



by unusually high demand. Customers who trim their power consumption in these circumstances help utilities and grid operators to meet the challenge of continuously balancing supply and demand on the electric system, to the benefit of all customers. The Department notes that several medium and large commercial and industrial (C&I) electricity customers in the Commonwealth are already on time-varying rates offered by marketers. By contrast, most residential customers remain on basic service<sup>4</sup> with flat rates.

The Department seeks comments on (1) whether to transition some or all basic service to dynamic pricing; (2) how to educate residential and small commercial customers about dynamic electricity pricing; and (3) how dynamic pricing of basic service is likely to affect the Department's efforts to maximize the overall benefits of dynamic pricing. The Department specifically asks about the peak-time rebate (PTR) program of time-varying rates operated by Baltimore Gas & Electric (BG&E).<sup>5</sup>

As a general matter, when retail time-varying rates are in place, customers who respond to incentives to trim demand for electricity from the grid during peak demand periods – *i.e.*, who provide demand response (DR) – can save money, diminish harmful environmental impacts, and reduce the costs and improve the reliability of the electric system. Lowering the costs and improving the reliability of the electric system work to the benefit of all electricity customers, not just those who respond to these incentives.<sup>6</sup> During critical peak demand periods, wholesale electricity costs – and thus wholesale electricity prices – greatly exceed flat-rate retail prices. Dynamic pricing gives retail customers economically efficient incentives to reduce demand

---

<sup>4</sup> In Massachusetts, “basic service” is the electricity that the distribution utility provides to a customer who has not chosen an alternative supplier. Other jurisdictions – as well as comments submitted in those jurisdictions by the FTC and its staff – often refer to this arrangement as “provider of last resort” (POLR) service.

<sup>5</sup> A description of BG&E's Smart Energy Rewards program is available at <http://www.bge.com/smartenergy/smart-energy-rewards/pages/default.aspx>. Pepco proposed a similar approach to the District of Columbia Public Service Commission (DC PSC), as we discussed in the recent Reply Comment of the Staff of the Federal Trade Commission Before the District of Columbia Public Service Commission Concerning a Proposed Program for Dynamic (Variable) Pricing of Electricity for Residential Customers, Formal Case Nos. 1086 and 1109 (Jan. 13, 2014), available at <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2014/01/ftc-staff-reply-comment-district-columbia-public>.

<sup>6</sup> As we discuss elsewhere in this comment, our overall view is that it is critical for all customers to migrate to dynamic pricing as soon as practicable.





The PTR approach is a reasonable initial candidate for incorporating time-varying rates into basic service. It creates more efficient price signals to customers (stemming from the benefits of helping the grid balance demand and supply) but does not impose additional risk on customers who are just learning about this source of bill savings. If the Department adopts a PTR approach, we see no reason why any customers should be denied the opportunity to save money and help grid operators meet the challenges of balancing supply and demand on the grid. Over time, as customers become familiar with time-varying rates, we encourage the Department to transition to increasingly timely and accurate price signals for all electricity customers, so as to maximize the benefits of time-varying rates. Because real-time rates provide the most accurate pricing incentives to customers, they promote the efficient use of electricity and eliminate deadweight losses.

Consumer protection and consumer education issues are likely to arise when basic residential service is made subject to (or includes an option for) time-varying rates. For example, there may be concerns about how public efforts to raise consumer awareness and understanding of time-varying rates will affect retail electricity competition. In this vein, the National Energy Marketers Association (NEM) apprised the DC PSC of its concerns over the competitive neutrality of the consumer education programs that might follow from Pepco's proposal for time-varying rates.<sup>11</sup> We agree that competitive neutrality should be a priority in the design of public consumer education programs about time-varying rates and about the alternatives that marketers offer to customers. NEM's comment also discussed equal access to meter data for marketers and basic service providers. We agree that marketers offering alternative time-varying rate options to retail customers need access to such data at least sufficient to operate their alternative time-varying rate offers, although we also urge the Department (as we did the DC PSC) to ensure that appropriate safeguards are in place for the privacy and security of customer information.

In the remainder of this comment, we elaborate on the timeliness of the Department's investigation, discuss some of the tradeoffs inherent in the PTR approach, and elaborate our views concerning the competitive impact of public consumer awareness and education campaigns.

