duration of customer contracts under the program; procedures

governing wholesale electricity procurement for the program; the minimum qualifications of licensed electricity suppliers and associated providers of value-added products and services that would be eligible to participate in the program.

**Task A.3.:** Consider the best interests of electric customers relating to cost and reliability of electric service in making the recommendations required under tasks A(1) and A(2).

As part of Task B, GA was also tasked with attending in-person and remote stakeholder meetings related to the development of the analysis parameters described in Task A. Once the report is in final form, we will also attend meetings with the Commission and/or the Commission's Technical Staff to present and discuss key findings, as outlined in Task C.

### **C. Approach/Basis of Report**

To conduct this study, GA has relied upon several methods and sources of information. These include:

- Feedback and input from the Initial Stakeholder Meeting at the PSC on September 28, 2016. Notice of the Stakeholder Meeting was widely distributed by Commission Staff to Maryland electric industry stakeholders.

In addition to representatives of GA and PSC Staff, representatives of sixteen (16) different stakeholders, including six (6) retail supplier interests; four (4) electric utility or cooperative interests; four (4) state agency/government entities; one (1) public interest entity and; one (1) environmental organization, either attended in person or participated via teleconference. For reference, the full Stakeholder Meeting attendee list is attached hereto as Appendix 1.

- One-on-one telephone conferences with numerous stakeholders and active industry participants, including a number of Stakeholder Meeting participants to whom GA reached out for follow-up discussions or who reached out to GA subsequent to the Stakeholder Meeting.
- Review of the Maryland electric market and markets in numerous other retail choice states, which consisted of reviewing industry studies and reports, PSC websites, and other publicly available information.
- Review of websites of numerous active suppliers in several retail choice states, including most notably Maryland and Delaware.
- Application of GA industry experience and expertise including direct and longstanding experience with retail energy markets and innovative energy aggregation approaches.

## **D. Overview of Electric Opt-In Affordability Programs**

### **1) Delaware Electric Affordability Program**

The recent development of an opt-in electric affordability program in neighboring Delaware provides a backdrop for this initiative, and may well have contributed to the General Assembly's interest in evaluating the advisability of an opt-in electric affordability program in Maryland. Specifically, on July 1, 2015, Senate Bill 160 was enacted in Delaware, which directed the Secretary of State and other state agencies to evaluate energy programs that included a combination of a multi-year fixed price offer for power supply, value added products and services to help customers manage their overall energy bills, and other potential consumer benefits. This initiative culminated in the issuance of a competitive Request for Proposals (RFP) in December 2015 by the Delaware Public Service Commission (Delaware PSC), which resulted in proposals from six energy suppliers. In April 2016, Direct Energy was selected from among those six suppliers as the sole sourced electric supplier to contract with the state of Delaware.

The program, named the Delaware Electric Affordability Program (DEAP), is available to residents and small businesses throughout the State of Delaware in Delmarva and Delaware Electric Cooperative service territories.

The DEAP product offerings were recently launched in July 2016, promoted by a combination of statewide television, radio and billboard ads, as well as direct mailings and other outreach mechanisms. In late October 2016, the DEAP supplier submitted its first quarterly status report to the Delaware PSC. The quarterly report provides an overview of the product offerings, the marketing/messaging strategy, and the market penetration to date.

The DEAP offers a variety of "bundles" with fixed-rate electricity prices into which a number of goods and services have been included. Bundles include various combinations of term lengths, green energy composition, value-added services, and other incentives. Term lengths range from 11-27 months. Within those term lengths, numerous bundles contain an option to receive a Nest Learning Thermostat, which is purported to reduce electricity use for residents. Additional add-ons bundled with certain packages include a 6-month HVAC appliance repair plan, remote-controlled Hive lights, a subscription to video streaming service Hulu, and Plenti Rewards<sup>1</sup> points. Another package incentivizes off-peak electricity use by charging residents a rate above the Delmarva tariff during the day, but offering free usage at night.

Currently, the marquee offering to residential customers under the Delaware Electric Affordability Program, as highlighted in its initial program progress report, is a 24-month contract for electric supply, at a fixed price of \$0.0799/kWh. This fixed price offering is approximately 17% below the Delmarva (RS) tariff price for standard offer service (SOS) of \$.0958/kWh<sup>2</sup>.

The primary options related to this marquee Residential Product offering under the DEAP, as

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<sup>1</sup> Plenti Rewards is a rewards program that allows participants to earn points via purchases at various participating locations and to 'cash-in' for products or services at any participating location.

<sup>2</sup> Source: <http://www.delmarva.com/my-home/choices-and-rates/delaware/price-to-compare/>

highlighted in the first DEAP Quarterly Report, consist of the following:

Figure 1: DEAP Marquee Product Offerings

Product Elements	Residential Product #1	Residential Product #2	Residential Product #3
Fixed Commodity Price (\$/kWh)	\$0.0799	\$0.0814	\$0.0883
Price Guarantee Term	24 months	24 months	24 months
% Savings off Current PRC	17%	16%	8%
Plenti Rewards Points	\$10	\$10	\$10
HVAC Repair Plan	--	6-month (\$100 value)	6-month (\$100 value)
Nest Learning Thermostat	--	--	No Charge (\$249 value)

There are no enrollment or exit fees associated with the commodity portion of the offering; customers can cancel at any time without penalty. The Nest Learning Thermostat, included in Residential Product #3 above, is estimated by the DEAP supplier, based upon previous studies, to result in a reduction in electric consumption of up to 15%<sup>3</sup>. For that product element, there is a \$200 ‘device recovery fee’ assessed if the customer leaves prior to the end of the 24-month term.

The primary feature of the Nest Thermostat is that it autonomously learns an individual’s temperature preference and adjusts accordingly throughout the day without any user input, thereby leading to a greater efficiency for home heating and cooling systems. In addition, the Nest Thermostat can be controlled remotely by the customer via a smart phone. Based upon the price premium placed on Product #3 as compared to Product #2, it appears that the DEAP supplier recovers approximately one-half of the cost of the thermostat through the price of the electricity supply (i.e., for a typical customer using 700-750 kWh per month that does not terminate the contract early, the volume of electricity purchased over 24 months multiplied by the price premium produces approximately \$125 or about one-half of the cost of the Nest Learning Thermostat).

As part of the Delaware Electric Affordability Program, the selected supplier is also offering ‘exclusive pricing’ (\$3.00/watt) for solar installations for program ‘opt-in’ customers, with financing options claimed to provide savings of 10-12% off the current tariff cost of delivered retail electricity, and an offer to provide 12 months of free electricity for the net, grid-supplied consumption (total consumption less amount of electricity supplied by the on-site solar array).

According to the October 2016 Quarterly Report, the marquee Small Business Product under the

<sup>3</sup> We understand from additional research GA conducted on the results of ‘smart’ meter programs or studies in other states that electricity consumption reductions on the order of 10-20% have indeed been achieved, but on the *cooling portion* of electric consumption, not on the entire electric household consumption. Additional natural gas heating savings can result as well, as indicated in research found. An independent report by Apex Analytics, commissioned by the non-profit Oregon Energy Trust, indicates that a large majority of residents who utilized a Nest Thermostat reported greater energy savings versus a control group. While the study was unable to specifically parse which of the Nest Home Thermostat’s features contributed to savings, the average resident saved 4.7% on the energy supply portion of their bill over the course of a year. Notably, the greatest savings were achieved by low income residents.



DEAP offers a 24-month Fixed Price supply contract at a price of \$.0765/kWh, which provides savings up to 4% as compared to Delmarva's SOS price applicable to small business customers. The DEAP offers the same 24-month contract price for a supply product coupled with a free Nest thermostat; there is no early termination fee for the supply service, but there is a \$200 'device recovery fee' assessed applicable to the thermostat if the customer leaves prior to the end of the 24-month term.

As indicated above, these product offerings are available to residents and small businesses throughout the State of Delaware in Delmarva and Delaware Electric Cooperative service territories. The October 2016 Quarterly Report indicates that a central messaging theme of the marketing campaign strategy around the program is that Direct Energy has been 'exclusively contracted' by the State of Delaware. The multi-media marketing campaign undertaken by Direct Energy includes television and radio ads, outdoor advertisements such as billboards and bus-side ads, as well as newspaper articles. Direct Energy is also employing local sponsorships and grassroots initiatives including town hall meetings. The October 2016 Quarterly Report indicates that the mass media and many other initiatives is 'heavily focused' on New Castle County, DE due to 'service area geography.' In addition to mass media, approximately 300,000 direct mailing pieces were distributed in the campaign, which is estimated to equate to the total number of eligible customers statewide.

The first program Quarterly Report indicates that customer opt-in enrollments in the 'State-endorsed' program are ramping up, with a total of about 200 'sales' as of the end of August 2016, an additional 'sales' of about 900 customers by the end of September 2016, and about 1,800 new program 'sales' projected for October 2016<sup>4</sup>. While it is not explicitly stated, these are understood from the language presented to represent opt-in enrollments by residential customers in the DEAP program. This number of participants represents about 1% of the total number of eligible residential customers in Delmarva territory. With total statewide penetration of residential switching at about 10% in Delmarva territory (as reported as of year-end 2015), the number of customers who have opted-in to the Direct Energy Electric Affordability Program in the first 3 months appears to represent as much as about a 10% uptick (from 10% to 11%) in statewide retail choice participation (however, what is not reported or known at this time is how many of the DEAP enrollees are 'first-time' shoppers' as opposed to 'converters' from other retail contracts).

Statistics were not available in the Quarterly Report concerning the selection of any of the energy-related value-added services available through the program.

There are also no specific statistics provided indicating how many, if any, small business customers have opted-in to the DEAP program.

## **2) Other Similar Statewide Programs**

None of the stakeholders that attended the Stakeholder Meeting or interviewed one-on-one were able to point to any statewide, opt-in electric affordability programs, other than the recently-

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<sup>4</sup> Program participant statistics are not broken down in the Quarterly Report by different product offerings, nor is there any information on the demographics or geographic location of program participants.

implemented DEAP. GA conducted its own, supplemental research to identify any opt-in electric affordability programs in retail choice states in the U.S.; however, we were unable to identify any similar programs. As such, the Delaware Electric Affordability Program appears to be unique and the only such program to use as a comparison, or from which any empirical data or ‘lessons-learned’ can be gleaned.

### **3) Prevailing Market Conditions in Delaware Leading up to Approval and Implementation of its Electric Affordability Program**

The State of Delaware is significantly different than Maryland in terms of geographic size and distribution of population, as well as the number and composition of electric utility service territories. According to U.S. Census data, there are approximately 340,000 households in the State. There is one investor-owned electric utility in the State, Delmarva Power (Delmarva). Delmarva’s service territory encompasses virtually all of New Castle County in the northern section of the State, where roughly 60% of the State’s population resides in about a quarter of the State’s land mass. The remainder of the State, where roughly 140,000 households reside, receive electric service from a patchwork of Delmarva Power and Delaware Electric Cooperative (DEC) service territories. In total, Delmarva provides electric distribution service to about 80% of the State’s residents<sup>5</sup>.

At the time that the Delaware Electric Affordability Program was conceived and developed, the retail choice market in Delaware also had significantly different characteristics than the Maryland market. By year-end 2015, there were only sixteen (16) PSC-licensed retail electric suppliers active in the residential market in the State, and about 29,000 out of Delmarva’s 277,000 residential customers were being served by competitive suppliers, representing a market penetration of about 10.5% in the Delmarva service territory<sup>6</sup>.

Research was conducted through the Delaware PSC website, and through searches of websites of individual suppliers active in Delaware, to identify retail choice offerings in the state from suppliers other than Direct Energy through the DEAP.

At the time our research was initiated for this project in September 2016, the number of non-broker, licensed residential suppliers listed on the Delaware PSC website was approximately 20, up modestly from the year-end 2015 total of 16. By December 2016, when GA conducted its most recent market research, the total of non-broker, licensed residential suppliers listed on the Delaware PSC website had been updated to 29. To get a sense of the state of the residential retail market in Delaware, GA initiated a survey of the offerings available to an average residential customer who would be shopping on their own. Because there is not a centralized shopping platform available, GA clicked on the websites of the individual residential suppliers listed on the Delaware PSC website, and posed as a hypothetical customer shopping in the Delmarva service territory. We searched for 24-month contract offers for a residential customer with a zip code of 19702 (Newark, Delaware).

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<sup>5</sup> Based upon Census data, it is estimated that close to 75% of Delmarva’s Delaware residential customer base resides in New Castle County.

<sup>6</sup> Despite extensive efforts, we have been unable to obtain any meaningful or reliable statistics regarding retail choice market penetration in the DEC service territories of Delaware.

While there are now almost 30 residential suppliers currently licensed to do business in Delaware, our most recent research suggests that still very few have contract offerings in Delmarva territory of comparable value to the marquee product offered via the State-sponsored DEAP. Of those 29 suppliers licensed to provide retail electricity to residential customers, a review of individual supplier websites indicates that some are not currently active in Delaware, others specialize in electricity made up heavily of renewable energy content that is offered at premium prices, and most of the standard product contracts being offered for longer terms (up to 24-months) currently appear unable to match the DEAP fixed price offering over a comparable term length.

Below is a summary of offerings we discovered during a survey of the residential retail electricity supply market in Delmarva territory in Delaware for 24-month terms (as of December 2016). We specifically focused on the offerings that appeared to provide at least some savings relative to the current default service price-to-compare (PTC).

