

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND**

**IN THE MATTER OF THE )  
COMMISSION'S INVESTIGATION )  
INTO A RESIDENTIAL ELECTRIC )  
RATE STABILIZATION AND MARKET )  
TRANSITION PLAN FOR BALTIMORE )  
GAS AND ELECTRIC COMPANY )**

**CASE NO. 9052**

**TESTIMONY OF CRAIG G. GOODMAN OF THE NATIONAL ENERGY  
MARKETERS ASSOCIATION**

1 Q. **Please state your name and business address.**

2 A. Craig G. Goodman, National Energy Marketers Association, 3333 K Street, NW,  
3 Suite 110, Washington, DC 20007.

4 Q. **By whom are you employed and in what capacity?**

5 A. I am the President of the National Energy Marketers Association.

6 Q. **Please describe your background and professional qualifications.**

7 A. I earned my J.D. in 1975 and have practiced energy law, litigation, taxation and  
8 public policy since 1978. I have thirty years of increasingly responsible positions  
9 in the private and public sectors. I have had the honor to be appointed, elected  
10 and to serve in senior executive management positions for private corporations,  
11 industry trade associations and the executive branch of the United States federal  
12 government.

13 My professional experiences include the interpretation, compliance, litigation as  
14 well as the development, analysis, drafting and implementation of laws,  
15 regulations, taxation and public policies affecting crude oil, natural gas, natural  
16 gas liquids and electricity. I hold a Juris Doctor degree and an undergraduate  
17 degree with honors in Economics.

18 I have appeared as an expert witness before the Energy Committees of the U.S.  
19 Senate and House of Representatives as well as the Senate Finance Committee  
20 and U.S. House Ways and Means Committee. I have testified, appeared and  
21 submitted comments to State Public Service Commissions on matters affecting  
22 the restructuring of the natural gas and electricity industries.

1 In the federal government, I served in both political and career senior executive  
2 service (SES) positions under three U.S. presidents of both political parties. Early  
3 in my career, I was an Associate Solicitor in the Office of Special Counsel for the  
4 Department of Energy representing the federal government in civil litigation  
5 against the major integrated oil companies during the period of price and  
6 allocation controls.

7 I have been published in print and appeared in broadcast media extensively on  
8 energy policy issues.

9 **Q. Please describe the National Energy Marketers Association (NEM).**

10 A. NEM is a national, non-profit trade association representing wholesale and retail  
11 marketers of natural gas, electricity, as well as energy and financial related  
12 products, services, information and advanced technologies throughout the United  
13 States, Canada and the European Union. NEM's membership includes  
14 independent power producers, advanced metering, demand and load management  
15 firms, billing, back office, customer service and related information technology  
16 providers. NEM members are global leaders in the development of enterprise  
17 solution software for energy, advanced metering, information services, finance,  
18 risk management and the trading of commodities and financial instruments. NEM  
19 members also include inventors, patent holders, systems integrators, and  
20 developers of advanced, telecommunications, cable and powerline technologies,  
21 for uses in power line surveillance, grid reliability broadband over powerline and  
22 with advanced uses in power and telecom systems integration and interoperability

1 as well as new and innovative electrical encoding, applications or decoding  
2 known as Smart Electricity.<sup>TM</sup>

3 Q. **What is NEM's interest in this proceeding?**

4 A. NEM members currently provide or intend to provide service to customers in the  
5 BG&E service territory. The ability of NEM members to compete fairly in these  
6 markets will be specifically affected by the outcome of this proceeding. In my  
7 opinion, the actions taken by the Governor and the Commission in this matter  
8 have State, regional and national significance.

9 Q. **What is the purpose of your testimony?**

10 A. I am submitting this testimony to provide a record to permit the Commission to  
11 take the actions necessary to implement the requests made by Governor Ehrlich.  
12 This testimony is also intended to support the adoption of new rules of general  
13 applicability and effect that will implement a more competitive energy market to  
14 better serve Maryland consumers and the public interest.

15 As an initial matter, I both agree and applaud the Commission's determination  
16 that "In order to prevent distortion in the competitive retail market, the  
17 Commission prefers to consider a transition plan that would reflect market-based  
18 price signals for electric supply, while mitigating the effects of rate shock on the  
19 non-bypassable portion of customers' bills." (Case 9052, Order Initiating  
20 Proceeding at page 2). This testimony will address the Staff's proposed price  
21 mitigation strategy and identify ways to assist the Commission, Staff and the  
22 Governor to implement mitigation in a low cost way that complements the  
23 development of the retail electric market.

