

**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. X RELATING TO THE ) PSC REGULATION DOCKET NO. 49  
CREATION OF A COMPETITIVE MARKET )  
FOR RETAIL ELECTRIC SUPPLY SERVICE )  
(OPENED APRIL 27, 1999) )

**ORDER NO. 5207**

**AND NOW**, this 31st day of August, A.D. 1999, the Commission determines and Orders the following:

1. On March 31, 1999, the "Electric Utility Restructuring Act of 1999" (72 Del. Laws ch. 10) became law. The goal of the Act is to transform the generation, supply, and retail sale of electricity from an integrated, regulated regime to a competitive enterprise where retail customers will have the opportunity to choose an electric supplier.

2. In several provisions, the Act obligates the Commission to adopt implementing rules and regulations in order to facilitate the transition to the new competitive environment and to ensure that retail consumers will be adequately informed and protected after the onset of customer choice. In particular, as outlined in PSC Order No. 5068 (April 27, 1999), the Commission must adopt rules and regulations pertaining to:

- (a) the certification of electric suppliers (26 Del. C. § 1012(a));
- (b) the protection of consumers, including provisions related to standardized billing information, the terms and conditions for service, the procedures for resolving customer and electric supplier disputes, the procedures for changing electric suppliers, and the standards for electric suppliers who offer environmentally-advantageous "Green Power" options (26 Del. C. § 1012(b));

- (c) the disclosure by each electric supplier of information, in a uniform format, about the fuel mix of electricity purchased by its customers (26 Del. C. § 1012(b));
- (d) the procedures for a retail customer's return to Standard Offer Service, including provisions related to the amount of notice a retail customer must provide, the amount of time a returning customer must remain on Standard Offer Service, and the charges to be imposed for such return (26 Del. C. §§ 1005(a)(1)(v), 1005(b)(1)(vi), 1010(c)); and
- (e) the implementation of net energy metering for residential and small commercial customers who own and operate a renewable-resource electric generation facility (26 Del. C. § 1014(d)).

3. Because the Act opens the market for electric supply to competition on October 1, 1999, the General Assembly granted the Commission the power to forego compliance with the Administrative Procedures Act (29 Del. C. ch. 101) in promulgating the required rules, regulations, and standards. 26 Del. C. § 1015(a). The Commission exercised that power in Order No. 5068. Indeed, the short period between the date of the Act's enactment and the opening date for competition, compelled the Commission to construct such rules in a fair, but very expeditious, process.

4. On June 29, 1999, the Commission Staff proposed and circulated revised rules and regulations pertaining to each of the above-described areas. Comments were received and the designated Hearing Examiners in this matter reviewed Staff's rules and proposed certain modifications to those rules which were contained in a report dated August 4, 1999.

5. At its meetings on August 24, 1999 and August 31, 1999, the Commission reviewed Staff's proposed rules, the Hearing Examiners' modifications to those rules, and the viewpoints of interested participants.

5. After deliberations, the Commission, in large part, decided to adopt Staff's rules rather than the modifications made by the Hearing Examiners, primarily because the Commission found that Staff's rules more appropriately reflected the intent of the Act. Given the impending onset date for competition, the Commission believes it most important to promulgate and publish the applicable rules as quickly as possible, rather than delay for the entry of some larger Order explaining each participant's position. By granting exemption from the APA in this process, the General Assembly seemingly endorsed just such an abbreviated adoption procedure. Moreover, at heart, the rules required by the Act call for decisions on policy, some at the minor administrative level with only a few on larger issues. The Commission thinks that the language of the rules are, in large part, self-explanatory as the reasons for the policy chosen by the Commission. As noted above, the Commission believes that it is imperative to have rules in place to govern the electric supply market when the competitive door opens in thirty-one (31) days. At the same time, the Commission stands prepared to enter a more detailed explanation for its choice of a particular rule if any of the interested participants desire such exposition and believes it necessary. If a person desires any such further explanation, they should file a request for such explanation on one or more of the rules with the Commission within thirty (30) days after the date of this Order. The Commission will decide, after such request, whether such further explanation is necessary; now, therefore,

**IT IS ORDERED:**

1. That the proposed "Rules for Certification and Regulation of Electric Suppliers" attached hereto as Exhibit "A" are adopted, pursuant to 26 Del. C. §§ 1010(a)(2), 1012(a), and 1014(d).