## **II. Interest and Experience of the FTC**

The FTC is an independent agency of the United States Government responsible for maintaining competition and safeguarding the interests of consumers. The FTC does so through

---

<sup>11</sup> Comments of the National Energy Marketers Association (Dec. 19, 2013), *available at* [http://dcpsc.org/edocket/docketsheets\\_pdf\\_FS.asp?caseno=FC1086&docketno=57&flag=D&show\\_result=Y](http://dcpsc.org/edocket/docketsheets_pdf_FS.asp?caseno=FC1086&docketno=57&flag=D&show_result=Y). See note 5, *supra*, regarding our recent comment to the DC PSC.

law enforcement, policy research, and advocacy. For example, in the field of consumer protection, the FTC enforces Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices. In its competition mission, the FTC enforces antitrust laws regarding mergers and unfair methods of competition that harm consumers. In addition, the FTC often analyzes regulatory or legislative proposals that may affect competition, allocative efficiency, or consumer protection. It also engages in considerable consumer education through its Division of Consumer and Business Education.<sup>12</sup> In the course of all of this work, the FTC applies established legal and economic principles as well as recent, innovative developments in economic theory and empirical analysis.

The energy sector, including electric power, has been an important focus of the FTC's merger review and other antitrust enforcement, competition advocacy, and consumer protection efforts.<sup>13</sup> The FTC and its staff have filed numerous comments advocating competition and consumer protection principles with state utility commissions, state legislatures, the Department of Energy (DOE), and the Federal Energy Regulatory Commission (FERC).<sup>14</sup> In particular, we have filed a number of advocacy comments concerning DR, dynamic pricing, and their interactions with retail competition.<sup>15</sup> The FTC's competition advocacy program also has issued

---

<sup>12</sup> For an overview of the FTC's education efforts, see the FTC staff's comment to the Consumer Financial Protection Bureau concerning "12

two staff reports on electric power industry restructuring issues at the wholesale and retail levels.<sup>16</sup> In addition, the FTC staff (along with staff from FERC, the Department of Justice, the

---

note 5; Comment Before the Public Service Commission of the State of Delaware In the Matter of the Adoption of Rules and Regulations To Implement the Provisions of 26 DEL. C. CH. 10 Relating to the Creation of a Competitive Market for Electric Supply Service, PSC Regulation Docket No. 49 (Nov. 13, 2013), *available at* <http://www.ftc.gov>4at

Department of Agriculture, and DOE) contributed



the alternative, customers can manually adjust their air conditioners or other heavy power uses when meters (or other communication sources) alert them either that rates are going up or that they can earn credits for reducing power consumption.

Customer responses to retail price signals that accurately reflect wholesale market conditions reduce system costs, support reliability, and provide environmental benefits.<sup>21</sup> For example, a DR program that entails reduction of power use during periods of high wholesale prices can reduce overall system costs by utilizing lower-cost generation units and reducing the need for high-cost peaking generators to meet demand spikes. It can support reliability by cutting power consumption when the system is at greatest risk of blackouts or is recovering from a service interruption. It can provide environmental benefits by facilitating integration of renewable energy sources and avoiding the use of older, higher-cost generators with higher pollutant emissions during peak demand periods. Th

charging to coincide with abundant supply and uncongested transmission conditions. For example, an EV owner could set the recharging equipment to draw power only (or primarily) when the rate net of credits is below a specified level.

Flat-rate electricity pricing at the retail level – in the face of volatile generation and transmission prices at the wholesale level – in effect results in large subsidies for customers

#### **IV. Tradeoffs in Designing Dynamic Pricing Systems**

tradeoffs between potential benefits from lower power bills and risks from greater, short-term price volatility.

The BG&E program falls within the PTR cate

Moreover, if the innovations associated with retail competition reduce reliance on flat-

Department to ensure that distribution utilities inform their basic service customers that they are using their data for purposes of implementing time-varying rates.

We encourage the Department to revisit over time whether technology and customer sophistication have increased enough to consider moving toward a system of time-varying rates in which basic service customers receive price signals that even more closely resemble actual wholesale prices in real time. As indicated by the appended Brattle graph, RTP provides the most accurate price signals and applies them in all periods. Intermediate steps between the BG&E approach and RTP include (1) adjusting the level of the credits to fit the specific circumstances of each critical event and (2) adding classes of events that are less critical, but as to which increased DR could improve system costs, efficiency, and reliability and could lower customers' bills.

## **V. Conclusion**

# Dynamic pricing facilitates customer