1 While this testimony is being submitted by me personally, pro bono and as  
2 president of the National Energy Marketers Association, it is also intended to help  
3 members of the emerging energy services, information and technology industry to  
4 assist Governor Ehrlich and the Commission to fulfill the need for greater price,  
5 service and technology competition given a political decision to mitigate the  
6 impact of energy price increases over the term of BG&E's rate freeze.  
7 Accordingly, I will explain the effects of Staff's mitigation strategy proposal and  
8 offer recommendations to strengthen the emerging competitive retail market at  
9 this opportune moment.

10 In my opinion it is critical that the choice program be designed and implemented  
11 in a manner that permits competitive new investments in the BG&E market in a  
12 sustainable, continuous, cost-effective and competitively-neutral manner so that  
13 residential consumers can benefit from new value-added price, service, innovation  
14 and technology options. The recommended enhancements in this testimony build  
15 upon the competitively neutral model that Staff has proposed and are intended to  
16 lower the costs and risks to do business in the BG&E service territory and to serve  
17 the historically underserved mass market consumers.

18 This Commission and its Staff are to be commended for recognizing the  
19 importance of sending more demand responsive price signals to consumers. By  
20 attempting to craft a mitigation program that addresses the political urgency of  
21 potential price spikes to residential consumers through the delivery rate, and not  
22 the generation rate, in my opinion, this could minimize additional price distortions

1 that undermine both investments in providing competitive retail services as well  
2 as proper consumption decisions.

3 **Q. Please summarize the terms of Staff's mitigation proposal.**

4 A. Staff's proposed mitigation program would have a two-year duration,  
5 commencing in June 2006 and ending in May 2008. (Staff Testimony, page 18,  
6 lines 12-13). Consumers would participate in the program on an opt-in basis.  
7 (Staff Testimony, page 25, lines 9-18). For the first nine months of the program,  
8 participating residential consumer bills will reflect a credit to offset market-based  
9 price increases. (Staff Testimony, page 18, lines 13-15). The credit will be  
10 recovered from participating consumers during the remaining fourteen months of  
11 the program. (Staff Testimony, page 18, lines 15-16). This mitigation adjustment  
12 is an adjustment to the delivery portion of the bill. (Staff Testimony, page 24,  
13 lines 7-19). The Standard Offer Service generation price will be unaffected.  
14 (Staff Testimony Errata, page 24, lines 7-8).

15 **Q. Please discuss your opinion of Staff's mitigation program proposal.**

16 A. In my opinion, Staff has developed a price mitigation proposal that is an  
17 impressive blend of complex microeconomics, consumer protection and executive  
18 branch leadership. The mitigation proposal effectively addresses issues of equity  
19 and efficiency raised by an extended utility rate freeze during a period of rising  
20 energy prices.

21 Absent this proposal, the duration of the price cap combined with historically high  
22 crude oil and natural gas prices would otherwise result in short term utility price  
23 spikes that could be unaffordable for many average homeowners. In my opinion,

1 the proposal is well structured. Without relying on or regulating energy prices,  
2 Staff's mitigation proposal permits willing consumers to borrow the value of  
3 lower energy prices during the first nine months after the price cap is lifted and  
4 repay it during the fourteen-month period that follows.

5 In my opinion, market interventions that are both equitable and efficient are rare  
6 to observe. In this case, Staff's proposal appears to address both policy objectives  
7 in a very cost-effective manner. NEM and its members congratulate Staff and  
8 offer specific, low-cost recommendations to enhance this price mitigation  
9 proposal and assist the Governor to further mitigate the impact of historically  
10 anomalous war and weather-related energy prices on homeowners and small  
11 businesses.

12 In order of priority, NEM recommends: (1) that the Commission implement the  
13 purchase of receivables as a low-cost feature of consolidated consumer billing, (2)  
14 competitively neutral consumer education must be funded, materials drafted and  
15 vetted by interested stakeholders in emergency turn-around times frames, (3) that  
16 a new pro-competitive Office of Retail Market Development be created, funded,  
17 housed in the Commission and directed to recruit respected, credible market-  
18 based utility policy and rate experts, (4) low-cost customer lists that include  
19 usage and billing information should be available to qualified suppliers subject to  
20 a consumer's absolute right to opt-out for any reason, (5) law, regulations and  
21 public policy leadership must eliminate costly delays and risks inherent in  
22 program uncertainty, and (6) in the event BG&E claims an inability or  
23 unwillingness to perform the needed IT system redesign in the time allowed,

1 NEM recommends the Commission solicit offers of assistance from NEM's  
2 services and technology industry segment.

3 Once this emergency is addressed, NEM and its members recommend a meeting  
4 with Commissioners and Staff to review proven low-cost regulatory technology  
5 and service programs modifications that can further lower the costs and risks of  
6 serving all of BG&E's customers including its smallest and low income  
7 consumers.