2. That pursuant to 26 Del. C. § 1015(a), the Secretary of the Commission shall transmit a copy of this Order and the rules governing the certification and regulation of electric suppliers adopted herein to the Delaware Registrar of Regulations for publication in the next issue of the Delaware Register of Regulations.

3. That section IX of the Commission Staff's proposed rules is not adopted. Instead, the Commission orders that the retention issues be handled as part of the individual utility's restructuring plan.

4. That the Secretary shall mail a copy of this Order and the rules adopted herein to each entity or person that previously filed comments or appeared in this docket.

5. That the Commission reserves the right to hereafter, by Order, alter, amend, or waive the rules adopted herein for use in any particular matter or proceeding.

6. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Robert J. McMahon  
Chairman

/s/ Joshua M. Twilley  
Vice-Chairman

PSC Regulation Docket No. 49, Order No. 5207 Cont'd.

/s/ Arnetta McRae  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

/s/ John R. McClelland  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

**DELAWARE PUBLIC SERVICE COMMISSION**

**RULES FOR  
CERTIFICATION AND REGULATION  
OF ELECTRIC SUPPLIERS**

**EFFECTIVE: AUGUST 31, 1999**

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## SECTION I: DEFINITIONS

“Affiliated Interest”-means:

1. Any person or entity who owns directly, indirectly or through a chain of successive ownership, 10% or more of the voting securities of the Applicant;
2. Any person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by an affiliated interest as defined in 1 above; or
3. Any person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by the Applicant.

“Ancillary Services”-services that are necessary for the transmission and distribution of electricity from supply sources to loads and for maintaining reliable operation of the transmission and distribution system.

“Applicant”- an entity or person seeking to obtain an Electric Supplier Certificate.

“Broker”- an entity or person that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to Retail Electric Customers.

“Commission”-the Delaware Public Service Commission

“Cramming” – the practice of charging Customers for services that they have not ordered or have been sold in a deceptive manner such that the customer is not reasonably aware of the nature or price of the service for which he or she is being charged.

“Customer” or “Retail Electric Customer”-a purchaser of electricity for ultimate consumption and not for resale in Delaware, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

“Delaware Electric Cooperative, Inc.” or “Cooperative” or “DEC” -or its successor(s).

“Delmarva Power & Light Company d/b/a Conectiv Power Delivery” or “Delmarva” or “DP&L”-or its successor(s).

“Distribution Services” – those services, including metering, relating to the delivery of electricity to a Retail Electric Customer through Distribution Facilities.

“Distribution Facilities” – electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to Retail Electric Customers, up through and including the point of physical connection with electric facilities owned by the Retail Electric Customer.

“Electric Distribution Company” or “EDC”-a public utility owning and/or operating Transmission and/or Distribution Facilities in Delaware.

“Electric Supplier”-an entity or person certified by the Commission, including municipal corporations which choose to provide electricity outside their municipal limits (except to the extent provided prior to February 1, 1999), Broker, Marketer or other entity (including public utilities and their affiliates), that sells electricity to Retail Electric Customers, utilizing the Transmission and Distribution Facilities of an Electric Distribution Company.

“Electric Supplier Certificate” or “ESC”-a certificate granted to Electric Suppliers by the Commission which have fulfilled the Commission’s certification requirements.

“Electric Supply Service”-the provision of electricity or electric generation service.

“FERC”-The Federal Energy Regulatory Commission.

“Green Power”-electricity generated from any one of the following renewable resources: solar; hydro; wind; biomass (the burning of agricultural wastes and landfill gas); and geothermal (heat from the earth).

“Marketer”-an entity or person that purchases and takes title to electricity for sale to Retail Electric customers.

“PJM Interconnection, LLC” or “PJM” -the Pennsylvania-New Jersey-Maryland Independent System Operator that is responsible for the operation and control of the bulk electric power system throughout all or portions of Delaware, Pennsylvania, New Jersey, Maryland, Virginia and District of Columbia.