Figure 2: Sample Retail Supply Offerings in Delmarva Territory (DE)

Supplier	Price (¢)	Cancellation Terms
Delmarva (RS) Tariff	9.58	N/A
Supplier A	7.95	\$150 Cancellation Fee
DEAP	7.99	No Cancellation Fee
Supplier B	9.702	Cost of Margins
Supplier C	8.99	\$200 Cancellation Fee
Supplier D	8.4	No Cancellation Fee
Supplier E	8.86	No Cancellation Fee
Supplier F	8.2	No Cancellation Fee
Supplier G	8.3	No Cancellation Fee

*Note: Only listed above are those offers that appeared to provide some level of savings relative to the current default service tariff price. Supplier identities have been ‘genericized’ to avoid appearance of promotion or endorsement. The offers are not exhaustive but extensive, and were found by clicking on the websites of licensed suppliers in the residential market. We also found numerous offers, not included in the table above, that were above the current tariff price-to-compare, many offers with large termination fees, and many offers for green products at price premiums relative to the current tariff.*

As shown in the tables above, the base DEAP electricity supply offering is priced at a significant savings relative to the Delmarva PTC. In the case of the marquee offering, the contract not only provides significant savings as compared to the Delmarva PTC, but also stacks up quite competitively relative to comparable offerings from other suppliers active in the Delaware market. In short, the base DEAP fixed price, 24-month contract offer is the most attractive long-term, fixed price offer we found in the current Delaware market.

Of the offerings similar to the marquee DEAP product, we found only one competitive supplier

offer that was comparable in price, however, that product offering was subject to a substantial cancellation fee that does not exist under the DEAP.

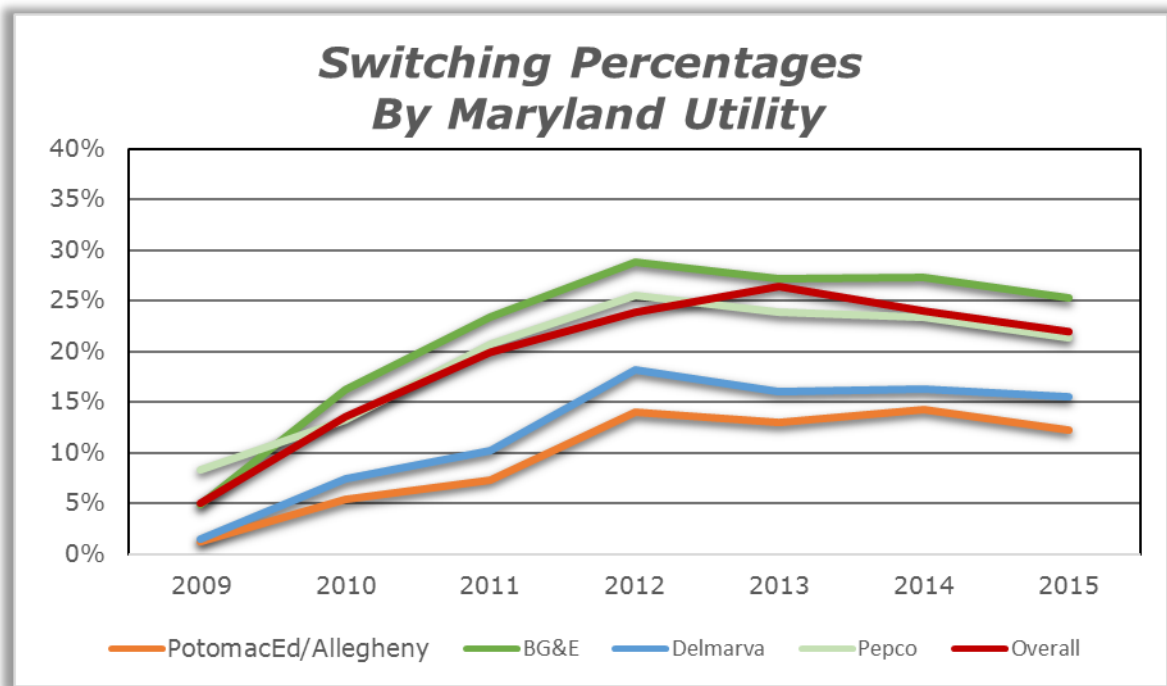
As of January 2016, switching statistics indicate that about 31% of all commercial and industrial (C&I) customers in Delmarva territory were being serviced by a third-party supplier. There is no breakdown of C&I switching statistics by size of customer. Based upon consistent trends in other states that show that mid and large-size C&I customers switch and significantly higher rates than small C&I customers, it can be concluded that the rate of retail choice market participation amongst small C&I customers in Delaware is significantly lower than 31%.

### **E. Current Retail Market in Maryland**

According to U.S. Census data, there are approximately 2.1 million households in the State of Maryland. There are four (4) investor-owned utilities in the State: Potomac Edison (PE), Baltimore Gas and Electric (BG&E), Delmarva Power (Delmarva), and Potomac Electric Power Company (Pepco), providing electric delivery service to a total of over 2 million residential customers.

In BG&E and Pepco service territories, where about 80% of the State's residential electric accounts reside, there are approximately 60 and 50 PSC-licensed electric suppliers, respectively, currently serving residential customers, and the percentage of residential customers currently enrolled with third party suppliers in these two larger service territories is about 24.5% and 21.1%, respectively. In the smaller and/or less populated service territories of PE and Delmarva, the number of PSC-licensed electric suppliers currently serving residential customers is 29 and 39, respectively, and the percentage of residential customers currently enrolled with third party suppliers in these two smaller service territories is currently 11.7% and 15.7%, respectively. Statewide, the overall residential switch rate is currently 21.5% of residential customers. This is down from a peak statewide third party enrollment rate of about 26% in 2013.

Figure 3: Annual Switching Percentages by Maryland Utility and Statewide



Similar to the process undertaken to assess price and product offerings in Delaware, we reviewed the individual websites of licensed Maryland suppliers, and searched for long-term fixed price offers for residential consumers using a central Baltimore location, zip code 21231. We chose this particular location not only because it is in the heart of the State’s largest utility service territory (in terms of number of residential customers served), but also because we understand this to be representative of an area with a significant population of low income consumers. While not exhaustive given that there are approximately 60 licensed suppliers in BG&E service territory, we searched a significant number of supplier websites for current price offerings.

The following table summarizes the current offers we were able to find that compared favorably<sup>7</sup> to the Electric Distribution Company (EDC) price-to-compare:

<sup>7</sup> The Plymouth offer was included, despite the fact that its price is modestly above the PTC, because it is close to the PTC and represents one of the few long-term offerings that do not include a termination fee.

Figure 4: Sample Retail Supply Offerings in BG&E Territory (MD)

Supplier	Price (¢)	Terms
BG&E (R SOS Supply Charge Weighted Price) <sup>8</sup>	9.05	N/A
Supplier 1	8.99	90-Day Fee-free Cancellation/ \$150 Thereafter
Supplier 2	7.99	\$100 Cancellation Fee/ 12 Months
Supplier 3	8.90	\$10 Fee Per Remaining Month
Supplier 4	8.85	\$200 Cancellation Fee
Supplier 5	9.26	No Cancellation Fee
Supplier 6	7.99	\$10 Per Remaining Month
Supplier 7	8.49	No Cancellation Fee

As indicated above, as of early December 2016, there are a number of offerings available in the marketplace for residential customers in Baltimore shopping independently to obtain electricity savings as compared to the current EDC PTC under a long-term fixed price contract (long-term defined for this purpose as 24 months). We have found several suppliers willing to offer 24-month fixed-rate contracts for rates below the current SOS average price. However, as shown, the savings available under a 24-month contract appear to be relatively small (about 1-6%); and some of those offers include a termination fee. The only offer we found that provided savings on the order of 10% versus current SOS prices was for a somewhat shorter 12-month fixed price contract (however, we also note that that offer includes a \$100 termination fee)<sup>9</sup>. We included this offer in the table above for comparative purposes but note that it is the only offer in the chart above that does not include a 24-month term.

Again, we emphasize that the table above does not reflect all 24-month price offers found; only the ones we found that compare favorably to the current SOS tariff price in BG&E territory by more than a negligible amount. We found numerous offerings with prices that appeared close to or higher than the current SOS price, many with termination fees, or offers for green products with prices higher than the SOS tariff price.

During the Stakeholder Meeting, there was a general consensus amongst stakeholders that the commercial and industrial (C&I) choice market is working well in Maryland and no specific actions for improvement were recommended. Enrollment statistics posted by the PSC indicate that about 33% of small C&I customers statewide are currently being serviced by competitive suppliers

<sup>8</sup> The Weighted Average Supply Price Oct. 1, 2016 through Sept. 30, 2017 for RS customers as set forth on BGE’s website under Standard Offer Service (SOS) Rates/Miscellaneous Charges/BG&E Electric Supply Price Comparison Information.

<sup>9</sup> We came across several other 12-month contract offers that, on average, had savings modestly higher than the average 24-month contract savings; however, for the most part the beneficial 12-month contract offers we located provided savings closer to 5% than 10%.

(the switching statistics for mid and large-size C&I customers are significantly higher, bringing the statewide market participation rate for all C&I customers to about 40% overall). In the two largest service territories in the State, BG&E and Potomac Electric Power, the small C&I customer switching rates are even higher, at 36% and 35%, respectively.

There was also a general consensus amongst stakeholders that the residential choice market was also functioning effectively. Noteworthy advancements to the retail choice market included the adoption of Purchase of Receivables (POR) in 2009, which allows all residential customers to receive consolidated billing for third party supply on their utility bill without restrictions (i.e., some other states prohibit customers with significantly past due bills from consolidated billing eligibility), and the soon-to-be-implemented 3-day switch protocol. Nonetheless, both in the group meeting as well as during one-on-one stakeholder meetings, various stakeholders raised one or more concerns and cited areas that could be improved upon within the existing market structure (i.e., without changes to SOS procurement or pricing and without the introduction of aggregation programs) to increase residential market penetration.

The cited areas for improvement within the current market structure fell into one of two general categories: 1) mechanical/switching protocols and 2) informational initiatives that raise market awareness and improve access to shopping information. These issues are discussed in more detail below.

### **1) Mechanical/Switching Protocols:**

These issues pertain to rules and/or protocols dictating the manner and timing for enrollment and retention of retail customers by electric suppliers. Specifically, several electric suppliers with whom we spoke to cited a number of initiatives that could, and in their view should, be implemented to make it easier and/or faster for suppliers to enroll choice customers. These initiatives are summarized below:

- ***Instant Connects:*** ‘Instant connect’ refers to the ability of supply service with an electric supplier to start on “day one” of new utility service (i.e., the commencement of a new account by a customer) without the customer first having to go on default or SOS. Suppliers have opined that the current practice of automatically placing a new customer account on SOS creates a certain inertia against later switching and thereby serves as a choice market impediment. Suppliers have argued that by allowing instant connects, it will remove this obstacle.
- ***Seamless Moves:*** A ‘seamless move’, otherwise referred to as ‘contract portability,’ is applicable in circumstances where a customer that has participated in the choice market and has a current electric supplier moves from one location to another in a EDC service territory, and refers to the ability of a customer’s chosen electric supplier to move with the new customer to a new address within the same EDC territory without interruption.

Under current practice, when a customer moves and terminates its account at the ‘old’ address, the customer is automatically ‘de-enrolled’ from choice service. In essence, the act of moving from one location to another automatically terminates the current relationship

between the customer and its electric supplier. The supplier must convince the customer to ‘re-enroll’ for service at the new address. Suppliers assert that this creates a market disruption and an automatic attrition to choice participation. Moreover, absent the ability for an ‘instant connect,’ the customer is automatically placed on SOS for the start of service at the new address, exacerbating the market barrier.

- **Enroll by Wallet:** ‘Enroll by wallet’ refers to a customer’s ability to enroll with a choice supplier, while away from the home, using information a consumer carries in their wallet, such as their name, address, phone number, driver license number, or the last four digits of their social security number.

Suppliers assert that customers should be able to submit an enrollment using this information and contrast that to the current situation whereby, in order to enroll a customer, a supplier must obtain the customer’s unique choice number which, in some cases, is different than their EDC account number. For example, Delmarva requires a customer’s 22-digit Service Number to enroll their electricity account with an electric supplier. Suppliers have asserted that this 22-digit Service Number is not something that customers know or have access to when they are away from their homes.

## 2) Informational Initiatives:

Informational initiatives are intended to promote competitive shopping through increased awareness and accessibility to tools that facilitate and highlight shopping opportunities. Some examples are provided below:

- **Referral Program:** During the stakeholder process, several suppliers pointed to the Standard Offer Customer Referral Program implemented in Pennsylvania. A referral program effectively employs the EDC as the entrée to competitive suppliers, whereby customers that contact the EDC with an inquiry are referred to the sales department of a randomly selected retail electric supplier participating in the program. Participating suppliers have agreed in advance to offer and provide to consumers a pre-determined supply product with a specified contract term and savings.

Suppliers ascertain that this type of a program raises consumer awareness of the retail choice market, can help overcome the inertia associated with SOS, and can ‘prompt’ consumers to delve into the competitive market where these customers may otherwise be reluctant to do so or are unaware of these opportunities.

- **Improved Shopping Platform:** Several suppliers and other stakeholders advocated for the development of a more robust, dynamic, and up-to-date shopping platform for consumers than is currently available. Stakeholders specifically cited the platforms developed and utilized in Texas and Pennsylvania as examples to strive to replicate. In Texas, PowertoChoose.com is the state-sanctioned website that acts as a clearinghouse for residential electricity plans. Customers can plug in personal details and sort plans by price and other factors, such as fuel mix, fixed/variable rates, and contract lengths, to find the offer that works best for them. The PowertoChoose site also allows users to look at electric



providers' customer service records. Pennsylvania has a similarly robust platform at PAPowerSwitch.com.

The stakeholders raising these issues emphasized that a more dynamic platform would provide greater ability for consumers in Maryland to compare offers in real-time and make more informed choices.

We understand that recovery mechanisms are in place that would allow EDCs to recover expenses associated with implementation of retail choice-promoting initiatives, such as the recent implementation of the 3-day switch rule. We would expect that the PSC's consideration of one or more of the above initiatives would take into account and weigh any such incremental expenditures against the incremental benefits to Maryland consumers in terms of facilitating the retail choice market and/or helping support better pricing in the retail marketplace.

#### **F. Comparison of Maryland to Other Retail Choice State Markets**

GA performed an overview assessment and comparison of the state of the retail choice market in Maryland as compared to other states that offer retail choice. We executed this assessment by researching market participation and switching statistics on state public utility commission websites, and investigating other market evaluation reports.