8 Q. **In your opinion, are BG&E choice program enhancements appropriate at  
9 this time?**

10 A. Yes. Given the expiration of BG&E's below market residential rate freeze, it is  
11 an excellent time to consider low cost, high impact choice program enhancements  
12 that will enable competitive suppliers to more cost effectively serve these  
13 customers. Retail market development for residential rate customers stalled  
14 because of the below market rate freeze. Now that consumers will finally have  
15 the opportunity to see demand responsive, market-based pricing signals, I would  
16 urge the Commission to consider low-cost measures that will enhance the choice  
17 program. In many ways, we are at a critical juncture in the development of the  
18 retail market in Maryland. The Commission has repeatedly evinced its  
19 commitment to supporting retail choice. I recommend that the Commission  
20 leverage the costs that will be incurred to implement this proposal to maximize its  
21 benefits to BG&E residential consumers.

22 Q. **Please discuss the choice program billing enhancements that you  
23 recommend.**



1 A. At the outset, I would like to note that in order to accommodate a mitigation  
2 program, BG&E will necessarily have to make changes to its billing system and  
3 will have to do so in relatively short order. Given the resources that BG&E will  
4 expend in this endeavor, it is imperative that billing system changes be scaleable  
5 and implemented in a competitively neutral manner. In other words, a significant  
6 source of resistance encountered by choice-related billing program enhancements  
7 has been and, without the proper implementation, could be the utility's projected  
8 time and expense of performing them. I would urge that whatever system  
9 changes are made be done in a way that permits changes in support of the choice  
10 program immediately and for the foreseeable future.

11 Q. **What specific billing enhancements do you recommend?**

12 A. As long as BG&E is permitted to incur and recover costs associated with billing  
13 and customer care, it should be required to offer to purchase the receivables  
14 associated with a consolidated bill without recourse at a discount that takes  
15 advantage of the low bad debt rate it is permitted to recover in rates. I am advised  
16 that BG&E's current tariff provides for purchase of receivables (POR) under  
17 limited circumstances.<sup>1</sup> Importantly, to assist the Commission and the Governor  
18 mitigate price impacts, a POR program can avoid the duplication of back-office  
19 costs on a nascent competitive market when migration rates are low. The  
20 efficiencies associated with utility purchase of receivables lowers total supply  
21 costs, which can have a disproportionately greater benefit for low-income  
22 residential consumers.

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<sup>1</sup> BG&E Electric Supplier Coordination Tariff, Section 12.14

1 BG&E's purchase of receivables would also ameliorate the problem of  
2 competitive inequities under the current payment processing order. I am advised  
3 that the current payment allocation order is as follows: utility arrears, supplier  
4 arrears, utility current charges, and supplier current charges.<sup>2</sup> In my opinion,  
5 payments on a consolidated utility bill should be applied first to the consumables  
6 portion of the bill, then to the non-consumables portion. Payment for a consumed  
7 commodity should have priority over payments for depreciable physical assets  
8 like pipes and wires. Such a methodology recognizes that the utility pipes and  
9 wires are assets that can still be called into use and generate revenues despite a  
10 customer's non-payment. By comparison, energy that is consumed by a customer  
11 without subsequent payment cannot be recovered and resold to another. Simple  
12 fairness would dictate that the consumables portion of an energy bill should  
13 receive payment priority. This payment allocation order is warranted until the  
14 utility billing function is competitively outsourced or fully unbundled from utility  
15 distribution rates.

16 NEM also suggests that during this computer system upgrade, in addition to  
17 scalability, BGE should be able to offer to either purchase supplier receivables or  
18 accommodate the purchase of its receivables by suppliers that wish to offer their  
19 own consolidated bills. NEM recommends that these enhancements be included  
20 in the computer system changes that will be needed to accommodate a deferral  
21 credit and debit program.

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<sup>2</sup> COMAR 20.53.04.03B

1 Q. **Please describe additional billing enhancements that will aid the development**  
2 **of the competitive retail market.**

3 A. I recommend that competitive suppliers be given improved access to customer  
4 billing information by BG&E. Competitive suppliers need access to billing  
5 information to better serve their customers and to be most responsive to customer  
6 inquiries. When customers contact their competitive supplier with a billing  
7 question, they have an expectation that the competitive supplier will have access  
8 to billing information. If the competitive supplier cannot satisfactorily answer the  
9 customer's billing question in a timely manner, it creates customer discontent and  
10 dissatisfaction, and in some cases, even wariness and distrust about the  
11 proposition of energy choice in general. I am aware of no public policy reason to  
12 prohibit authorized agents of a consumer to have access to billing information to  
13 better serve that consumer.