“Slamming”-the unauthorized transfer of a customer to another Electric Supplier.

“Standard Offer Service” or “SOS”-the provision of Electric Supply Service after the Transition Period by a Standard Offer Service Supplier to Customers who do not otherwise receive Electric Supply Service from an Electric Supplier.

“Standard Offer Service Supplier” or “SOSS”-an Electric Supplier that provides Standard Offer Service to Customers within an Electric Distribution Company’s service territory after the Transition Period.

“State”-The State of Delaware.

“Telemarketing” –Any unsolicited telephone calls initiated by, or on behalf of, an Electric Supplier to a Customer in order to market Electric Supply Service.

“Transition Period”-the period of time described in 26 Del. C. § 1004, which: begins October 1, 1999 and ends September 30, 2002 for Delmarva’s non-residential customers; begins October 1,

1999 and ends September 30, 2003 for Delmarva's residential customers; and begins April 1, 2000 and ends March 31, 2005 for all Cooperative customers.

"Transmission Facilities"-electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to Customers (including any Customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the Customer.

"Transmission Services"-the delivery of electricity from supply sources through Transmission Facilities.

## **SECTION II: CERTIFICATION OF ELECTRIC SUPPLIERS**

All Electric Suppliers must obtain an Electric Supplier Certificate from the Commission to sell electric supply service to or arrange the purchase on behalf of Retail Electric Customers prior to offering contracts to Customers or commencing service.

1. Certification Requirement. All Electric Suppliers shall file with the Commission an original and ten (10) copies of an Application for an Electric Supplier Certificate. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the Applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial, managerial and operational ability to adequately serve the public.
  - (a) Authority to Do Business In Delaware. Each Applicant shall provide documentation from the Delaware Secretary of State and/or the Delaware Division of Revenue that it is legally authorized and qualified to do business in the State of Delaware.
  - (b) Resident Agent. Pursuant to 26 Del. C. § 401, each Applicant shall file a designation in writing of the name and post-office address of a person resident within the State upon whom service of any notice, order or process may be made. This information must be updated if changed.
  - (c) Performance Bonds. Each Applicant shall submit a copy of their performance bond or guarantee that they have obtained as security to the Electric Distribution Company if required in the Service Agreement between the Applicant and the Electric Distribution Company.
  - (d) Compliance with Regional Requirements. Each Applicant, except for Brokers, must demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity through compliance with all applicable requirements of PJM. Brokers must submit relevant evidence of technical fitness to conduct their proposed business. Any Broker arranging the purchase of Electric Supply Service for their Customers must procure electricity from an entity that complies with PJM's requirements.
  - (e) Financial, Operational, Managerial and Technical Ability. Each Applicant shall be required to present substantial evidence supporting their financial, operational, managerial and technical ability to render service with the State of Delaware. Such evidence shall include, but is not limited to:
    - (1) Certified financial statements current within twelve (12) months of the filing. Publicly traded Applicants must file their most recent annual report

to shareholders and SEC Form 10-K. Other indicia of financial capability may also be filed.

- (2) Brief description of the nature of business being conducted, including types of customers to be served, services provided and geographic area in which services are to be provided.
- (3) A list of states in which Applicant or any of its affiliated interests is presently selling electric supply service to Retail Electric customers and a list of states in which Applicant or any of its affiliated interests has pending applications to sell electric supply service to Retail Electric customers.
- (4) A list of states in which Applicant or any of its affiliated interests has been denied approval by a State Commission to sell electricity to Retail Electric Customers or has had its authority revoked.
- (5) Relevant operational experience of each principal officer responsible for Delaware operations.
- (6) A copy of any FERC approval as a Marketer or date and docket number of the application to FERC.
- (7) If the Applicant requires deposits, advance payments, prepayments, financial guarantees or the like from customers, then the Applicant must secure a bond with corporate surety licensed to do business in Delaware guaranteeing the repayment of all customer deposits and advances upon the termination of service. The amount of the bond will be the lesser of (i) 150 percent of the projected amount of deposits and advances for the next one year period; or (ii) \$50,000. If at any time the actual amount of the deposits and advances held by the Applicant exceeds the amount projected, the amount of bond shall be increased to comply with the requirement in the preceding sentence.
- (8) All new Applicants shall demonstrate in their applications that they possess a minimum of \$100,000 of assets in excess of encumbrances or a minimum of \$100,000 in cash, cash equivalents, or financial instruments that are reasonably liquid and readily available to meet their costs of providing electricity to Customers or any combination thereof.
- (9) Demonstration of cash or cash equivalents can be satisfied by the following:
  - (i) Cash or cash equivalents, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;