A particularly instructive report that was brought to our attention during the stakeholder process was the Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS Report). The annual ABACCUS report is sponsored by companies with a stake in competitive markets in North America including several large retail suppliers. There is an ABACCUS Advisory Board comprised of energy executives, regulatory commissioners and former commissioners, agency staff members, and representatives from sponsoring companies, which provides guidance and input to the report.

The ABACCUS Report scores and ranks U.S. states and Canadian provinces regarding their efforts and achievements in the promotion of electric retail competition. These scores and rankings are based upon a weighted evaluation using 49 different metrics falling into five main categories, including: 1) market structure, 2) default service design, 3) market participant transactions, 4) degree of retail choice facilitation built into policies and rules, and 5) actual market performance. In the most recent ABACCUS annual report, issued in July 2015, Maryland was given the 5<sup>th</sup> highest ranking among retail choice states in the U.S. -- behind only Texas, Pennsylvania, New York and Connecticut in terms of its efforts and achievement in the promotion of retail competition in the residential sector. Maryland was also given the 5<sup>th</sup> highest state ranking pertaining to the C&I market.

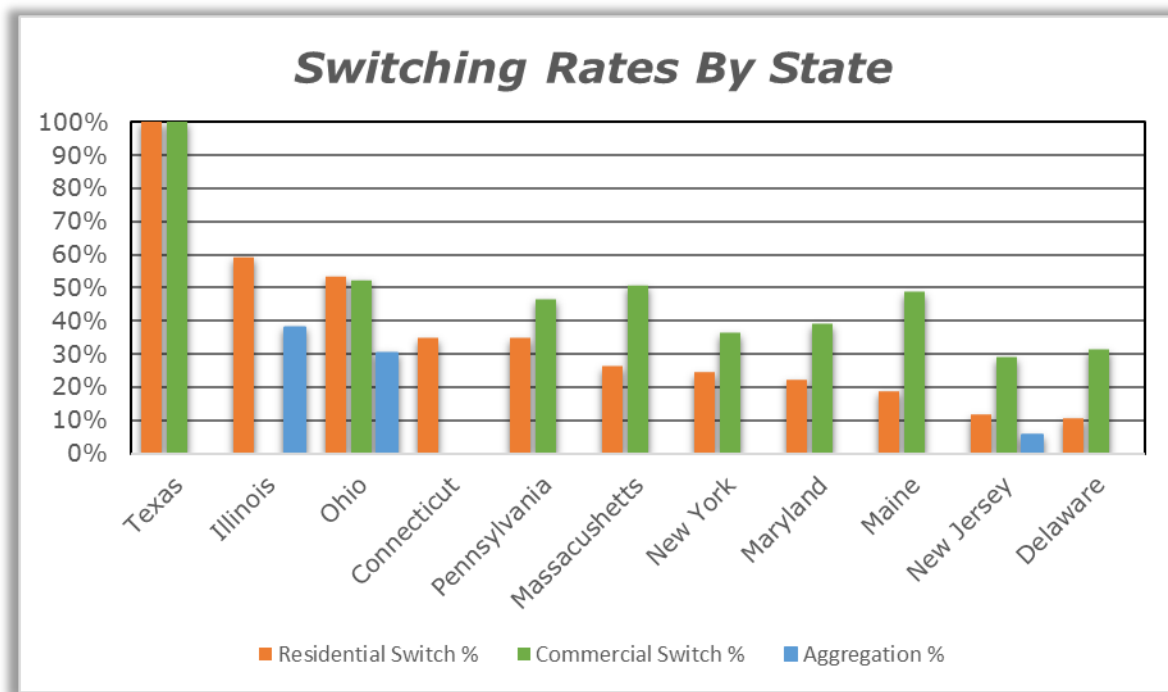
The 2015 ABACCUS Report indicates that, as of the end of 2014, Maryland had the 6<sup>th</sup> highest rate of residential market penetration of the 16 U.S. retail choice states. By way of comparison, Delaware was given a 12<sup>th</sup> place ranking in terms of promotion of retail competition and had the 12<sup>th</sup> highest rate of residential market penetration of the 16 U.S. retail choice states. As such, from the perspective of entities with an interest in the promotion of retail competition, Maryland was

placed in the top one-third of residential markets as determined by a host of metrics while, by comparison, Delaware was ranked in the bottom one-third.

For this study, we also gathered updated switching and market participation statistics that were available from various state commission websites. In order to present an ‘apples-to-apples’ comparison of state-by-state market penetration, given the different reporting formats, frequency, and timing employed in different states, we elected to present reported switching numbers as of year-end December 2015.

The statistics found are summarized in the graph below. For presentation purposes, we did not include all 16 retail choice states; rather, we show the 10 states with the highest number of retail choice-eligible residential customers, plus the State of Delaware<sup>10</sup>. Where information could be obtained or reasonably estimated for states which allow government energy aggregation of retail customers, we also show a break-down of the percentage of choice-eligible residential customers (denoted ‘Aggregation’ in the graph below) that have switched as a result of an aggregation program as opposed to direct marketing. In addition, where sufficient data could be obtained, we show on the graph below the percentage of choice-eligible commercial and industrial customers that have switched.

Figure 5: Breakdown of Customer Switch Rates by State



We noted earlier in this report that the market penetration in Maryland (as measured by the

<sup>10</sup> Other retail choice states/districts not included in Figure 5, include NH, RI, and Washington D.C., where the total number of customers eligible for retail choice is significantly lower than in MD, as well as CA and MI where there are limits (caps) on the number/percentage of customers that can switch and therefore statistics on eligible customers and switching customers are/or may be misleading.

percentage of eligible residential customers that are taking service from third party suppliers) peaked in 2013, and that there has been a very gradual drop in market participation since 2016. Stakeholders have generally attributed this drop in market participation rates to the experience and aftermath of the polar vortex events in Winter 2014; whereby price volatility and significant price spikes for customers that were (sometimes unbeknownst to them) taking service on variable price contracts – or that were taking service on fixed price contracts that were subject to cost ‘pass-throughs’ to account for market spikes.

Stakeholder feedback has generally been that based upon first-hand bad experiences, or public exposure of the bad experiences of others, consumers have become more reluctant and skittish about the competitive retail market. However, we are aware that there are ongoing concerns among some stakeholders concerning whether there may be other market failure issues afoot in the Maryland market that have led to a gradual decline in market participation over the past several years. In this regard, it is worth noting that, as cited in the 2015 ABACCUS Report, in one-half of reporting jurisdictions (Illinois, Pennsylvania, New York, Connecticut, New Jersey and Maine, in addition to Maryland), the number of participating residents in the competitive retail market fell between December 2013 and December 2014. In another study of retail markets in the U.S.<sup>11</sup>, it was found that among retail choice states in the U.S. there was an *aggregate* decline in residential market participation between 2013 and 2014 of 1.2%

We know that Maryland experienced another modest drop in residential market participation between 2014 and 2015 (from about 24% statewide in December 2014 to about 22% by December 2015). A state-by-state comparison of the year-end 2014 switching data from the ABACCUS Report to the year-end 2015 switching data collected for this report and summarized in the chart above, indicates that most of the states that saw a market participation drop between 2013 and 2014 saw a continued drop between 2014 and 2015 (including Illinois, Pennsylvania, Connecticut, New Jersey and Maine, in addition to Maryland). Moreover, Ohio joined the list of states experiencing a modest residential market participation decline between 2014 and 2015 and, while New York’s switching numbers stabilized between 2014 and 2015, the overall participation rate increased only slightly.

Overall, because of a fairly sizable increase in market participation in Massachusetts, and the stabilizing of switch rates in New York, between 2014 and 2015 Maryland moved from the 6<sup>th</sup> ranking to the 8<sup>th</sup> ranking in terms of residential market participation rates. However, overall, the continued slow decline in participation rates seen in Maryland in 2015 is hardly an outlier amongst retail choice states.

### **G. Value Added Services**

Value-added services that can be coupled with electricity supply can come in many shapes and sizes. They can include anything from energy efficiency and renewable energy measures to gift cards and reward points. For purposes of this report, we focus on directly energy-related services that can reduce energy consumption and/or energy bills, or otherwise promote state energy policy or societal goals.

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<sup>11</sup> Report entitled ‘Retail Choice in Electricity: What Have We Learned in 20 Years?’ dated February 11, 2016, prepared for the Electric Markets Research Foundation by Christensen Associates Energy Consulting

We undertook a review to first ascertain what energy-related ‘value-added services’ – or what we will refer to herein as ‘energy-related services’ – are already available to Maryland energy consumers under the current market structure and performance.

The primary platform for the availability of energy-related services for Maryland consumers is the EmPOWER MD Program, which was created as a result of state legislation (EmPOWERing Maryland Act). Under EmPOWER MD, there are a host of individual programs made available through the State’s EDCs aimed at achieving State energy reduction goals. These programs are designed to provide incentives to residential customers to take action to reduce their energy consumption, thereby achieving the dual purpose of meeting statewide energy reduction goals and lowering the energy bills of individual customers. EmPOWER MD Programs that are available to the State’s electric utility customers include:

- Quick Home Energy Check-up Program under which an energy professional will assess home energy consumption, install certain energy savings products, and recommend energy-savings improvements.
- Smart Energy Rewards provides a \$1.25 credit on electricity bills per kWh saved during designated times on designated days of the week.
- Rebates are given for purchasing energy efficient appliances, which conform to EnergyStar® standards.
- Energy Wise Rewards provide bill credits for the installation of a web-programmable thermostat or outdoor switch installed to cycle central air conditioners during peak periods.
- Customers who schedule a time to properly recycle appliances are eligible to receive up to \$75 in cash.
- Instant Discounts on energy efficient lighting at Maryland retailers.
- Rebates on the installation of energy efficient heating and cooling systems. Customers can receive a cash rebate by choosing an approved contractor to complete the installation followed by the submittal of an application.

An important element of the EmPOWER MD initiative, geared specifically targeted towards low income residents, is called the Low Income Energy Efficiency Program (LIEEP). This program is administered by the Maryland Department of Housing and Community Development and is available to income-eligible residents in the service territories of BG&E, Delmarva, FirstEnergy, Pepco, and SMECO. At no cost to the customer, households that meet income eligibility requirements are entitled to an energy audit, the purpose of which is to prioritize the most effective ways to reduce energy costs while increasing comfort. Once the audit is completed, a local agency will coordinate with the customer and a contractor to schedule the installation of the recommended energy-saving measures. Follow-up checkups are conducted thereafter by the local agency to ensure that energy efficiency goals are being met by the household receiving aid.

The Clean Energy Communities Low-to-Moderate Income Grant Program provides grants, on a competitive basis, for energy efficiency measures implemented by non-profits and local governments that benefit low-to-moderate income Maryland households. There are both ‘County-allocated’ and Statewide elements of this grant program, with grants awarded competitively within an applicant pool within the appropriate geographic region (i.e., within each County or statewide).

The Residential Clean Energy Grant Program provides grants to residential customers to defray a portion of the installation cost associated with solar photovoltaic, solar water heating, geothermal or wind projects.

Our extensive search of supplier websites for electricity supply offers in MD came up virtually empty as it pertains to ‘energy-related’ value added service offerings bundled with electricity supply (while reward points with various programs and rebates were available, we found only one example of value added service that directly impacted electricity use – an offering of a Nest Thermostat with a 27-month fixed rate electricity supply plan; we note that this plan featured an electricity supply price higher than our calculated Maryland PTC).

#### **H. Affordability Initiatives Targeted to Low Income Customers in Maryland**

Energy bill assistance for low income households in Maryland is currently provided through the Office of Home Energy Programs (OHEP), situated within the State’s Department of Human Resources (DHR). There are currently three types of financial assistance benefits administered by OHEP. Customer eligibility for all three of these bill assistance grants is reviewed and determined by OHEP through a single application. The three current financial assistance programs available to low income customers include:

1. Electric grants that are distributed in monthly credits and applied directly to the customer’s electric bill. Customers can be qualified for these grants on a recurring basis in each fiscal year. Funds are provided through the Electric Universal Service Program, and the credits are intended to reduce electric bills to more affordable levels, commensurate with household income, family size, and level of energy consumption.
2. Heating grants are also distributed as credits directly against heating bills, and customers can also re-qualify for these grants on a recurring, fiscal year basis. Funds are provided through the Maryland Energy Assistance Program. These credits are intended to reduce heating bills to more affordable levels, commensurate with household income, family size, and level of energy consumption. For electric heating customers, these credits are additive on the electric bill.
3. Arrearage grants are available to be applied to past due electric bill amounts, in amounts not to exceed \$2,000. Customers are only eligible for arrearage grants once every seven years. These grants are funded through an allocation of 50% of the State’s Regional Greenhouse Gas Initiative (RGGI) credit revenues.

**In order to be eligible for the electric grants and heating grants, customers must be enrolled for an**

equal payment plan (EPP) with the electric utility and, as indicated above, the grants are applied as monthly credits to the monthly EPP amount. Based upon discussions with stakeholders, we understand that while all customers who submit applications and meet the eligibility criteria receive OHEP assistance, less than one-half of all Maryland households that would be eligible under the income guideline criteria actually apply for assistance, and that this level of participation is relatively constant from year-to-year (this begs the question, if the rate of application/participation among eligible households was to increase, would there be sufficient funding available to meet the increase in demand for assistance, and/or would per-household assistance levels would have to be decreased?).

Various governmental social services offices and nonprofits are active in Maryland, providing a host of social services to low income persons on a variety of fronts to address poverty-related issues and to promote self-sufficiency. Specifically with respect to energy and electricity, these organizations provide education, assistance, and coordination with OHEP assistance program applications.

