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January 17, 2012

Douglas R. M. Nazarian  
Chairman  
Maryland Public Service Commission  
William Donald Schaefer Tower  
6 St. Paul St., 16th Floor  
Baltimore, MD 21202

Dear Chairman Nazarian:

As members of the business community, we are writing to express our concerns about the Maryland Public Service Commission's ("PSC") proposal requiring that the state's utilities contract for up to 1,500 MW of new, natural gas-fired generation. This proposal is unnecessary for reliability and, if implemented, will likely increase customer costs, both short- and long term, while inflicting considerable harm on Maryland's competitive retail electricity market and the regional competitive wholesale market. This proposal could have severe consequences on Maryland's already sluggish economy.

Collectively, our companies have 357 facilities in Maryland and employ nearly 35,000 workers. Because we spend over \$49 million each year on electricity in the state, we recognize the importance of controlling energy costs from a business perspective. The competitive electricity market not only lowers our costs but also gives us the flexibility to choose a supplier that best meets our individual business goals, with service offerings that provide choices on price, generation portfolio mix, risk management, and product and service features. We are especially concerned that the PSC's proposed action would reduce or eliminate the benefits that energy competition and choice have provided, in addition to raising costs and transferring the investment risks associated with the energy marketplace from investors to consumers.

The PSC's proposed requirement could increase customer costs over the short- and long-term and have the following harmful impacts on customers:

- Customers will be required to pay for power plants before new generation is needed. As part of the PJM regional electricity market, Maryland is not facing a reliability concern within the next several years. This is borne out by recent evaluations, including the PJM Base Residual Auction results and a recent report providing "a comprehensive assessment of approaches to meet Maryland's long-term electricity needs."<sup>1</sup> In that report

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<sup>1</sup> Maryland Department of Natural Resources, *Long-term Electricity Report for Maryland*, December 1, 2011 at ES-1. Available at:  
(continued...)

entitled “Long-term Electricity Report for Maryland,” which was prepared at the direction of Governor Martin O’Malley, the Maryland Power Plant Research Program conducted an in-depth, detailed analysis of Maryland’s future energy needs, and found that “(f)or most scenarios, no new generation capacity is needed in Maryland to meet reliability requirements until 2019 and 2020.”<sup>2</sup>

- The risk that the costs of the RFP-selected generators will be above PJM capacity market prices after the first year will be borne by customers instead of investors. The RFP generators will be paid a guaranteed contract price for capacity for up to 20 years. If the contract price is higher than market prices, customers will make up the difference. Such assured cost recovery is the same failed approach to power plant development that existed in the protected-monopoly regime that led years ago to calls for competition and customer choice in Maryland.
- If the PSC imposes a non-bypassable charge to pay for the generation chosen in the RFP, we the customers will be forced to pay twice: once for power through the commodity charge and again through the non-bypassable charge. The non-bypassable charge is in essence a tax that immediately raises rates with customers forced to pay the costs of capacity they are not using, and for power plants that may not be needed.
- Subsidies will distort the market and will significantly impact the ability of future power plants to be developed without their own additional subsidies. If the PSC picks marketplace winners and losers and certain projects are, in fact, subsidized, non-subsidized power suppliers and power plant developers will be reluctant to invest in the market. The absence of those suppliers will eventually lead to a capacity shortage and higher prices forcing the PSC to engage in a never-ending cycle of subsidized generation. The result: even more subsidies by customers that would be avoided by allowing the existing well-functioning market to determine need for additional generation resources.

There is no reason for the PSC to mandate the purchase of capacity now. PJM’s capacity market construct, the Reliability Pricing Model (“RPM”), has produced significantly enhanced reliability for consumers across the PJM region, including Maryland, by attracting least-cost supply to meet reliability mandates. PJM’s capacity auctions have made available almost 41,000 MW of additional capacity resources since 2007, including almost 15,000 MW of Demand Response/Energy Efficiency resources.<sup>3</sup>

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[http://esm.versar.com/pprp/pprac/Longterm\\_Electricity\\_Report/Final/LTER%20Final%20Report.pdf](http://esm.versar.com/pprp/pprac/Longterm_Electricity_Report/Final/LTER%20Final%20Report.pdf)

<sup>2</sup> *Id.* at page ES-9.

<sup>3</sup> *Demand Resources and Energy Efficiency Continue to Grow in PJM’s RPM Auction*, PJM News Release, May 13, 2011. Available at: <http://www.pjm.com/~media/about-pjm/newsroom/2011-releases/20110513-rpm-results-news-release.ashx>

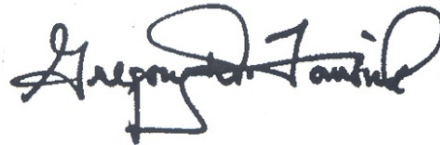
The PSC's concern that the PJM market has not attracted new capacity to the state is also unwarranted. PJM is a large and well-structured regional wholesale market with 26% of the generation in the Eastern Interconnection. Physically locating generation in Maryland is not necessary for the PJM market to serve Maryland's needs efficiently and cost-effectively. Indeed, any additional resources would be subject to PJM's dispatch priorities, and there would be no guarantee that Maryland customers would be delivered electricity generated from Maryland plants. Existing market mechanisms will continue to assure an adequate supply of electricity without the harmful subsidies or customer tax imposed by the RFP.

In summary, the RFP proposal is an unnecessary step that could have adverse consequences for Maryland consumers and for the state. There is no reason to destroy a market that is providing real benefits. Vibrant electricity markets are important to Maryland's economic and job growth. Forcing business customers to subsidize in-state plants could drive jobs from Maryland rather than help create jobs. As members of Maryland's business community, we urge you to reconsider the approach behind the PSC's proposed action. There is no good reason to impose costly subsidies on Maryland's residents and businesses. Maryland cannot afford it.

Sincerely,



Kevin Moran  
Manager Utility and Energy Services  
BJ's Wholesale Club, Inc.



Gregory D. Tomsick  
Senior Director - Energy  
Boston Market Corporation



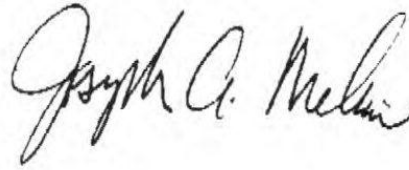
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William R. Lyon  
Vice President of Energy Management  
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Van R. Reiner  
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Maryland Academy of Sciences  
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Joseph A. Melvin  
President  
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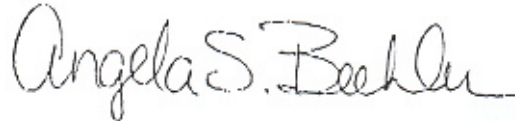
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Wal-Mart

cc:

Commissioner Harold D. Williams  
Commissioner Lawrence Brenner  
Commissioner W. Kevin Hughes  
Commissioner Kelly Speakes-Backman  
Governor Martin O'Malley  
Abigail Hopper, Energy Advisor  
Mac Middleton, Chairman, Senate Finance Committee  
Dereck Davis, Chairman, House Economic Matters Committee  
David Stamper, Deputy Legislative Officer (Energy Matters)  
Malcolm D. Woolf, Director, Maryland Energy Administration