- (ii) Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;
  - (iii) Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
  - (iv) Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
  - (v) Line of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
  - (vi) Loan, issued by a qualified subsidiary, affiliate of Applicant, or a qualified corporation holding controlling interest in the Applicant, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission, and payable on an interest-only basis for the same period;
  - (vii) Guarantee, issued by a corporation, copartnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
  - (viii) Guarantee, issued by a qualified subsidiary, affiliate of Applicant, or a qualified corporation holding controlling interests in the Applicant, irrevocable for a period of at least twelve (12) months beyond the certification of the Applicant by the Commission; and,
  - (ix) Identifiable physical assets set forth in a balance sheet or similar statement.
- (10) The Applicant shall disclose whether the entity or any of its affiliated interests has filed for bankruptcy in the past 24 months.
- (11) The Commission or its Staff may consider any other information submitted by the Applicant if it can show the financial, operational, managerial, and technical abilities of an Applicant.
- (f) Verification of Application. The Application must be verified by a principal or officer of the Applicant.

- (g) Consent to the Jurisdiction. All Electric Suppliers shall consent to the jurisdiction of the Delaware courts for acts or omissions arising from their activities in the State.
- (h) Other Requirements:
- (1) Legal name as well as the name under which the Applicant proposes to do business in Delaware;
  - (2) State of incorporation, business address, and address of the principal officer;
  - (3) Name, title and telephone number of a regulatory contact person;
  - (4) A toll-free telephone number of customer service department;
  - (5) Description of the Applicant's experience in the energy market and a brief description of the services it plans to offer in Delaware and the type of customers it plans to serve; and
  - (6) Statement detailing any criminal activities of which the Applicant or any of its affiliated interests has been charged or convicted, or which the principal or corporate officers of the Applicant or any of its affiliated interests has been charged or convicted.
- (i) Contracts. The Applicant shall provide the Commission with a copy of its standard contract that it proposes to use with its prospective customers. Such standard contract shall be filed twenty-one (21) calendar days prior to use by the Applicant. Commission Staff shall have the authority at any time to require changes to a standard contract, if Staff determines that such contract is not consistent with these Rules for Certification and Regulation of Electric Suppliers. Such contract shall be in clear and plain language and include explicit terms and conditions which at a minimum contain the following:
- (1) A clear statement of the duration of the contract;
  - (2) The price stated in cents per kWh or a clear and unambiguous statement of the precise mechanism or formula by which the price will be determined;
  - (3) A complete list of any other fees, including early termination penalties, late fees, and interest charges, which can be imposed on the customer, including but not limited to the magnitude of the fees and the specific conditions under which such fees can be imposed;

- (4) A statement of the Electric Supplier's termination rights, which shall explain the specific conditions, under which the Electric Supplier may terminate service. At a minimum, the Electric Supplier shall provide the customer with at least 30 days notice prior to the next meter read date to terminate service and procedures to maintain ongoing service;
  - (5) The Electric Supplier's local or toll-free telephone number; the name, address and local or toll-free telephone number of a company contact person; the Electric Distribution Company's emergency telephone number; and the Commission's address and telephone number;
  - (6) A statement that the customer should call the Electric Distribution Company in the event of an electric-related emergency, such as a power outage; and,
  - (7) A statement informing the customer that if he/she relocates outside his/her current EDC area, he/she may terminate his/her contract with his/her Electric Supplier after providing a 30-day notice in writing to the Electric Supplier.
2. Notice. Each Applicant shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State in a form to be prescribed by the Commission.
3. Application Fee. A non-refundable application fee of \$750 shall be submitted with the application for Certification.
4. Incomplete or Abandoned Applications. Applications that do not include the necessary fees, supporting documentation or information may be rejected. The Commission Staff will provide the Applicant with a list of deficiencies and the Applicant will be given time to provide the necessary information to complete its certification. However, an incomplete or abandoned application will be closed four (4) months after the filing date, unless such time frame is extended by the Commission.
5. Waiver of Certification Requirements. Upon the request of any Applicant, the Commission may, for good cause, waive any of the requirements of these Rules that are not required by statute. The waiver may not be inconsistent with the purpose of these Rules or Chapter X of Title 26 of Del. C.