Through the stakeholder process, GA became aware of a number of initiatives being implemented and/or pursued by the Fuel Fund of Maryland, Inc. (Fuel Fund), that provide important insights concerning the topics addressed in this report. The Fuel Fund, a nonprofit organization, provides funding to eligible low income customers to avert service shut-offs, and assist with the application process for OHEP-administered grants. The Fuel Fund also runs an energy education program called ‘Watt Watchers,’ which includes workshops intended to educate low income customers on energy consumption and promote behavioral changes influencing energy consumption -- with the ultimate goal of promoting energy conservation and resultant utility bill reduction.

After completion of the Watt Watchers Program, the graduates are assigned an ‘energy coach’ to follow-up and help promote implementation of measures addressed in the workshops. This initiative is premised, in part, on studies and analysis by the Fuel Fund that found the following: (1) low income customers applying for utility assistance used 1.6 times the electricity of an average customer in BG&E territory; and (2) customers receiving assistance who also receive energy education realize a 15% reduction in energy consumption in the short-term (although these savings appear to diminish over time<sup>12</sup>).

In addition to these ongoing initiatives intended to reduce energy consumption, facilitate access to OHEP-administered bill assistance, and provide emergency, shut-off avoidance financial assistance, we understand that the Fuel Fund has been exploring and is in the process of attempting to implement an additional program aimed at addressing the unit cost of electricity paid by low income program participants. Specifically, we understand that the Fuel Fund is attempting to negotiate a long-term fixed price electric supply contract that would provide a discount to the SOS tariff price for electric supply. Based on our understanding, the goal of this initiative is to develop a pre-negotiated offering that would be available to Watt Watchers Program graduates; in this manner, the energy price reduction initiative would be coupled with the energy consumption reduction initiative to provide a holistic approach to bill reduction for low income customers.

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<sup>12</sup> Source: Maryland Department of Human Resources Report dated December 1, 2016 entitled ‘Report on Proposed Program Changes – Office of Home Energy Programs,’ as well as oral statements of a Fuel Fund representative during stakeholder process.

We understand that the current number of Watt Watchers Program graduates (and therefore the eligibility pool for this electricity procurement initiative) is currently on the order of about 10,000, and that it is the program goal to graduate several thousand more each year. Customer-favorable contract terms would be pre-negotiated with the selected supplier, including a fixed price, a longer term length (up to two years), no termination fees, and no credit checks.

On December 1, 2016, the Maryland Department of Human Resources (DHR) submitted a report to the Joint Chairmen of the Senate Budget and Taxation and the House Appropriations Committees entitled ‘Report on Proposed Program Changes – Office of Home Energy Programs’. The purpose of the report is to provide the framework to develop a Policy Reform Plan to support changes to the energy assistance program, which would be designed to make energy bills more affordable, promote improved bill payment behavior, and reduce dependence on utility assistance programs by OHEP customers. Based upon discussions and feedback from a stakeholder Advisory Group, the DHR report proposes a Supplemental Targeted Energy Program (STEP), which would be implemented in July 2017.

The December 1, 2016 DHR report describes the current, 3-pronged (electric, heating and arrearage grants) financial assistance program, whereby customers with larger energy burdens (defined as the percentage of household income dedicated to paying energy bills) receive higher benefits, successfully assuring that customers with large, immediate needs receive the largest assistance. However, the report highlights several shortcomings in the current program, including that customers that reduce their share of income that goes towards paying energy bills (either by reducing energy consumption or increasing household income) are penalized via reductions in the amount of energy assistance. In addition, the report points out that customers must navigate a ‘complex and fragmented system’ in order to avail themselves of tools that will help reduce their energy burdens.

As set forth in the DHR report, the proposed STEP is intended to address the following conclusions:

- Energy assistance grants are not a long-term affordability solution
- Customers need help navigating the array of services available to help make energy bills affordable
- Customers with immediate energy crises will under-utilize programs that have longer-term impacts
- Customers must be given tools that empower them to make their energy costs more affordable

To address these issues, the DHR proposed STEP includes the following elements, which are designed to combine additional short-term assistance with the creation of a partnership between the customer and the program that will set the groundwork to help resolve long-term affordability issues:

- A supplemental financial ‘incentive benefit’ of up to \$1,000 for a one-year period. This supplemental incentive would be *in addition to* EUSP and MEAP grants if, after the EUSP and MEAP grants, the household energy burden still exceeds 6% of household income.
- The ‘incentive benefit’ would be earned in installments based upon the customer’s completion of the following three ‘targeted intervention focus areas’:
  1. Enrollment and completion of the STEP behavior change curriculum: STEP program enrollees will be required to complete an energy education workshop;
  2. Development and sign-off on a Service Coordination Plan built in conjunction with an assigned Energy Advisor: Customers would be screened by an Energy Advisor for eligibility for various available energy efficiency programs, including the EmPOWER MD Low Income Energy Efficiency Program and the DOE Weatherization Assistance Program, and would be filtered into the program that best fits their family and housing characteristics. Similar efforts would be made under the STEP program to assess non-energy needs and serve as a conduit for customers to access non-energy related services;
  3. Development of an Energy Affordability Evaluation Plan that evaluates the customer’s progress in reducing its energy burden and establishes a plan of action to address energy affordability issues beyond completion of the STEP (i.e., to transition the customer to self-sufficiency once STEP grant assistance is finished).

Regarding the retail choice market, there are no specific statistics that have been found pertaining to the level of participation on the part of low income customers; however, input from low income advocates during the Stakeholder process suggested that there is general awareness amongst this segment of the population regarding the existence of choice and competitive suppliers, and that many low-income customers had participated in the retail choice market. These advocates offered the view, however, that many low income customers encountered poor experiences with retail choice, particularly via variable-price contracts during the 2014 polar vortex, and that many in this segment of the population are now leery about venturing back into the marketplace. It was suggested that these customers are looking for a trusted advisor to vet offers.

In our research of Maryland supplier websites, we found no electricity supply offers specifically targeted towards low income customers.

During the stakeholder process, suppliers and other stakeholders indicated that the implementation of POR in Maryland has addressed credit risk issues associated with enrolling low income customers. However, it was further noted that the low income population tends to have lower home ownership rates and to be more transient than the general population and that therefore, in the absence of ‘contract portability,’ as a group, this segment of customers tends to have a higher ‘attrition’ risk that must be accounted for in pricing.

Regarding the interplay between financial assistance for low income customers in the form of bill



credits and retail choice, it was opined by suppliers during the stakeholder process that since assistance is provided through bill credits, selection of a third-party supplier does not impact access to assistance. However, it was pointed out by another stakeholder that under consolidated billing/POR, assistance goes towards paying third party supplier charges as well as delivery charges so that, if and when third party supplier charges spike (i.e., in a polar vortex situation) or are otherwise higher than default service, this has the indirect effect of siphoning off assistance funds.

## **I. Results and Actions in Other States Concerning Low Income Customers and Retail Choice**

A review found various government and community-based low income assistance programs in other retail choice states not unlike those offered in Maryland. Percentage of Income Payment plans, not unlike those offered in Maryland, are also found in various states. Neighboring states, such as New Jersey and Pennsylvania, offer a last-resort program that allows low or moderate-income customers who may not be able to access the social safety net to receive temporary relief on their energy bills. Many states offer winter relief, which prevents low income customers from having their energy turned off due to nonpayment. Programs across several states offer bill credits to senior citizens, and those on Supplemental Security Income.

As indicated above, our research of retail choice offerings in the Maryland market did not reveal any products or contracts targeted specifically to low income customers. Our research also did not find any such market offerings in other states. Moreover, with respect to the retail choice marketplace in general, there has been research performed suggesting that the benefits of retail choice have been inequitably distributed. A report issued earlier this year, referred to herein as the Christensen Report<sup>13</sup>, cited a number of studies which concluded that large percentages of low income customers who had participated in the retail choice marketplace had ended up paying higher prices than default service rates and that, in general, higher-income, more well-educated residential customers have tended to obtain greater benefits through retail choice than the low-income population.

Likely based upon similar conclusions, we found some examples of states that have taken actions to prohibit or limit income-restricted household participation in the choice market due to evidence of poor results for such customers. For example, in June 2016, New York issued a moratorium on choice for low income customers [CASE 12-M-0476]. Ohio has also taken action to prohibit customers on its Percentage of Income Payment Plan (PIPP) from shopping, while Pennsylvania prohibits customers in certain EDC territories that reside on their EDCs' Customer Assistance Program (CAP) from shopping<sup>14</sup>.

While Ohio prohibits PIPP customers from shopping, the state has developed a separate category of default service for such customers as a means of attempting to access the market to reduce bills

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<sup>13</sup> Report dated February 11, 2016 entitled 'Retail Choice in Electricity: What Have We Learned in 20 Years?,' prepared by Christensen Associates Energy Consulting for the Electric Markets Research Foundation.

<sup>14</sup> Through proceedings to review future iterations of default service plans for the EDCs, the PA Commission has recently approved plans to gradually re-introduce retail supply options for low income customers, albeit with greater protections.

for limited income customers. By order of the Ohio Public Utilities Commission (Case No. 16-247-EL-UNC), utilities in Ohio are required to conduct a competitive RFP auction to supply 100% of load incurred by PIPP customers in the respective EDC territories for one year terms. A contract is only awarded if the price resulting from the competitive bid is below the ‘standard’ default service tariff price. If no savings can be achieved, supplemental auctions are to be conducted, or procurement of bilateral contracts will be pursued.

Beginning earlier this year (2016), utilities conducted competitive RFP auctions for supply for a 12-month contract period June 1, 2016 to May 31, 2017, resulting in the award of contracts that are producing small savings below the ‘standard’ default service tariff. Since PIPP customers are prohibited from shopping, PIPP customers are essentially placed into this program for the one-year period, without the opportunity to opt-out.

## **J. Observations Concerning the Most Active Retail Choice Markets**

The ultimate goals of retail electric competition, and benchmarks for success, are often a source of disagreement among stakeholders, and can vary from state-to-state. It is believed by some that the primary, if not only goal, is to reduce costs to consumers. Others believe that, in addition to the potential benefit of cost savings, the proliferation of customer choice is an important goal in and of itself as it produces valuable ancillary benefits, such as product innovation and consumer engagement. Public utility commissions, legislators, and other policymakers often try to balance all these considerations. These different, sometimes conflicting, considerations lead to the question of how to measure the success of retail competition.

It is undeniable that the number of customers switching to competitive suppliers often serves as a proxy for the health of the competitive market. To that end, we undertook a review of the market participation rates and trends in Maryland as compared to other states. In reviewing these market statistics and facts and circumstances in individual states, several observations can be made and different approaches to promoting retail choice can be identified.

In reviewing the facts and circumstances, four primary categories of approaches emerge for stimulating residential consumer participation in the retail choice marketplace: 1) Market Structure; 2) Municipal Aggregation; 3) ‘Choice-Promoting’ Initiatives including Switching and Enrollment Protocols and Information/Shopping Platforms; and 4) a State-endorsed Opt-In Affordability Program.

### **1) Market Structure:**

The highest rate of market participation amongst retail choice states is in Texas, where 100% of eligible customers<sup>15</sup> are taking service from retail suppliers. The reason for this is rather simple: Texas has phased-out investor-owned utility (IOU) provided default service as of 2006. As such, with default service no longer available, residential customers must receive their power supply from a competitive retail supplier. This market structure is generally regarded by proponents of competitive retail markets as the ‘end-state’ of market restructuring. Essentially, the inertia that

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<sup>15</sup> Eligible customers are all of the residential customers served by investor-owned utilities in the ERCOT footprint.

prevents or inhibits many residential customers from proactively shopping for a competitive supplier, in favor of the familiar status quo of utility-provided power supply, is overcome by the elimination of that status quo. Texas is the only state in the U.S. that has eliminated utility-provided<sup>16</sup> default service.

A second market structure issue that can impact shopping is the procurement and tariff pricing of default service. The policies for procurement and pricing of default service has tended, in most states, to reflect a balance that regulators attempt to achieve between having default service prices reasonably reflective of market conditions, while at the same time achieving some degree of price stability for default service customers, in particular for residential default service customers<sup>17</sup>.

In many states, the result of this balancing act has been periodic procurement of staggered fixed price contracts, with periodic default service tariff price adjustments to reflect the changing portfolio cost as old contracts expire and new contracts are procured and are added to the portfolio. In general, the longer-term the contracts, and the longer interval between procurement rounds, the less volatile default service pricing tends to be (i.e., greater default service price certainty is achieved). The counter to the benefit of greater price stability achieved from longer-term default service supply contracts is that there is a greater chance for default service tariff prices to diverge from market prices, as market prices change. These divergences between default service prices and market prices can move both ways, and can have a positive or negative impact on the ability for retail suppliers to offer price savings to consumers.

A notable exception to this long-term, fixed price contract portfolio approach is the default service pricing mechanism in the New York market. In New York, while there are some variations utility by utility, default service for most residential customers is a monthly variable-priced product (the charge varies by month) reflecting a mix of supply bought on long-term hedges and short-term market purchases. This means the utility price fluctuates throughout the year, and does not provide price certainty or stability.

While a monthly variable-priced product can produce a ‘price-to-compare’ that is difficult to compete against during periods of low market prices, it also provides an opportunity for retail suppliers to offer fixed price products that provide the type of price stability that the utility default service tariff cannot provide (i.e., the fixed price offering is a true ‘differentiator’ for retail suppliers in terms of a product offering). This default service pricing model and product differentiation has been attributed by some suppliers with whom we spoke as contributing to the relatively healthy switching numbers in New York.

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<sup>16</sup> It is emphasized that, while in other retail choice states the utilities provide default service to ‘non-switching’ customers under tariffs approved by the state regulatory commission, by and large the utilities do not actually provide the generation services (energy, capacity, ancillary services, required renewable content, etc.) themselves; rather the utilities typically contract with wholesale default service providers through a competitive procurement process.

<sup>17</sup> For larger commercial and industrial customers, commissions have generally determined that default service price stability is less of a priority, and they have been more willing to adopt default service pricing models that have more dynamic elements, including real-time pricing.

Another aspect of the New York market that we will place in this ‘market structure’ category is a sales tax exemption on customers outside of New York City that switch to third party suppliers. This sales tax exemption provides a natural cost advantage, all other things equal, for customers who participate in the choice market.

