March 4, 2021

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Oppose House Bill 1327

House Bill 1327 – Public Utilities –Transitional and Default Electric Service – Implementation

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) oppose **House Bill 1327 Public Utilities –Transitional and Default Electric Service – Implementation.** House Bill 1327 is a complete overhaul of the existing Standard Offer Service (SOS) procurement structure, transferring the obligation to provide SOS from fully regulated electric and gas companies to competitive suppliers. HB 1327 requires the Public Service Commission (PSC) to determine the terms and conditions of transitional electric service and default service, and administer the transition to default service through a competitive assignment process that would allocate customers on standard offer service to competitive suppliers beginning with electric service rendered on October 1, 2023, and thereafter.

Pepco and Delmarva Power observe that this legislation could be at odds with several bills that are moving through the legislative process this year, including the Montgomery County Clean Choice Energy pilot program and the Limited Income program legislation that recently passed the House floor. The complexity of HB 1327 and its interaction with those important pieces of legislation should be considered carefully. HB 1327 may also contradict the intent of several consumer protection bills that limit who competitive suppliers can serve and otherwise impose requirements on competitive suppliers.

There is a lot to unpack in HB 1327, but at its core, HB 1327 terminates SOS and transitions all SOS customers to competitive suppliers. SOS has been successfully utilized in Maryland for almost two decades and is the default electricity service available to all customer classes. Maryland statute requires that SOS be "designed to obtain the best price for residential and small commercial customers in light of prevailing market conditions at the time of procurement and the need to protect these customers against excessive price increases."[1] The SOS procurement process staggers procurement of energy over a two year period, to protect customers from market anomalies or prices spikes. With stable prices, SOS has attracted robust competition and participation each year.

[1] PUA §7-510(c)(4)(ii)

Under the current SOS process, utility companies purchase electricity for SOS customers from wholesale suppliers according to a competitive sealed bid auction process, regulated by the PSC. Each SOS auction is monitored by an independent technical monitor who ensures prices are not excessive. For residential procurements, the winning prices must be less than the technical monitor's price anomaly threshold, which ensures customers do not pay excessive prices because of an unusual event in the market, like the recent price spikes we saw in Texas where prices rose to $9000/MWh (typical market prices in PJM hover around $42/MWh) or the financial crisis that occurred in 2008.[2] The PSC also engages in an annual Procurement Improvement Process, designed to review the prior year's bid activities and adjust the process as necessary to secure the most favorable outcomes through a competitive bidding process.

The transitional and default service proposals in this bill do not have the same oversight and protections for customers that the current SOS construct provides. For example, HB 1327 appears to require only a one time relatively small amount as a bond for credit/performance assurance (performance assurance acts like an insurance policy by limiting the amount of risk and monetary impact a customer will face if prices begin to change dramatically). In contrast, the current SOS construct requires a daily examination of "market exposure" (contract prices vs. market prices) and requires performance assurance be posted when that market exposure crosses a certain threshold. In addition, HB 1327 appears to require that the rate charged to customers be based on hourly prices as opposed to a competitively bid fixed price that is intentionally procured over a period of time in order to smooth out any irregularities in market prices.

SOS supports competition while providing those customers who do not choose to shop a stable price offering. It also creates opportunities to compare annual SOS procurement outcomes across several key metrics, such as bidder participation, number and name of winning suppliers, change in SOS prices and customer bill impacts. The PSC requires utilities to provide customers an SOS price to compare against offers from retail suppliers in order to make informed decisions. Introducing various alternative providers of default service would inject confusion and informational complexity for customers who may not know who their default service supplier is or, even worse, may think they are shopping when in fact they are not. From a regulatory perspective, placing less financially stable companies in a key role would likely increase the cost of the products provided and the need for regulatory oversight of providing default service.

HB 1327 contains several provisions that require payment of monies into designated funds by competitive suppliers. There is no restriction that prohibits competitive suppliers from passing these costs down to customers, as will inevitably happen. The competitive supplier will simply "bake in" those costs in its bid to serve the customers, thereby pushing these unnecessary costs down to customers.

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[2] Texas utilizes the model suggested by HB1327. After the recent storms and cold snap in Texas earlier in February 2021, the Public Utilities Commission of Texas asked suppliers in Texas to volunteer to pick up default service customers from any competitive suppliers who may have gone bankrupt from the high prices that occurred during this time frame or were otherwise unable to meet there supply obligations to customers. At least one supplier is expected to file for bankruptcy and several others have indicated staggering losses associated with the event.

Finally, the current SOS construct has a mechanism in place to achieve the RPS percentage requirements that may be imposed by this body now or in the future. Under the current SOS rules, both wholesale and retail energy suppliers are responsible for procuring renewable energy credits (REC) to satisfy state renewable goals and recover their costs via the state mandated SOS supply or through third party agreements. In fact, wholesale suppliers will also be responsible for procuring the offshore wind credits once they come online. Putting the onus of these responsibilities on the entities that are competing for the procurement fully incentivizes these entities to manage the costs of their portfolio of REC obligations.

The following quote from the Executive Director at the Public Utilities Commission of Texas elucidates the import of the change HB 1327 is proposing. Customers will no longer be able to rely on SOS as a product that protects them from price spikes, but rather will be required to contact their supplier in order to ensure that the product they are on meets their needs.

> "This week's weather and associated grid crisis were a nightmare for millions of Texas," Gleeson said. "While the financial implications may drive some retail electric providers from the marketplace, we will work to ensure their customers can easily transition to a new provider. **Customers transitioned to a volunteer provider should contact the new provider to ensure they are on a plan that suits their budget.**"

For the above reasons Pepco and Delmarva Power respectfully request an unfavorable vote on House Bill 1327.

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