### **SECTION III: POST-CERTIFICATION REQUIREMENTS**

1. Term of ESC. ESCs are valid until revoked by the Commission or abandoned by the Electric Supplier after the requisite notice to the Commission and to their customers.
2. Minimum Length of Service by Electric Supplier. For each Customer class, each Electric Supplier must offer Electric Supply Service to each of its Customers for a minimum period of one billing cycle.
3. Transfer or Abandonment of ESC. The transfer of an ESC is prohibited. No electric service provider shall abandon service without 60 days written notice to the Commission, the affected Electric Distribution Companies, and its customers.
4. Contracts and Revised Contracts. An Electric Supplier shall supply Electric Supply Service only by a contract substantially similar to the standard contract filed by the Electric Supplier under Section II, paragraph 1(i) of these Rules. The contract must be signed and dated by the customer. If an Electric Supplier offers the Customer a check, prize, or other incentive which requires a signature, that signature cannot be used as the contract signature. A customer has ten (10) calendar days from the day the utility sends the confirmation letter to rescind their selection. If the Electric Supplier makes changes to its standard contract form, the Electric Supplier must submit these changes to the Commission Staff for review and comment. Such revised contract shall be filed twenty-one (21) calendar days prior to use by the Electric Supplier. Commission Staff shall have the authority at any time to require changes to a standard contract, if Staff determines that such contract is not consistent with these Rules for Certification and Regulation of Electric Suppliers.
5. Price Terms. Any price term shall not be inconsistent with pricing terms in a Customer's contract with his/her Electric Supplier. The Electric Supplier must provide thirty (30) days written notice to its Customer(s) of any price term changes.
6. Information that Must be Provided to a Customer by the Electric Supplier. The Electric Supplier must provide the customer with the following a copy of its contract which includes the terms and conditions of service.
7. Customer Information. An Electric Supplier cannot release customer information without the written authorization of the customer.
8. Marketing and Advertising.
  - (a) Pursuant to 26 Del. C. § 1012 (b) and as further defined in Section I of these Rules, all Electric Suppliers are prohibited from using Telemarketing to solicit customers. This prohibition does not include initial contact by any medium other than a voice telephone call or a Customer's telephone response to any non-telephone initial contact.

- (b) An Electric Supplier or its marketing or advertising agent shall not make misrepresentations or use deceptive practices in its direct solicitations, advertising or marketing materials.
  - (c) An Electric Supplier or its marketing or advertising agent must comply with all federal, state or local laws applicable to advertising or marketing products or services.
9. Reports to be Provided to the Commission. All Electric Suppliers shall provide such information concerning Delaware operations to the Commission as the Commission may from time to time request, including any reporting requirements contained herein. Information provided pursuant to this paragraph and designated “proprietary” or “confidential” shall be held in accordance with paragraph 1 in Section X of these Rules, and shall be afforded proprietary treatment subject to the provisions of the Rules, Commission regulations, and Delaware Law.
10. Fees and Assessments. ESCs must pay the fees and assessments under 26 Del. C. § 1012 (c) (2). ESCs must also file any reports required under 26 Del. C. § 115 (e). The ESC must also pay the Public Utilities Taxes pursuant to 30 Del. C. Chapter 55.
11. Record Retention. All Electric Suppliers will retain customer account records for a period of two (2) years.

## SECTION IV: BILLING AND METERING

1. Billing Options.
  - (a) Each Customer in Delmarva's service territory has the right to choose to receive separate bills from Delmarva Power & Light Company d/b/a Conectiv Power Delivery and from its Electric Supplier (if the ES provides a separate billing), or to receive a combined bill from either Delmarva or its Electric Supplier (if the ES provides a consolidated billing option), for Electric Supply, Transmission, Distribution, Ancillary and other Services, consistent with these Rules. If the Customer does not elect a billing option, Delmarva will be responsible for billing the Customer for Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the Electric Supplier.
  - (b) In the Delaware Electric Cooperative's service territory, the Cooperative will bill each Customer for Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the Customer's Electric Supplier.
  