## **2) Municipal/Government Energy Aggregation:**

After Texas, the two states with the highest rate of residential market penetration, by a wide margin, are Illinois and Ohio -- both with percentages of eligible residential customers receiving service from competitive retail suppliers exceeding 50%. In both Illinois and Ohio, the predominant mechanism by which customers are switched to competitive suppliers is via municipal/government energy aggregation, or ‘GEA.’ In fact, if we remove the actual reported/estimated market penetration in Illinois and Ohio due to GEA, the statewide switching statistics in both states would closely resemble those in Maryland (i.e., overall residential percentage participation rates in the low-20’s.).

Under a GEA program, residential customers are pooled or ‘aggregated’ into a single procurement group by the local government body, or a consortium of local government entities. There are several key features of the GEA model. Perhaps the most critical is the legal authority given to the ‘Lead Agency’ (typical scenario is the governing body of a municipality) to make a contract award on behalf of the entire pool of non-shopping residential customers within the aggregation. All residents (except those that already have a retail supplier) are included in the initial pool of load that is put out to competitive bid. The procurements conducted by the local governing body typically request pricing for longer-term, fixed price contracts (typically in the 1-2-year range). If a contract is awarded because of the bid, all residents are included automatically, subject to an ability to ‘opt-out’ of the program at any time. *Please note that it is this opt-out feature that tends to be the most controversial aspect of these programs.*

The primary benefits associated with the ‘opt-out’ model for procuring electricity supply for an aggregated group of residential customers, based upon discussions with several active suppliers that market in various states, and also based upon firm experience, are: 1) substantially lower per-customer acquisition costs for an ‘opt-out’ aggregation as compared to the direct-marketing approach for acquisition of customers (generally less marketing costs, and a much higher ‘success rate’); and 2) the ability to lock-in load and hedge energy costs on a specific day, rather than having to hold a ‘direct-marketing’ offer open for weeks or months (thereby reducing market risk inherent in the offered fixed price). These factors both contribute to the ability of suppliers active in the ‘opt-out’ aggregation space to offer better pricing for retail supply under an ‘opt-out’ model as compared to prices being offered for ‘direct-marketing’ products.

The primary objection to the use of an ‘opt-out’ model for supply procurement for an aggregated group of customers, which has led to some local and state governing bodies to reject its implementation, is that it removes ‘choice’ from the consumer, and that government should not be making energy choices for consumers. The 2015 ABACCUS Report cited earlier in this report generally takes the position that an ‘opt-out’ model may actually retard the development of the retail choice market, and opines that ‘opt-in’ aggregation programs are necessary to raise awareness and to encourage customer action.

Another key feature of the GEA model is the pre-establishment of contract terms by the ‘Lead agency;’ that is, in a typical scenario the municipal governing body establishes the terms and conditions of service, which typically include ‘consumer-friendly’ conditions such as a prohibition against termination fees and a prohibition against contract price adjustments except under very controlled conditions and subject to review and approval by the governing body. Suppliers will bid based upon these pre-established terms and conditions.

In addition to Illinois and Ohio, GEA is also permitted under state law in Massachusetts and New Jersey where this type of aggregation contributes significantly to the retail market participation rates in each of those states. GEA has also recently been introduced in New York (discussed further below).

In each of these states, the Legislature has passed legislation enabling local governing bodies to conduct procurements and award contracts on behalf of residents under one of two authorization approaches. In Illinois and Ohio, the ability for the local governing body to include all residents on an ‘opt-out’ basis is contingent upon voter approval of a referendum. Absent a voter-approved referendum, the program must be on an ‘opt-in’ basis only. It is our understanding that the vast majority, if not all, of the GEA programs implemented in Illinois and Ohio have utilized the referendum/opt-out model. In Massachusetts and New Jersey, the legal authorization for the local governing body to procure and contract on behalf of residents and include all residents on an ‘opt-out’ basis is contingent upon the passage of an ordinance by the governing body (such ordinances are typically subject to public notice and public hearing).

While the amount and quality of information available in each of these states regarding GEA-specific switching varies considerably, the information that we have gathered either through direct sources or ‘inference’ indicates that GEA is the means by which over one-half of all residential customers in Illinois and Ohio that are on third party supply have been switched. Specifically, in Illinois, which had a total residential market participation rate of 59% as of year-end 2015, we estimate that about 38% of residential customers have been switched as part of a GEA program; in Ohio, which had a total residential market participation rate of 53% as of year-end 2015, we estimate that about 30% of residential customers have been switched as part of a GEA program. As such, GEA is clearly a dominant impetus for residential switching in these states and we estimate non-GEA switching rates in Illinois and Ohio to be about 21% and 23%, respectively. This is quite comparable to the current residential switching rates in Maryland.

In New Jersey, year-end 2015 residential market participation rate was about 11%, and has grown to over 14% as of September 2016. We estimate that GEA-related switching currently represents about 5% of the eligible residential market (or about one-third of total residential customers in New Jersey on third party supply) and, due to known municipalities that have recently implemented GEA programs, we believe that GEA is responsible for a significant portion of the recent uptick in market penetration in New Jersey (residential switching rates in New Jersey peaked at over 15% in 2013, then experienced a gradual but fairly steady decline to a low of 10.7% in February 2016, before reversing course and experiencing a rather sharp up-tick to 14.6% as of the last reported month - September 2016).

For Massachusetts, which had an overall statewide residential market participation rate of about 26% as of year-end 2015, we were unable to track down any reliable data or information regarding the market share attributable to GEA. However, in the 2015 ABACCUS Report, Massachusetts is one of three states (along with Illinois and Ohio) designated as having Aggregation as the dominant policy driving residential market participation (the remainder of retail choice states are designated as having ‘Direct Access’<sup>18</sup> as the dominant policy driving residential market participation). As such, we ascertain that GEA represents the majority of the residential switching market in Massachusetts.

Finally, after the introduction of a limited pilot program, New York recently approved the implementation of GEA statewide, and authorized a framework for Energy Aggregation in New York State (this corresponds to an order issued on April 20, 2016 and effective April 21, 2016, under CASE 14-M-0224). The New York GEA model is similar to the opt-out model in Massachusetts and New Jersey, predicated on the passage of an ordinance by the local governing body. Since this initiative is in its relative infancy, the market impact at this point is presumed to be negligible<sup>19</sup>.

### 3) ‘Choice-Promoting’ Initiatives:

After Illinois and Ohio which, as described above, have high residential switching rates driven by GEA, the two states with the next-highest residential market participation statistics, as of year-end 2015, are Pennsylvania and Connecticut (both at about 35%). Moreover, these states are ranked 2<sup>nd</sup> and 4<sup>th</sup> respectively in the 2015 ABACCUS Report in terms of their efforts and achievements in the promotion of retail competition, and the dominant policy identified in the 2015 ABACCUS Report as driving the residential switching statistics is ‘Direct Access.’

After Massachusetts, whose switching statistics we believe to be driven by GEA, the final state whose switching statistics and ABACCUS Report rating both surpass those of Maryland, is the State of New York. We also note that Pennsylvania in particular was repeatedly referenced by suppliers and other stakeholders during the stakeholder process as a state for Maryland to emulate in terms of the promotion of retail choice.

Based upon stakeholder suggestions and independent research, we looked at each of these three states (Pennsylvania, Connecticut and Maryland) in an attempt to identify and catalog those initiatives that appeared to contribute to a ‘switch-promoting’ environment.

- ***Education and Robust Shopping Platforms:*** During the stakeholder process, a number of stakeholders raised the perceived need for the state of Maryland to provide a more robust

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<sup>18</sup> Direct Access as used in the 2015 ABACCUS Report refers to a direct relationship/contractual arrangement between the supplier and an individual customer as the result of direct marketing to customers.

<sup>19</sup> It should be noted that the NYPSC even more recently (December 2016) issued a notice of hearings and a comment process (Docket 98-M-1343) concerning a potential overhaul or even outright ban on retail supply offerings to mass-market customers (residential and small commercial) in New York, in light of asserted lack of competition and innovation of new products and services, as well as the asserted persistence of customer abuses and overcharges. Combined with the NYPSC’s recent approval of municipal GEA on a statewide basis, this suggests a potential shift in the preferred mechanism in NY for enrollment of residential customers by retail suppliers.

and current on-line shopping platform than currently exists. This would facilitate customer shopping by enabling consumers to easily view the most current offers and compare those offers to utility tariff prices. Repeated references were made to the shopping platforms sponsored by the states of Texas and Pennsylvania. The Pennsylvania platform, sponsored by the Pennsylvania Public Utility Commission (Pennsylvania PUC), is found at PAPowerSwitch.com. Consumers can shop for current offers available in particular zip codes and filter by various parameters such as pricing products (i.e., variable vs. fixed), a unit price limit, contract length, specific terms and conditions (fees), and special programs (i.e., types of renewable energy products). The current comparable tariff cost is also provided.

In the course of our research, we also found that both Connecticut (EnergizeCT.com) and New York (newyorkpowertochoose.com)<sup>20</sup> had quite robust and relatively ‘user-friendly’ shopping platforms sponsored by those states. We understand that each of these platforms have been actively promoted and advertised at launch and thereafter.

- **Referral Programs:** Based upon references during the stakeholder process, we investigated Pennsylvania’s referral program entitled the ‘Standard Offer Customer Referral Program’. This program essentially employs the EDC as the entrée to competitive suppliers, and works as follows:

When a customer contacts the EDC customer service department with an inquiry (the inquiry does not have to concern competitive retail electricity markets, and can commonly include such things as calls to initiate new service and bill inquiries), the customer will be asked by the EDC customer service representative at the conclusion of the discussion for permission to be referred to the sales department of a randomly selected retail electric supplier participating in the program. A supplier’s eligibility to participate in the program is contingent upon its ability to offer a contract that meets the specifications established by the Pennsylvania PUC. Currently, the Referral Program offering provides a 12-month fixed price at a 7% discount to the EDC’s PTC. As an additional protection to customers, a supplier may not assess a termination fee during the duration of the contract.

At the contract’s conclusion, the consumer may take one of three options: 1) remain with their current supplier, 2) switch to another competitive supplier, or 3) return to default service offered by their EDC. Importantly, under the Referral Program, a consumer who does not make an affirmative choice before the end of their contract will remain with their originally referred third party supplier on a month-to-month basis without the prospect of a termination fee, creating a certain inertia in favor of competitive supply in those instances.

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<sup>20</sup> As previously noted the NYPSC very recently issued a notice of hearings and a comment process (Docket 98-M-1343) concerning a potential overhaul or even outright ban on retail supply offerings to mass-market customers (residential and small commercial) in New York, in light of asserted lack of competition and innovation of new products and services, as well as the asserted persistence of customer abuses and overcharges. This proceeding has the potential to significantly alter the climate of the choice market in NY.

Licensed suppliers in Pennsylvania are not obligated to participate in the Referral Program, as the program is strictly voluntary. If suppliers are unwilling or unable to do so based upon market conditions and other factors, participation is at their discretion. However, in order to be included in the Referral Program pool of suppliers, individual suppliers' must agree to the parameters of the Referral Program offering.

New York had a similar referral program in place that was originally approved in 2006. However, the program was discontinued in 2014 based, in part, upon improved market participation. In fact, we understand that the New York referral program was partially drawn from during the development of the Pennsylvania referral program<sup>21</sup>.

- ***Instant connects:*** As described above, 'instant connect' refers to the ability of supply service with an electric supplier to start on "day one" of new utility service (i.e., the commencement of a new account by a customer) without the customer first having to go on default or standard offer service. Suppliers have opined that the current practice of automatically placing a new customer account on SOS creates a certain inertia against later switching and thereby serves as a choice market impediment. Allowing instant connects, suppliers have argued, will remove this obstacle.
- ***Seamless moves:*** As described above 'seamless moves' refers to the ability of a customer to continue its current third party supply contract, without interruption, when moving from one address to another within the same EDC territory. Under current practice, when a customer moves and terminates its account at the 'old' address, the customer is automatically 'de-enrolled' from choice service, effectively terminating the current contractual relationship between customer and electric supplier and returning that customer to default service. Suppliers assert that the lack of seamless moves creates a market disruption and an automatic attrition to choice participation.

During the stakeholder process, suppliers pointed to the Pennsylvania market on this issue. The Pennsylvania PUC originally issued an order in February 2013 instructing the EDCs to file plans by the end of 2013 for the implementation of instant connects and seamless moves by June 2015. The Pennsylvania PUC believed these to be important enhancements to the competitive market. Implementation of instant connects and seamless moves was subsequently delayed until July 2016 in order to focus EDC resources on the implementation of the 3-business day switch rule. As such, while instant connects and seamless moves are a new part of the competitive landscape in Pennsylvania, actual implementation is still new and therefore incremental market impacts would be difficult to ascertain at this early juncture.

- ***Enroll by wallet:*** As described above, 'enroll by wallet' refers to a customer's ability to enroll with a choice supplier, while away from the home, using information a consumer carries in their wallet, such as their name, address, phone number, driver license number, or the last four digits of their social security number. Currently, customers can only be enrolled if the supplier is provided the customer's unique choice number assigned by the EDC, which customers seldom have at their fingertips or committed to memory.

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<sup>21</sup> Ibid.



#### **4) Opt-In Affordability Program**

Finally, we include as a fourth category of initiatives employed to promote participation in the retail choicer market, an opt-in affordability program. For this purpose, an opt-in affordability program is described as a program under which the state implements a procurement process to accept offers from licensed suppliers for an offering(s) that will provide a long-term fixed price contract over an extended period, and that will also offer certain ‘value-added’ services. Under such a program, the state solicits proposals using whatever specifications and guidelines it deems appropriate, it reviews the various proposals submitted, and ultimately selects one or more supplier(s) to become the ‘state-sponsored’ retail supplier offering the selected contract and package of services. The selected supplier(s) then launches a multi-media marketing and outreach campaign in the state, with the official objective to educate consumers in the target market about the program offerings and ultimately to convince consumers to proactively select and ‘opt-in’ to the program.

