

## **BGE settlement settles little**

Jay Hancock, columnist, Baltimore Sun

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As the governor who promised to stop the BGE rate increase and got hammered for failing, [Martin O'Malley](#) surely must be happy to get something back for customers.

But he might have gotten more. Yesterday's deal makes no mention of an independent investigation into the questionable 2005-2006 wholesale power auctions that caused a 70 percent price increase for households buying power from [Baltimore Gas and Electric](#).

Pursuing it could reveal crucial information on whether BGE and customers pay a fair electricity price to the utility's parent, Constellation Energy. And it could result in even more money for BGE customers.

The question is whether the investigation is still alive. I was unable to get an authoritative response.

"I can only say we'll have more on that next week," said Steven B. Larsen, chairman of the Maryland Public Service Commission.

Two years ago, an Oregon-based consultant found that BGE customers got stuck paying 21 percent more than the market rate to Constellation and other wholesalers in a December 2005 auction.

It was one of the first times deregulation had forced BGE, which once owned its own generation plants, to buy juice on the open market.

The resulting price "is surprisingly high," McCullough Research wrote in a 2006 letter to California Rep. [Henry A. Waxman](#), who sits on the House Committee on Energy and [Commerce](#) and was looking into electricity costs.

Most of the BGE business went to Constellation, which took over the former BGE plants under deregulation. Not only was the price much greater than the plants' cost to produce electricity, McCullough found, it was higher than what other generators charged at the same time for the same kind of power.

That raised questions about whether the auction was truly competitive.

PSC Chairman Larsen wanted to find out.

First his commission focused on the dual role played by John Collins, Constellation's chief risk officer at the time. Collins not only helped Constellation sell electricity to utilities; he advised BGE on buying electricity from Constellation and other wholesalers and got to see bids from Constellation's

competitors.

Could that have affected the auction? (Relations with BGE are entirely appropriate, Constellation has said.)

Last fall, the PSC asked Joseph E. Bowring, market monitor for the Mid-Atlantic electricity grid, to investigate the BGE auctions. But Bowring, who has a demanding day job, hasn't gotten to it. Now, depending on yesterday's deal, the inquiry might be dead.

The agreement includes "dismissal of all ongoing PSC proceedings related to the 1999 settlement and other investigations," says Constellation's statement.

Does that include the Bowring investigation? Bowring declined to comment without definitive information from the PSC.

It would be a shame if it did. An similar inquiry into Illinois electricity auctions showed "disturbing evidence of price manipulation," state [Attorney General Lisa Madigan](#) said last year. Illinois customers were paying 40 percent more than the market rate, she said.

The probe set the stage for scrapping the auctions and rebating \$1 billion to customers of two utilities, [Ameren](#) and Commonwealth Edison.

True, O'Malley's haul - \$533 million in credits and rebates and relieving customers of (very) roughly \$1.5 billion in liabilities that Constellation now agrees to take over from BGE - is significant.

Most gratifying is Constellation's agreement to pay for the rest of the eventual decommissioning of the Calvert Cliffs nuclear plants. Once owned by BGE, Calvert Cliffs went to Constellation in a 2000 sweetheart deal and now charges BGE customers far more than what regulation would have allowed. To stick BGE customers with decommissioning costs for somebody else's plants was doubly insulting.

The balance, however, is still heavily in Constellation's favor. It got the former BGE plants, whose value has appreciated by billions. And it got \$1 billion in "stranded costs," which BGE customers paid after Constellation argued that Calvert Cliffs was a risky white elephant. (It wasn't.)

Robert F. McCullough Jr., the head of McCullough Research and the investigator in the Illinois auction, doesn't fault O'Malley for striking a deal.

"Though one would like to see larger numbers, it's very hard to actually bring these things to fruition, particularly in the time horizon of an elected official," he said yesterday. "They can go on for years."

Full investigation of the Maryland auctions would require subpoena power, which Bowring doesn't have, he said. The Federal Energy Regulatory Commission could look into electricity auctions, but so far has

shown little inclination.

"Settlement does seem to be a reasonable option," McCullough said.

Reasonable for a politician, maybe. But a settlement that leaves significant doubts about the core of deregulation - whether the process really is competitive - is an incomplete deal.

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