2. Bill Contents. The bill should be easy to understand and must contain the following information:
  - (a) The name, address, and local or toll-free telephone number of the Electric Supplier;
  - (b) If different from the Electric Supplier, the name, address and toll-free telephone number of the Electric Distribution Company;
  - (c) The due date for payment;
  - (d) An itemized list of each service or product billed for the current billing period including charges for the Public Purpose Programs and a Competitive Transition Charge (if applicable);
  - (e) Electricity consumption including whether the consumption was based on actual recorded usage or estimated usage;
  - (f) The actual cents per kWh (or the appropriate block charges or other pricing mechanism) charged to the customer for the customer's actual usage (or estimated usage) of electricity for the current billing period;
  - (g) The total charge for each service or product;
  - (h) The amount of payment or other credit applied to customer's outstanding balance during the billing period; and

- (i) The amount still owed by the customer from the previous billing period.

3. Metering.

- (a) During the Transition Period, Delmarva will continue to own all meters and perform all meter reading functions. After the Transition Period, or earlier if requested by Delmarva, the Commission can permit others to provide some or all of the metering functions on a competitive basis.
- (b) The Delaware Electric Cooperative will continue to own and operate all meters and perform meter reading functions.

## SECTION V: CUSTOMER PROTECTION

1. Procedures to be Followed by the Customer:
  - (a) A customer should first notify the Electric Supplier of his/her complaint for resolution of his/her Electric Supply Services. In the event of an electricity-related emergency, such as a power outage, or in the event of problems related to a Customer's EDC, the Customer should contact his/her EDC.
  - (b) If the customer and Electric Supplier are not able to come to a resolution, the customer may file a complaint with the Commission as described in Rules 14 and 15 of the Rules of Practice and Procedure of the Commission.
  
2. Procedures to be Followed by the Electric Supplier:
  - (a) If a customer notifies the Electric Supplier that he/she has a complaint, the Electric Supplier shall use good faith efforts to respond to and resolve the complaint.
  - (b) An Electric Supplier shall have a sufficient number of customer service representatives to handle its customers' inquiries and complaints.
  - (c) If the customer and Electric Supplier are not able to come to a resolution, the Electric Supplier will inform the customer that he/she may contact the Commission.
  - (d) The Electric Supplier shall prepare and maintain a report of these complaints and keep these reports on file for a period of two (2) years. Upon request by the Commission or its Staff, an Electric Supplier shall furnish a copy of such report to the Commission. The report shall contain the following information:
    - (i) Type of complaint;
    - (ii) Date of complaint;
    - (iii) Resolution; and,
    - (iv) Date resolved.
  
3. Slamming. If the Commission determines that an Electric Supplier has slammed a Retail Electric Customer, then that Electric Supplier may be subject to penalties that may be imposed by the Commission through a hearing process. An Electric Supplier that causes a customer to be transferred to the Electric Supplier's electric supply service, without obtaining an executed, unrescinded contract as required in Section III, paragraph 4 of these Rules, shall be deemed in violation of this Slamming Rule. In such a case, the

Electric Supplier must void and/or refund any charges it has imposed on the slammed customer. The customer will only be liable to its authorized Electric Supplier for future service at a rate that is no more than the rate the customer paid before the slamming incident occurred.

4. Cramming. If the Commission determines that an Electric Supplier has billed unauthorized charges to a Retail Electric Customer, that Electric Supplier may be subject to penalties that may be imposed by the Commission through a hearing process. An Electric Supplier that has imposed unauthorized charges on a Retail Electric Customer must void and/or refund all of those charges to the Retail Electric Customer.