As described above, as far as we ascertain, the Delaware Electric Affordability Program offered by Direct Energy in the State of Delaware is the only example of such an initiative in the country. The details of this specific program are described in Section D.1. of this report. This initiative was initially launched and ultimately implemented at a time when there were less than 20 licensed electric suppliers in the State of Delaware, residential choice market participation was about 10% (near the bottom of residential market penetration rates of all full retail choice states), and Delaware’s ABACCUS Report rating was in the bottom quartile of full retail choice states.

#### **K. Overall Assessment of the Retail Choice Market and Electric Affordability Considerations**

GA has reviewed the following in the context of reviewing the need for and feasibility of an opt-in electric affordability program with the elements described in the scope of work for this project:

- The status of the retail choice market in Maryland including a comparison of market activity to other retail choice states;
- A comparison to the prevailing market conditions in Maryland as compared to the conditions prevailing in other states at the time of the adoption and implementation of a opt-in affordability program as identified in the scope of work for this project (the only such program identified was the Delaware Electric Affordability Program recently implemented in the State of Delaware);
- The components and early results of the Delaware Electric Affordability Program;
- The availability of assistance programs in Maryland that provide financial assistance to households of limited means;
- The availability of energy-related services in Maryland that would be considered ‘value-added services’ that are consistent with the policy goals of the State of Maryland in terms

of reductions in energy consumption, increasing the percentage of renewable energy consumed in the State, and improving affordability through bill reduction;

- Evaluation of different categories of initiatives employed in various retail choice states to promote market participation.

As noted above, we were able to identify only one program nationwide that has elements resembling those identified in the scope of work for this project: the Delaware Electric Affordability Program (DEAP). In summary, the DEAP is a program under which one licensed retail supplier, selected by the State through a competitive procurement process, has launched a statewide, multi-media marketing and outreach campaign to raise awareness of and to entice consumers to sign-up for one of a host of product offerings that have been approved by the state.

The marquee residential product offering includes at its core a 24-month, fixed price supply contract that provides a significant discount (about 17%) off the current default service tariff of Delmarva, the only EDC in the State. Twenty-four-month fixed price contracts with somewhat lower discounts can also be packaged with energy-related ‘value-added services’ such as a 6-month HVAC Repair Plan at no charge and a ‘learning’ thermostat provided at no charge (provided that the enrolling customer does not terminate the supply contract early). The selected supplier (Direct Energy) is also offering a fixed installation price for photovoltaic power systems of \$3.00/watt for customers that is only available to program participants. The supplier is able to market itself as the state-selected supplier, and the product offerings essentially are being marketed with the State of Delaware imprimatur.

The DEAP was only launched by the supplier in July 2016, and the first Quarterly Report was issued by the supplier in late October 2016. The first Quarterly Report shows that as of mid-October 2016, the supplier reports having experienced ‘sales’ of approximately 2,600 customers under one of the opt-in DEAP program offerings. All things being equal, if these sales translate into enrollments this represents about 1% of the total eligible residential customer base in Delmarva territory, and about 0.8% of the entire statewide residential customer base. However, what cannot be ascertained from the Quarterly Report is how many of those reported DEAP customers are new shopping customers versus how many of these have switched from other retail supplier deals (i.e., what the net impact has been thus far on total shopping statistics). As well, no breakdown was provided in the Quarterly Report concerning how many of those DEAP customers selected one of the ‘value-added’ product offerings. There is also no particular indication that low income customers in particular have been targeted under the DEAP, and there are no statistics available regarding the sales penetration rates in the low income sector (in fact, this information is likely not readily available and may well be difficult to ascertain). Finally, the marquee supply offering to small C&I customers under the DEAP appears to offer a modest 4% savings as compared to the applicable Delmarva SOS tariff price for such customers, and there is no indication in the Quarterly Report that any notable market penetration has been achieved in this customer group.

Our research of available retail choice offers in the Delaware market does suggest that the standard DEAP offering (i.e., just supply without any of the energy-related services) is the most attractive 24-month offer in the market at this time, in terms of the level of discount and terms and

conditions. This aggressive price offering being made as part of the DEAP program may well reflect the additional value imputed by the supplier attributable to being identified as the State-sponsored supplier, gaining significant exposure and name recognition in the marketplace as it relates to the extensive multi-media marketing campaign supporting the program (albeit this extensive marketing campaign is being undertaken at the supplier's expense), and creating the opportunity to generate income from market penetration related to value-added services (i.e., revenue-generating HVAC repair contracts once the initial 6-month free introductory period expires).

Also, there does seem to have been an up-tick in new residential supplier licensees during 2016, with the appearance of 9 additional licensed suppliers on the Delaware PSC's website in December 2016 (versus 20 residential suppliers listed previously). While it is premature to draw any conclusions, this provides some anecdotal information to support the assertion by a supplier during the stakeholder process that a mass-marketed statewide program can raise overall awareness of choice and thereby stimulate market activity.

The DEAP program was initiated by the State at a time when the retail market in Delaware was not particularly vibrant and competition in the retail space appears to have been limited. The very early indications suggest that the program is or may be producing some positive results, in terms of: 1) producing a retail supply contract option at a price and under terms generally more favorable than otherwise currently available in the retail market; 2) generating increased residential switching activity in the State; and 3) stimulating increased awareness of and interest in the choice market in Delaware, not only among customers but also among suppliers. However, we emphasize that it is much too early to reach any definitive conclusions on these issues, and it remains to be seen whether the program ultimately generates sufficient sustainable business and income for the supplier, given the substantial expense incurred to ultimately support long-term viability of the supply product offering. Moreover, there is very little information available at this point concerning whether the DEAP has generated any customer interest in receiving energy-related value-added services bundled with retail electricity supply.

Regarding the DEAP product offering(s) to small commercial customers, it appears that the 'base' 24-month, fixed price supply service offering provides a modest savings of only about 4% as compared to the Delmarva SOS price-to-compare applicable to small C&I customers. Moreover, as noted above there is no specific indication in the first DEAP Quarterly Report that any meaningful market penetration has been achieved in the small C&I segment.

During the stakeholder process, there was virtual unanimity of opinion among the supplier community that, if an opt-in program similar to Delaware were to be adopted in Maryland, the procurement process should result in the award of contract(s) to multiple suppliers. Given the size of the market, there was substantial concern that a single, 'state-sponsored' supplier could dominate the market and ultimately drive the competition out. While we generally concur with that sentiment, however, there are significant differences between the two states that must be taken into consideration if a multi-supplier, state-sponsored opt-in program were to be considered. Most notably, as described earlier in this report, Delaware has one EDC service territory, and the Direct Energy marketing campaign appears to have been focused on one particular county (New Castle County) where a significant proportion of the residents of the State (and of Delmarva territory)

reside. This has led to the ability for Direct Energy to apparently develop and implement a very targeted, clear and concise marketing and branding plan. We were unable to obtain from stakeholders or develop satisfactorily ourselves, answers to the following questions (among others) concerning a multi-supplier, state-sponsored opt-in program in Maryland:

- 1) Would the selection of two or three ‘state-sponsored’ suppliers adequately address the concern about potential adverse impact on the remainder of the market (i.e., would creating an oligopoly rather than a monopoly of ‘sponsored’ suppliers put the rest of the market in any better position?); and
- 2) Would the marketing of multiple ‘state-sponsored’ suppliers in the State in multiple EDC territories with overlapping media markets create counter-productive confusion amongst consumers?

Based upon a number of factors, including the input of Maryland market stakeholders, market participation statistics, evaluation and rankings of the market provided by a study sponsored by market participants, and a review of activities undertaken by the State and the Commission, it is our conclusion that the status of the retail choice market in Maryland is relatively healthy, and that the Maryland market exhibits a number of characteristics significantly different than those that existed in Delaware at the time that Delaware’s electric opt-in affordability program (DEAP) was first conceived and implemented.

The State of Delaware is significantly different than Maryland in terms of geographic size and distribution of population, as well as the number and composition of EDC territories. There is only one investor-owned electric utility in the State, Delmarva Power (Delmarva), which provides electric distribution service to about 80% of the State’s residents. Delmarva’s service territory encompasses virtually all of New Castle County in the northern section of the State, where roughly 60% of the State’s population resides in about a quarter of the State’s land mass. The remainder of the State receives electric service from a patchwork of Delmarva and Delaware Electric Cooperative (DEC) service territories. Moreover, in 2015 there were less than 20 PSC-licensed retail electric suppliers active in the residential market in the State, and only about 10% of Delmarva’s eligible residential customers had switched to competitive suppliers. Delaware ranked near the bottom of retail choice states in terms of residential market participation as well as market participant rankings of retail choice states in terms of efforts and achievements in the promotion of electric retail competition<sup>22</sup>.

By comparison, the Maryland retail choice market is in overall healthy condition. The state is larger, with multiple large EDC service territories, and approximately 60 licensed suppliers that are authorized to offer services to residential customers in one or more electric utility service territory. While off somewhat from 2013 peaks, the residential retail choice market participation rate still exceeds 21% statewide, with about 25% located in the state’s largest service territory, BG&E. As noted, Maryland switching rates are down modestly from their peak (over 26% statewide) in 2013; however, this is far from an anomaly suggesting a market mis-function, as the switching statistics of numerous other retail choice states exhibit a similar decline in the wake of the price disruptions

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<sup>22</sup> Source: Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) Report issued in July 2015.

experienced during the January 2014 polar vortex. Therefore, Maryland still ranks in the top half of states in terms of residential switching rates, and has been ranked in the upper third of retail choice states in terms of residential market participation as well as market participant rankings of retail choice states in terms of efforts and achievements in the promotion of electric retail competition<sup>23</sup>.

Among other initiatives, Maryland has had a Purchase of Receivables (POR) program in place for a number of years, which allows suppliers to offer consolidated billing (supplier charges on the utility bill) to all residential customers without credit restrictions. In addition, pursuant to Commission directives, the EDCs are in the process of implementing a 3-day switching protocol which will go live by year-end, and that will facilitate timely switching and multiple switches within a single billing period. The PSC also has a process in place for regular dialogue among retail market suppliers to discuss market developments, via periodic Electric and Gas Supplier Conferences. Finally, we note that the sentiment expressed during the stakeholder process for this report was generally quite positive in terms of the state of Maryland's market, subject to several very specific recommendations concerning switching logistics and shopping tools to push the market forward.

Regarding the availability of long-term, fixed price contract offers, several stakeholders stated that there are a number of suppliers making fixed price, longer-term contract offers available in the marketplace. Our research of dozens of individual supplier websites confirmed these statements. In Figure 4 (in Section E) of this report we summarized the 24-month fixed price contract offers we located that provide pricing below the current residential SOS tariff price. However, it *is* worth noting that these long-term fixed price offerings available in the Maryland choice market appear, for the most part, to provide relatively modest savings off the current SOS tariff price. Moreover, many of these long-term, fixed price offerings available include a termination fee for early cancellation of the contract.

Through our research of individual supplier websites, it is generally quite difficult to locate supplier offerings that bundled electricity supply with energy-related value-added services as we have defined those services in this report<sup>24</sup>. Most offerings we found are strictly for electricity supply, albeit with numerous offerings including renewable energy content for a price premium. However, Maryland consumers appear to have a healthy array of such services at their disposal through state-sponsored energy efficiency, load management, and renewable energy incentive programs (many via the State's EmPOWER MD suite of incentive programs offered through the EDCs). There is an ongoing planning and review process for the EmPOWER MD programs that assesses program performance and potential new technologies and structures to meet the State's energy reduction and renewable energy goals.

Incentive programs offered through the EDCs can be evaluated using longer-term life-cycle cost/benefits assessments that are generally more difficult to justify in competitive markets. This

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<sup>23</sup> Source: Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) Report issued in July 2015.

<sup>24</sup> This observation related to research of offerings in the MD market appears to be consistent with the conclusions of the NYPS&C in its recent notice under Docket 98-M-1343 that mass market offerings in NY have not innovation in terms of new products and services.

may well at least partially explain the relative paucity of energy-related service offerings in the retail choice market. Certainly, the State of Maryland's market is not unique in that EDC or other state-sponsored programs are the primary vehicle by which energy efficiency measures that reduce customer consumption are incentivized and provided.

There is insufficient information at this early stage of the DEAP program to draw any conclusions regarding whether a state-sponsored opt-in program that includes energy-related, value-added services is an effective or cost-efficient mechanism for achieving market penetration for beneficial energy reduction measures, where such measures have not organically taken hold in the retail choice market. There is also insufficient information to draw any conclusions whether a mechanism such as the DEAP opt-in program can achieve a better result in terms of market penetration or benefits for the end user as compared to offering energy-reduction measures through traditional EmPOWER MD or similar initiatives.

The project scope for this report also included study and recommendations regarding potential opportunities for addressing customer arrearage management or reduction for low income customers, increased awareness of or access to payment assistance programs, or other potential low income customer benefits associated with an opt-in affordability program. In our review of the only example we found of a state-sponsored opt-in affordability program (DEAP), we found no information suggesting that the program included any of these elements, nor that the program offerings that do exist (electricity supply and various other value added services) have been targeted specifically towards low income customer segments. Rather these offerings appear to have been mass-marketed to the general Delaware population.

Moreover, as described in Section H of this report, the Office of Home Energy Programs (OHEP) situated within the State's Department of Human Resources, and in coordination with other state and local government entities and other entities, administers a number of financial assistance programs for income-restricted households that provide grants to assist with electric and heating bill affordability and electric bill arrearage reduction. In addition, donation-funded nonprofit entities, such as the Fuel Fund of Maryland (Fuel Fund), provide financial assistance to certain customers in need to avert shut-offs. As part of their bundle of social services, Fuel Fund and a number of other local nonprofits also provide assistance to individuals with the OHEP grant application process. It is our understanding that all applicants for the State-sponsored grant programs that meet eligibility requirements receive assistance; however, historically less than one-half of the estimated number of income-eligible households in the State apply for assistance under these OHEP-administered programs in any given year.

