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November 9, 2018

Ms. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 G Street, NW
Suite 800
Washington, DC 20005
Via E-Docket and Overnight Mail

RE: Formal Case No. 1017 - Comments of the National Energy Marketers Association

Dear Secretary Westbrook-Sedgwick:

The National Energy Marketers Association (NEM) submits for filing the "Comments of the National Energy Marketers Association" in the above-referenced proceeding.

Thank you for your assistance.

Respectfully submitted,

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Craig G. Goodman
President, NEM

Cc: Service List

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of the)	
Development and Designation of)	Formal Case No. 1017
Standard Offer Service in the)	
District of Columbia)	

**COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)¹ hereby submits comments pursuant to the Commission’s Order No. 19431 dated August 9, 2018, and Order No. 19665, dated September 6, 2018, extending the comment submission dates in the above-referenced proceeding. The Commission issued Order No. 19431 to initiate its 2018 biennial review of Standard Offer Service (SOS). In the Order, the Commission requested comment on issues that had been raised in the previous SOS review process. These issues included the retention of the SOS adder as a component of the Administrative Charge and the elimination of the minimum stay requirement for commercial customers. NEM supported retention of the adder and elimination of the minimum stay requirement in its prior comments and continues to do so for the reasons stated herein. The Commission also requested comment on whether Power Purchase Agreements (PPAs) for renewable energy should be incorporated into the SOS procurement process. In the Commission’s questions on this issue, it asked whether such a requirement would affect retail

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

competition. NEM is strongly concerned with this proposal and its impacts on retail market competition and recommends that a long term renewable energy PPA requirement should not be incorporated into the SOS procurement process.

I. The SOS Adder Should Be Retained

The Commission invited comment in the instant matter on whether the SOS adder should be eliminated as a component of the Administrative Charge. In the Commission's prior SOS review it determined to remove the adder,² but upon rehearing³ decided to retain the adder pending further review here. The adder was originally adopted to function as a proxy for retail suppliers' marketing costs in SOS rates. That the amount of the adder is relatively small does not mean that it does not continue to serve its intended purpose of promoting a more level competitive playing field for competitive suppliers. Indeed, unless and until a full unbundling of utility delivery service rates occurs in which all of the costs of providing commodity service are removed from utility delivery rates and are fully reflected in SOS pricing, the adder is a necessary component of the Administrative Charge that should be retained.

II. The Minimum Stay Requirement for Commercial Customers Should Be Eliminated

The Commission requested comment on whether and why to eliminate the twelve month minimum stay provision that is applicable to commercial customers. The intended purpose of the minimum stay provision is to permit SOS suppliers to manage migration risk. The Commission examined this issue in its last biennial review of SOS and determined not to change

² Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia, Order No. 18829, issued July 7, 2017, at pages 31-33.

³ Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia, Order No. 19106, issued September 13, 2017, at page 3.

the minimum stay requirement.⁴ However, in its Order on rehearing,⁵ the Commission indicated the issue could be revisited in the instant matter.

NEM supports the elimination of the minimum stay requirement for commercial customers. As NEM stated in its prior comments, minimum stay requirements are punitive and unnecessary restrictions on consumer shopping. Commercial customers are sophisticated consumers that should be permitted to freely exercise their right to shop for competitive energy options as provided under D.C. law. Moreover, a significant amount of commercial customers now purchase electricity from a competitive supplier rather than receive SOS. According to the most recent report from the Commission, 85.4% of commercial load has chosen to shop with a competitive supplier⁶ and does not acquire electricity supply from the SOS Program. The already significant amount of commercial customer migration that has been achieved in the competitive marketplace mitigates the perceived risk associated with eliminating the minimum stay provision.

III. Long Term PPAs for Renewable Energy Should Not Be Incorporated into the SOS Procurement Process

The Commission asked a series of questions related to whether long term PPAs for renewable energy should be incorporated into the SOS procurement process. The questions probe the optimal length of such contracts, which customer classes should be served by/pay for the contracts and what percentage of the SOS portfolio should be comprised of renewable energy PPAs. More broadly, the Commission asked about the impact of such a requirement on competition between SOS and competitive electricity suppliers and the problems inherent with

⁴ Order No. 18829, at page 64.

⁵ Order No. 19106, at page 4.

locking in a portion of SOS pricing for a long period of time. Corresponding with this inquiry is the bill pending in the D.C. Council, B22-904 – the CleanEnergy DC Omnibus Amendment Act of 2018. The bill would require SOS suppliers to obtain a percentage of supply through long term PPAs with Tier 1 renewable resources.

NEM has significant concerns about the incorporation of long term PPAs for renewable energy into the SOS procurement process. Indeed, such a requirement would be counter to all of the work that has been done to transform the formerly vertically integrated utility monopoly model that existed in the District into a competitive retail marketplace. One of the primary reasons for a competitive marketplace is to shift the risk of generation investments away from captive ratepayers and on to private competitive entities. Requiring long term PPAs for renewables will shift the risk of those investments squarely back to SOS ratepayers and possibly lead to the creation of stranded costs. SOS should be a true “standard offer service” – a plain vanilla product offering. The competitive marketplace can and should be relied upon to provide renewable energy offerings to consumers, consistent with consumer preferences and budgets.

Moreover, the SOS provider currently procures one-year contracts for large commercial customer load and three-year contracts for small commercial and residential customer load. The SOS market structure, utilizing contracts of a three-year duration, has already proven to be a barrier to competition by locking in prices for extended periods that do not align with current market conditions, creating artificial boom and bust cycles for mass market customer shopping. In so doing, it prevents competitive suppliers from having sustained opportunities to serve consumers, discourages competitive entry and thereby inhibits the availability of energy choice options to

⁶ Status of Electric Retail Choice in the District of Columbia available at: https://dcpsc.org/PSCDC/media/PDFFiles/Electric/electric_sumstats_cust_energyuse.pdf

consumers. The 16% shopping rate of residential consumer load⁷ is symptomatic of this problem. Adding in long term PPAs for renewable energy to the SOS procurement process, with a proposed duration of at least seven years, will only exacerbate the problem, further divorcing the SOS price from current market conditions, and inhibiting robust retail competition even further.

IV. Conclusion

For the foregoing reasons, NEM recommends that the Commission: 1) retain the SOS adder; 2) eliminate the twelve month minimum stay requirement for commercial customers; and 3) exclude long term PPAs for renewable energy from the SOS procurement process.

Respectfully submitted,

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Dated: November 9, 2018.

⁷ Id.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November 2018 that a copy of the foregoing Comments of the National Energy Marketers Association was served via email or U.S. mail on the parties on the official service list in FC No. 1017.

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