14 Q. **Do you have any recommendations on Staff's proposal pertaining to the**  
15 **development of consumer education in support of the mitigation program?**

16 A. Staff has proposed that BG&E "work with the Commission's Office of External  
17 Affairs to develop appropriate customer education and enrollment literature," in  
18 support of the mitigation program. (Staff Testimony, page 25, lines 16-18). I am  
19 concerned that the consumer education related to the mitigation strategy should  
20 not be used to confer an unfair competitive advantage to advertise a Standard  
21 Offer Service. Likewise, the education materials should not mislead consumers  
22 about the nature and causes of the price increases and there should be no

1 implications that current prices are in any way caused by the restructuring of the  
2 retail energy market in the State of Maryland.

3 In my opinion well-educated consumers are critical to the achievement of  
4 successful competitive energy markets. The better-educated consumers are, the  
5 better shoppers they will become. Upon the expiration of the prolonged rate  
6 freeze, BGE's residential customers will have the opportunity to see market-based  
7 pricing signals. It is vital that BG&E consumers understand the transition and the  
8 choices that will be made available to them. The choices must be conveyed in a  
9 competitively neutral fashion. Consumers must understand that commodity  
10 markets as a general rule are inherently volatile. They should also know their  
11 choice among products can include such things as fixed price offerings, "green"  
12 offerings, and risk management services.

13 While recognizing the truncated time period in which a mitigation program and  
14 supporting consumer education materials can be developed and implemented,  
15 NEM strongly suggests that all stakeholders be permitted to review and offer  
16 input on consumer education materials to better ensure a competitively neutral  
17 message. Providing an opportunity for input with strict deadlines should not be  
18 unduly burdensome for BG&E or Staff. In fact, a process to permit stakeholder  
19 input could be initiated immediately after the Commission renders its decision in  
20 this case.

21 **Q. Please describe the importance of providing competitive suppliers with**  
22 **customer lists.**

1 A. In my opinion, access to customer lists subject to each consumer's right to opt out  
2 can significantly lower the cost of providing competitive energy services and  
3 technology to Maryland residents. These lists enable competitive suppliers to  
4 formulate cost-effective offerings and to focus resources on market segments in  
5 which they may have a particular cost advantage. Customer lists also provide an  
6 efficient means to ensure that supplier offerings are not made to customers that do  
7 not reside in the relevant service area or do not receive the type of service, electric  
8 or gas, for which a supplier is competing. Consequently, providing customer lists  
9 significantly reduces levels of customer confusion and limits the population of  
10 customers contacted. Likewise, the efficiencies associated with access to  
11 customer lists permit competitive suppliers to lower total costs, and increases the  
12 ability to compete to serve Maryland consumers and to offer consumers lower-  
13 cost price and value-added options.

14 Q. **Please discuss the importance of the availability of customer usage**  
15 **information.**

16 A. As demonstrated by significant provisions of the recent federal Energy Policy Act  
17 of 2005, this country is becoming increasingly concerned with providing  
18 consumers with meaningful demand response opportunities. In order to enable  
19 demand response, consumers need access to historical usage and future time-  
20 differentiated usage information to permit them to make educated cost-benefit  
21 decisions on their energy usage. Demand responsive market based rates can help  
22 consumers to conserve or demand shift in a significant way.

1 The availability of near real-time energy usage information will also permit  
2 competitive suppliers to more accurately match supplies to meet demand. As a  
3 result they can significantly reduce imbalance, standby and other costs and can  
4 pass along the savings on consumer energy bills. Access to usage information  
5 also permits competitive suppliers to better design product offerings that are  
6 custom tailored to each consumer's unique needs.

7 **Q. Do you have any other related concerns about the development of BG&'s**  
8 **retail electric market?**

9 **A.** Stakeholders have long been aware of the slated expiration of BG&'s residential  
10 rate caps on June 30, 2006. Competitive suppliers have made significant  
11 investments based in reliance on this date. Although it is this Commission's goal  
12 to "prevent distortion in the competitive retail market," my concern is that  
13 continued uncertainty about market structure for residential and Type I customers  
14 persists, contributing to increased regulatory uncertainty and inhibiting  
15 competitive investment as well as supplier entry and participation in the Maryland  
16 market. Continued regulatory uncertainty with respect to these customer classes  
17 increases both the cost and risks of competing to serve BG&E customers.

18 **Q. Does this conclude your testimony?**

19 **A.** Yes.