During the stakeholder process, there appeared to be consensus that increased funding for bill assistance grants would be welcome; however, there was also consensus that, to the extent additional funding became available, it would be most efficiently and effectively distributed through existing channels and established infrastructures, and credited on utility bills as currently is the case, rather than distributed through a competitive supplier as part of an opt-in affordability program and having that supplier as a sort of 'middleman.' Also, we reiterate that the DEAP did not include a low-income assistance funding element, nor can we find any other examples of a supplier-funded or supplier-administered arrearage management/forgiveness or bill assistance offering as part of a state-sponsored opt-in program.

Several studies (not focused on Maryland) have found that many low income customers have actually ended up paying more for electricity under third party supply contracts than they would have paid under utility-provided default service. Low income advocates participating in the stakeholder process for this report anecdotally provided similar experience, at least as it pertains to the polar vortex time period. In at least three states, we have found that regulators have restricted or prohibited low income customers (those on certain assistance programs) from participating in the retail choice market. This is believed to relate, at least in part, to a concern that the selection of supply contracts by such customers that result in higher prices than default service rates can actually detract from the benefits of the public assistance. In one of the states that has prohibited low-income assistance customers from shopping in the mass market retail choice market (OH), we identified a recent initiative under which the electric utilities undertake a separate default service procurement for such customers (except that, unlike other customers, there does not appear to be any ability for low income assistance customers to ‘opt-out’ of this separate default service category by migrating back to regular default service or seeking a retail choice third party supplier.

Very recently (December 1, 2016) the Maryland DHR submitted a report to the Joint Chairmen of the Senate Budget and Taxation and the House Appropriations Committees concerning policy reforms for the State’s energy assistance programs, which proposes the implementation of a Supplemental Targeted Energy Program (STEP). As described in Section H of this report, the proposed STEP would, in addition to creating a supplemental<sup>25</sup> financial assistance benefit, encourage a more holistic approach to achieving sustainable energy affordability. This would occur by tying the incentive benefit to enrollment and completion of a behavior change curriculum (energy education workshops), and providing additional services to assist low income customers in navigating through available assistance and energy efficiency programs and filtering customers into those that most suitably fit their unique circumstances.

Insights and facilitation tactics that have proved successful in other retail choice markets fall into one or more of three general categories, one or more of which may be considered for applicability in Maryland (in whole or in part) as they pertain to promoting market expansion, enhancing accessibility, and potentially achieving greater savings through retail choice.

States with higher retail choice participation levels have generally employed one or more of the following categories of approaches to promote or facilitate residential customer participation in the retail market:

1. **Market Structure** reforms (described in Section J.1. of this report) such as, in the most extreme case, eliminating default service altogether (Texas), or substantially altering the manner in which default service is procured and/or priced (i.e., New York). As described above there is no indication that the overall market structure in MD is failing or is otherwise inconsistent with the State’s policy goals; moreover, market structure issues are generally outside the scope of work of this project.
2. **Municipal/government energy aggregation** programs (described in Section J.2. of this

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<sup>25</sup> A one-time benefit that would be supplemental to existing electric grant, heating grant and arrearage grant programs.

report) by which local government entities procure power on behalf of non-switching residents in their jurisdictions on an ‘opt-out’ basis (Illinois, Ohio, Massachusetts, New Jersey and, most recently, New York). The primary potential benefits of an aggregation program are a reduction in transaction costs and acquisition costs associated with a procurement process for a large group of customers, and the ability for the government entity to pre-establish contract terms and conditions that are favorable to consumers. The additional potential benefits associated with an ‘opt-out’ model for energy aggregation (which is utilized in IL, OH, MA, NJ and NY) are a further reduction in per-customer acquisition costs (associated with a much higher ‘hit rate’ than an ‘opt-in’ model) and a reduction in market risk associated with a one-time, real-time, bid for the customer group (as opposed to an ‘opt-in’ offer that is typically made available to customers over a multi-week or even multi-month basis). These reduced costs and risks can translate into better pricing than may be available through the ‘mass-market’ approach. The primary downside associated with an ‘opt-out’ model for aggregation is that, notwithstanding the ability for individual customers to opt-out of the program, it is perceived by some as taking individual choice away from the consumer<sup>26</sup>.

3. **‘Choice-Promoting’ Initiatives** (described in Section J.3. of this report) As discussed earlier in this report, during the stakeholder process, suppliers expressed the view that the implementation of certain additional switching rules would help facilitate additional market activity, and other stakeholders asserted that the development of a more robust shopping platform would result in a more ‘consumer-friendly’ shopping experience and better informed decision-making on the part of consumers. Indeed, our research suggests that refinements to switching and enrollment rules and protocols, and the existence of robust

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<sup>26</sup> The primary difference between an opt-out model for residential aggregation such as that used for government energy aggregation programs in Illinois, Ohio, Massachusetts, New Jersey and now New York), and an ‘opt-in’ model, is that, under an ‘opt-out’ approach the award of a contract by the procuring agency would constitute the legal commitment between customer and supplier for the receipt/provision of electricity supply, subject to the terms of service set forth in the master contract signed by the supplier with the procuring agency. There would be no need for individual customers to execute individual contracts. Customers would have the right to ‘opt-out’ of the contract at any time, without any termination penalties, and either return to default service or seek their own retail supplier contract through the choice market. The potential use of an ‘opt-out’ model as part of an electric affordability program as opposed to the ‘opt-in’ model, would appear to be contrary to the initial vision of state legislators concerning how such a program, if adopted, would be implemented, and a change in focus to consider an ‘opt-out’ approach would ultimately be a policy decision for Maryland state legislators and regulators, similar to how government bodies in other states have wrestled with this choice. Despite its shortcomings, based upon experience and based upon input from several suppliers, an opt-out type of model does appear to offer the potential for greater savings to consumers than may exist in the ‘direct-access’ retail market. Moreover, an ‘opt-out’-based electric supply contract that results in long-term savings for participating customers and includes all necessary consumer protections as established by the procuring agency, if one can be obtained, should be juxtaposed against other alternatives, particularly as it pertains to low-income customers, such as the status quo of low income customers shopping on their own in the direct access market, or actions taken in some states on the other end of the spectrum prohibiting customers on assistance programs from participating in the retail choice market altogether, and/or being pooled into a low income customer-specific contract from which there is no ability to opt-out. We have not conducted a detailed review of Maryland statutes as part of this assignment; however, it is our assumption that, as has been the case in other states where an ‘opt-out’ model for energy aggregation has been adopted, if the State of Maryland did determine that some type of formalized aggregation program were appropriate and that use of an ‘opt-out’ model was warranted, legislation would be required to provide the legal authority for the procuring agency or local government body to act on customers’ behalf in selecting a supplier.



shopping platforms contribute to a more active retail market. Perhaps more important than increased switching statistics, an improved shopping experience and refined switching and enrollment rules have the potential to reduce transaction costs and, in some cases reduce risk for suppliers which, in a competitive market should, all other things equal, have a positive impact on pricing. Specifically, the switching/enrollment and shopping initiatives discussed earlier in section J.3. of this report include:

- Instant Connects
- Seamless Moves
- Enroll by Wallet
- Robust Shopping Platform
- Referral Programs

It is understood that the switching, enrollment and shopping platform issues discussed above are not new to the PSC and have been part of the retail choice market dialogue that the Commission has been facilitating on a regular basis with the EDC, supplier, and consumer community. Moreover, as discussed above the Commission has already ordered the implementation of two very important choice-promoting initiatives, namely the already-implemented POR and the soon-to-be-implemented 3-day switching rule, which have been and will be supportive of the retail market. We further acknowledge that each of these initiatives would have a cost in terms of funds and personnel on the part of the Commission and/or the EDCs (we understand that the EDCs are currently involved in the implementation of the 3-day switch rule, which is expected to go ‘live’ in January 2017 and which is currently demanding the attention of significant EDC resources).

We would recommend that the Commission continue to review the cost/benefit of each of these initiatives, within the context of the potential benefits described herein, as well as other important issues before the Commission. To that end, with respect to our recommendations in Section M of this report concerning the possible development of an electric supply affordability product, as it pertains to the list of ‘choice-promoting initiatives’ above, our recommendation regarding prioritization is to consider the strategic value of implementing seamless moves. As discussed earlier in this report, the supplier and consumer advocate stakeholders have noted the generally lower home ownership rates of the low-income customer base, and the generally more transient nature of that segment of the population. Suppliers have indicated that the higher rate of movement amongst the low-income population generally translates into higher contract attrition rates and resultant risk associated with providing electricity supply to the low income population. As such, to address this risk, and to improve the long-term participation rates associated with a potential low income affordability program, we would recommend prioritizing the implementation of seamless moves, to the extent that the PSC is so inclined to order the implementation of this particular protocol.

4. **Opt-In Electric Affordability** programs. In addition to the three above-described categories of approaches taken by states to promote or facilitate residential customer participation in the retail market, the opt-in affordability program recently implemented in Delaware is a 4<sup>th</sup> category of approaches that has emerged. As described above, while there are early encouraging signs, the circumstances in Delaware leading up to the implementation of the DEAP are quite different than those prevailing in Maryland, and it is

quite premature to draw any conclusions or learn any lessons from the DEAP program in terms of its ultimate impact on the retail market or on Delaware consumers.

## L. Conclusions

The following sets forth some high level conclusions related to the Maryland retail choice market and the feasibility of an affordability program.

- ***There are very early indicators of some potential positive results as it relates to the DEAP; however, the program is still in its infancy, and definitive conclusions cannot yet be drawn to justify replication. This is particularly the case since the Maryland retail market exhibits significantly different market characteristics and intricacies as compared to Delaware, which should be considered when evaluating the feasibility of a program similar to the DEAP.***

The DEAP, launched in Delaware in July 2016, is the only example of a statewide opt-in electric affordability program that we could identify as an example to examine and inform the assessment of the feasibility of such a program in Maryland.

As discussed above, there are very early indicators that the DEAP may be having positive results in Delaware as it relates to 1) producing a retail supply contract option for residential customers at a price and under terms generally more favorable than otherwise currently available in the retail market; 2) generating increased residential switching activity in the State; and 3) stimulating increased awareness of and interest in the choice market in Delaware, not only among customers but also among suppliers<sup>27</sup>. However, the jury is still very much out regarding the long-term success and viability of such a program. Moreover, no evidence exists to date to indicate whether those customers in Delaware that could most benefit from an electricity price reduction (i.e., low income customers on or eligible for assistance) are participating in the DEAP. In addition, no information was available to us concerning whether the value-added services products available as part of the program are achieving any significant traction in the market.

The retail choice market in Maryland is substantially more developed and competitive than the Delaware choice market was at the time the DEAP was developed and launched, and the size, scope and nature of the MD market is significantly different than the DE market. While the size, scope, nature, and state of development of the Delaware market may well have warranted the implementation of a statewide opt-in affordability program with a single ‘endorsed’ supplier, the Maryland market is far different, and the approach taken in Delaware does not appear to be warranted or appropriate at this time for Maryland.

- ***The competitive retail electricity landscape in Maryland is generally established and vibrant; however, the savings currently available under long-term fixed price contracts***

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<sup>27</sup> There is little if any information to indicate that the DEAP is having any similar impacts in the small C&I market to date.

*are generally modest, indicating that SOS service aligns relatively close to market conditions.*

The market in Maryland is generally well-functioning, with a substantial number of competitive suppliers. The PSC has generally been proactive and supportive of retail choice initiatives and conducts ongoing dialogue and forums to discuss retail issues and possible areas for improvement. While market participation rates (i.e., switching statistics) amongst residential customers in Maryland have declined modestly since a 2013 peak, this is not indicative of a failing market, as numerous other retail choice states have experienced a similar trend.

It has been observed, however, that, while there are a number of suppliers offering long-term, fixed price contracts in the Maryland retail choice market, most such product offerings provide only modest savings as compared to SOS tariff rates. In short, significant savings are hard to come by in the current Maryland choice market. Again, we do not attribute this situation to a lack of competition, as there is a large number of suppliers active in the market. We attribute this primarily to the fact that SOS is currently priced at a level that is reasonably reflective of market conditions.

- *Maryland has been proactive at offering, and refining, state-sponsored programs that provide ‘value added services’ to customers of all economic standings (including a focus on low income communities) that promote reductions in energy consumption. Additional initiatives are also being proposed at the state level to enhance the integration of state-offered energy-reduction programs with financial assistance programs. By contrast, there is a general dearth of such energy-related value-added service offerings in the competitive retail supply market; while the market penetration and viability of value-added services offered through DEAP has yet to be discerned.*

There is a wide variety of energy-related value added services, aimed at reducing energy consumption and thereby potentially producing reduced energy bills, available through state-sponsored programs, such as EmPOWER MD. There are also state-sponsored energy-related value-added services made available specifically to low-income customers. There is an ongoing planning process for the EmPOWER MD program to periodically evaluate incentives and specific measures, and program implementation costs are recovered through EDC ‘wires’ charges. This planning process and the paradigm of program cost recovery provide the ability to make available to consumers those energy efficiency measures deemed to be cost-effective over their useful lives. State-sponsored energy efficiency and clean energy programs remain the primary vehicle for market penetration of ‘energy-related’ value-added service in Maryland, and there is little evidence that such energy-related value-added services are being bundled with retail supply and offered by suppliers in Maryland’s competitive market, or elsewhere. Again, while product offerings have been introduced in Delaware through the DEAP that offer the choice of bundling certain value-added services with retail supply offerings, the jury is still very much out on the success and value to customers associated with the value-added energy-related services included in the DEAP.

There are extensive state-supported and administered financial assistance programs in place, facilitated by nonprofits and local community entities, including electric grants, heating grants and arrearage grants, to provide assistance to Maryland customers of limited means to pay their energy

bills. A significant initiative has very recently been proposed at the state level (the STEP proposed by the DHR), in consultation with nonprofits and local agencies and community groups, to create a supplemental assistance benefit that would result in enhanced coordination and a more holistic approach in the provision of financial services, access to energy efficiency programs, and customer education concerning behavior and energy consumption -- all aimed at achieving sustainable energy affordability for income-limited households.

- *Some low-income customers have encountered flawed experiences with retail choice, including not receiving savings relative to default service. This has prompted some states to exclude participation of these customers in the competitive market.*

Concerns regarding adverse results (i.e., customers entering into contracts that ultimately led to electricity costs higher than default service rates) for low income customers (those on financial assistance programs) that have participated in the retail choice market have led at least three states (Ohio, Pennsylvania and New York) to restrict those customers' ability to participate in the retail choice market. Some concerns have been raised regarding adverse experiences for some low-income customers in Maryland as well; low income consumer advocate stakeholders indicated that their constituents are generally aware of the retail choice market, but many are wary of the market after poor experience and looking for guidance from trusted advisors.

- *While the use of affinity groups (such as churches and civic organizations) to form voluntary partnerships between retail suppliers and aggregated groups of customers is not a new concept in the marketplace, there is an initiative being explored by a Maryland nonprofit to procure a long term fixed price electricity supply contract specifically for constituents participating in low-income assistance programs, although this initiative is still under investigation and future implementation is unknown.*

There is an initiative being explored by a Maryland nonprofit in to attempt to negotiate a long-term, fixed price contract with a competitive supplier that would provide its constituent households that wish to participate with a sizable discount to the SOS tariff price. This initiative is intended to provide a pre-negotiated retail supply contract option for a group of customers that receive low-income assistance and that have completed an energy education program. The potential pool of residential customers that would be eligible for this voluntary offering is estimated to be upwards of 10,000. That effort is ongoing and the results are uncertain at this time.

## **M. Recommendations**

For the reasons stated above, we do not believe that the implementation of a statewide opt-in program similar to that employed in Delaware, with the selection of a single, state-sponsored supplier to offer a pre-approved line of product offerings, is warranted in Maryland at this time. Moreover, we do not believe that a statewide, state-sponsored program with multiple selected suppliers, as some have advocated, would be advisable at this time.

The primary issues that we believe should be considered and addressed by the Commission at this time are:

- 3) While the Maryland market appears to be highly competitive, and there are a number of long-term fixed price offerings in the market that provide extended price certainty for consumers, by and large the savings to consumers from these offers are relatively modest, thereby having limited impact on affordability in general; and
- 4) Continued support of, and particular focus on, affordability initiatives for low income customers;

We do not recommend any major market structure reforms to stimulate additional switching. Maryland's SOS procurement and pricing policies appear to be well thought-out and aimed at striking the appropriate balance between having SOS prices that are reasonably reflective of the market, while also mitigating against price volatility. This effective combination results in a reasonable product for non-switching customers.

Rather than make major reforms, we recommend an approach more surgical in nature that focuses on initiatives to supplement ongoing efforts to enhance value and affordability amongst the low-income population, and continued review of switching rule and shopping refinements that complement efforts to enhance value and affordability amongst the low-income population (and that may have the additional benefit of making the retail market more efficient and effective).

### **Electric Supply Affordability Product**

Rather than an electricity supply product offered via a mass-marketed, state-wide affordability program in Maryland, we recommend a more focused approach that can target a specific population or area. Such a focused approach, if designed appropriately, could have the benefits of: 1) potentially providing affordability benefits to a targeted population, which avoids the potential market disruption associated with a more broad-based, mass-marketed program; and/or 2) serve as a pilot for potential broader application based upon lessons-learned and market outcomes.

As described below, we have identified two potential options for developing a target population for a pilot electricity supply affordability program: 1) a targeted group of low income utility customers; or 2) a targeted geographic area, such as a City(s).

- **Targeted Group of Low Income Customers:** Under this scenario, we envision a procurement of an electricity supply product for some or all customers enrolled in the energy assistance programs (i.e. the eligibility pool would initially consist of those customers who reside in an electric utility service territory open to retail choice, and who have been determined by OHEP as meeting low-income eligibility criteria). To take it a step further, consistent with recent initiatives on the part of the DHR and the Fuel Fund, we postulate an electricity supply procurement as part of an integrated, holistic affordability initiative. Specifically, an electricity supply product could be integrated as part of the proposed STEP program or similar initiative to provide a more holistic approach to addressing energy affordability for low-income customers; essentially adding another leg to the affordability stool, along with financial assistance, energy education, and participation

in energy efficiency programs<sup>28</sup>.

- **Targeted Geographic Area such as a City(s):** Under this scenario, we envision a procurement of an electricity supply product applicable to residents in a specific locale; by way of example, a procurement could be run for the residents of Baltimore City, providing a significant scale of customers for suppliers to bid on and, due to the demographics of the City, also encompassing a fair number of low income households. Such a City-based initiative would also have the characteristic of a more diverse income demographic than a strictly low income customer-based program.

For a program of this nature, we envision the procurement being conducted via a Request for Proposals (RFP) process. In the case of a low-income customer-targeted affordability program, the RFP process could be conducted by a state agency such as the DHR, or the PSC in consultation with the DHR. In the case of a program targeted on a specific geographic area, the RFP process could be conducted by the governing body of the particular area (ex. the governing body of the City of Baltimore would issue the RFP and make the decision on a contract award<sup>29</sup> for a program targeted at City of Baltimore residents).

The RFP would set forth the specifications of the program, and would also include a master form of contract that would be executed between the selected supplier and the procuring agency. The specifications and master contract would set forth the specific desired terms of service, including the desired length(s) of contract, specifying a fixed contract price, addressing any issues with respect to any circumstances under which the contract price could be adjusted, and addressing customer termination rights and whether any fees would be permitted<sup>30</sup>.

In short, the terms of service would be established by the procuring agency, and those terms and conditions of the supply offering would presumably include sufficient protections to guard against the types of adverse outcomes that may have affected customers in past retail choice experiences

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<sup>28</sup> Based upon information provided to GA during the stakeholder process, we understand that less than one-half of households that have income levels that meet the assistance eligibility criteria actually apply for and participate in these programs. Ideally, through a STEP or other initiatives, the level of participation among income-eligible customers would be increased (assistance funding permitting); however, a mechanism may still need to be developed to expand the reach of a low-income affordability electricity supply program beyond just those who participate in the financial assistance programs.

<sup>29</sup> Oversight or over-arching rules under which such a program would be implemented by a local government entity could be established by the PSC or other state government entity, as deemed appropriate through the legislative or rulemaking process.

<sup>30</sup> A low income electric affordability program, as envisioned, would ideally be incorporated as a supplement to a STEP or similar initiative to enhance services to low-income customers such as: assistance with financial assistance applications, energy education, and facilitation of low-income customer participation in the appropriate state-sponsored energy efficiency programs. As such, there is no obvious role for the addition of energy-related, value-added service to a low-income electric affordability program. A supply-only offering would appear to be most appropriate supplement to other services already being made available to low-income customers, particularly as a pilot project. However, if deemed appropriate, the RFP soliciting bids for the low income electric affordability program could include an optional solicitation of proposals for a particular value-added service that may not be available through existing state-sponsored energy efficiency programs.

(ex. large termination fees, or conversions to variable, market-indexed pricing). In effect, the procuring agency, through the establishment of master terms and conditions, would serve as the customers' advocate.

We envision that the procurement would be conducted in two stages. Stage 1 would consist of a qualification or 'vetting' stage. The RFP would specify the qualification documents and information to be submitted by interested suppliers, including required legal forms. Interested bidders would need to have a PSC-issued supplier license in good standing, and would be required to submit information pertaining to such items as prior experience, customer service capabilities (including description of customer service staffing levels, hours of operation of a toll-free customer service center, multi-lingual capabilities, etc.), authorizations and/or agreements in place to conduct business in the subject EDC or electric cooperative service territory(s); capabilities concerning calculating equal payment plan amounts for submittal to the electric utility for billing, and mechanisms for computing and implementing equal payment plan true-ups. There would also be a review of consumer complaint records of the prospective suppliers.

Stage 2 of the process would consist of a sealed bid, electronic bid or reverse auction among qualified suppliers for the product and contract specified in the RFP. Fixed price bids would be accepted for several different contract lengths, ranging from one to three years, as specified in the RFP. The contract award would be based primarily upon price, with added consideration given in the selection of a specific contract term to the desire for and prioritization of long-term price stability. The procuring agency would only be permitted to award a contract if the low bid price was lower than the applicable electric utility SOS price. The procuring agency may in fact determine to establish a minimum savings threshold for the award of a contract to assure sufficient benefits and based, in part, upon projections of SOS tariff price changes over the applicable contract period. We envision a separate contract award for qualified low-income residential customers in each electric utility or electric cooperative service territory. The eligibility pool of customers in each electric utility pool should be large enough to: a) represent an attractive base of customers for suppliers to bid on; and b) create the potential for providing affordability benefits to as wide a pool of income-challenged households as possible.

Under a low-income opt-in affordability program, the selected winning supplier would develop a short-form of contract that individual customers would have to sign. Ideally, the short-form would consist of one page of simple terms/rights that encapsulate the customer's rights and terms and conditions set forth in detail in the RFP and master contract. We envision that the marketing of an opt-in program limited to energy assistance program participants could be very focused and cost-effective in nature, with reliance on existing channels of communication and outreach within the assistance programs, including through nonprofits and local community organizations<sup>31</sup>.

If a STEP is implemented or some other initiative to enhance and integrate low-income services is developed or expanded, the affordability offering could also be promoted through low-income energy advisors and energy workshops. This type of targeted marketing through an existing

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<sup>31</sup> Consistent with the scope of work statement for this report we have focused this discussion of a potential electric affordability program on an 'opt-in' approach for enrolling individual eligible customers. The pro's and con's of an opt-out model, as utilized for municipal energy aggregation in a number of states, are discussed in section J.2 of this report.

infrastructure of trusted advocates and advisors may well: 1) reduce the supplier's marketing costs as compared to a broad-based, mass marketing campaign; and 2) substantially increase the success or 'hit' rate for the supplier, thereby lowering expected transaction costs relative to a more broadly-targeted program, which would hopefully translate into better pricing at the front end.

In addition, the large pool of prospective customers available to the selected supplier(s) (i.e., we understand the number of energy assistance program participants statewide in MD to be about 130,000<sup>32</sup>, and potentially growing – which for context is approximately one-half of the total number of residential accounts in the entire State of Delaware) should generate supplier interest and (hopefully) attractive pricing. Moreover, without the need for a broad-based, multi-media marketing campaign for this more targeted program, there is less likely to be a 'spill-over' effect on the balance of the market.

To the extent that the Commission wished to proceed with an electric affordability program targeted to low income customers as set forth above, either targeted to assistance-eligible households or to specific local government jurisdictions where there are relatively high low-income populations, we envision a target customer group that is relatively limited in size such that, combined with the advanced notice and potential phasing of tranches, this initiative would not result in such a significant migration of customers to third party supply as to adversely impact standard offer service contract pricing. As well, a program of somewhat limited scope in terms of the identified target group of customers or geographic areas could serve as a form of 'pilot' for potential wider application, based upon lessons learned, depending upon the results achieved. By way of example, based upon an estimated 130,000 total Maryland households enrolled in utility bill financial assistance, even if 75% of all these households statewide were to participate in a low-income focused affordability program, this would only represent a migration from SOS to third party supply of a little under 5% on a statewide basis. It is not envisioned that this magnitude of customer migration would have an adverse impact on existing SOS contracts (particularly if this migration were effectuated in tranches over a period of time). As well, this level of migration, if achieved, would only return the statewide switching rate from the current 21% to about 26% statewide, which was a level of state-wide switching last seen in Maryland as recently as 2013. As such, we do not see any reason that a program of this nature would cause any adverse impact on either standard offer service pricing, or reliability of service in general.

In order to achieve a critical mass of eligible customers sufficient in size to attract supplier attention we would suggest, based upon service territory size and demographics, the BG&E service territory may be a logical place to start in terms of a test-case low-income focused electric affordability program. However, DHR along with non-profits and local community groups may identify opportunities in other service territories. Given their relatively small size in terms of total customer count, which we presume would translate into a relatively small population of low-income customers overall, we do not see the electric cooperatives as particularly fertile ground for this type of low-income focused electric affordability program. However, where retail choice is being implemented, where DHR and/or non-profits and local community groups identify a potential opportunity and where the electric cooperative has the mechanisms in place to support

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<sup>32</sup> A targeted program of this size, while large enough to hopefully attract supplier attention, would likely not result in significant enough migration of customers away from SOS overall to trigger 'price-adjustment' mechanisms in Standard Offer Service supply contracts.



such a program, there is no particular reason to foreclose this possibility if all parties agree.

Under the type of affordability program postulated, we do not foresee a substantial incremental resource commitment on the part of the EDCs in order to implement the program. This by and large represents an alternative mechanism employed to facilitate switching by customers from SOS to a favorable third-party supply contract, relying primarily on existing, non-EDC infrastructures to implement the ‘shopping’ process. The primary impact on an EDC, if a program of this nature proved to be highly successful, would be at the back-end, via a short-term increase in volume in the retail choice enrollment process; i.e. a more ‘lumpy’ stream of enrollments than is currently the norm. In our experience this can be managed through good communications between the supplier, the aggregator and the EDC and, if necessary, planned staging of enrollments over multiple days. Therefore, as we do not foresee any significant incremental EDC expenditures associated with a program of this nature, we do not see any ratepayer impacts stemming from the implementation of such a program.

Finally, recognizing the more transient nature of low-income households and the resultant risk on suppliers associated with a high rate of customer moves, we recommend that if a low-income focused affordability program such as described above is pursued, that the PSC prioritize the implementation of ‘seamless moves’ as the next ‘choice-promoting’ logistical initiative. In weighing the benefits of implementation of ‘seamless moves’ against any identified incremental expenditures, the PSC should consider not only the potential benefits to low-income customers who move and would not automatically be terminated from an electric affordability program, but also the potential positive impacts on the retail choice market in Maryland as a whole.