**SECTION VI: GREEN POWER AND RENEWABLE RESOURCES**

1. All Electric Suppliers offering Green Power shall have to meet disclosure of fuel resource mix stated in Section VII of these Rules.
2. For the purposes of this Section, a Green Power option is defined as an Electric Supply Service which has a generation resource mix of at least 50% Green Power. An Electric Supplier can provide a Green Power option of any proportion higher than that stated in this paragraph provided it meets the standards in paragraph 3 of this Section.
3. When requested by a Customer or providing information regarding Green Power through marketing and advertising material(s) or solicitation(s), an Electric Supplier must label its fuel resource mix in a manner that accurately describes its electric generating resources.
4. An Electric Supplier shall not market, advertise, or solicit to Customers on the basis that its product is environmentally beneficial unless it meets the minimum resource mix requirement of paragraph 2 of this Section.

## **SECTION VII. DISCLOSURE OF FUEL RESOURCE MIX**

1. Each Electric Supplier shall file a report with the Commission disclosing the aggregate proportions of fuel resource mix for the electricity supplied to its customers in Delaware for each quarter during the year. Such reports shall be filed by last date of the month succeeding each quarter. The reports shall include, but are not limited to:
  - (a) The total number of customers by each customer class served during that quarter;
  - (b) The total amount of electricity (kWh or MWh) supplied to each customer class; and,
  - (c) The fuel resource mix by percentage for the following resources: coal, oil, natural gas, nuclear, hydro, solar, wind, biomass, geothermal, and other.
2. The Commission will keep the information reported under paragraphs 1(a) and 1(b) confidential. Information to paragraph 1(c) shall not be held confidential, and the Commission or an Electric Supplier shall disclose such information to any member of the public requesting it. Each Electric Supplier shall also disclose the information under paragraph 1(c) to its Customers no less frequently than on a quarterly basis. Information reported under paragraph 1(c) may be utilized in any consumer education program developed in accordance with 26 Del. C. § 1014(c).
3. If an Electric Supplier cannot provide the data in paragraph 1(c) specifically for its customers in Delaware, then the Commission will accept comparable percentages for the load served in the Pennsylvania-Jersey-Maryland (PJM) regional power pool.

## **SECTION VIII: NET ENERGY METERING**

1. Each Electric Supplier providing Electric Supply Service to residential and small commercial Customers shall offer these Customers the option of net energy metering if a Customer generates electricity at the Customer's premises, subject to all of the following requirements:
  - (a) The Customer owns or operates the electric generation facility;
  - (b) The facility uses renewable resources;
  - (c) The facility has a capacity of not more than 25 kilowatts;
  - (d) The facility is not used by the Customer to supply property other than the Customer's premises.
2. Net metering is the interconnection with Distribution Facilities through a single meter that runs forward and backward in order to measure net energy flow during a billing period.
3. If, during any billing period, a Customer's facility generates more energy than that consumed by the Customer, the Electric Supplier will credit the Customer such additional power in the following billing period at least at the same price the Electric Supplier charged or would have charged the Customer under the contract.
4. Any requirements necessary to permit interconnected operations between the customer's generating facility and the EDC, and the costs associated with such requirements, shall be dealt with in a manner consistent with a standard tariff filed with the Commission by the EDC.
5. An EDC shall not impose special fees on net energy metering Customers, such as backup charges, additional controls, or liability insurance, as long as the generation facility meets the interconnection standards and all relevant safety and power quality standards.
6. Refunds and credits from net energy metering shall not apply to services provided by the EDC other than Electric Supply Service.

**SECTION IX: CUSTOMERS RETURNING TO EDC  
OR SOS SUPPLIER FOR ELECTRIC SUPPLY SERVICE**

The procedures for a Retail Customer's return to an EDC during the Transition Period and to an EDC if it is the SOS Supplier after the Transition Period for Electric Supply Service shall be in accordance with the Commission's order for each EDC's individual electric restructuring plan.

## **SECTION X: OTHER GENERAL RULES**

1. **Proprietary Information.** Under Delaware’s Freedom of Information Act, 29 Del. C. ch. 100, all information filed with the Commission is considered of public record unless it contains “trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature.” 29 Del. C. §10002(d)(2). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as “proprietary” or “confidential” or words of similar effect. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity which submitted the information with reasonable notice and an opportunity to show why the information should not be released.
  
2. **Failure to Comply with These Rules.** The failure by any Electric Supplier to comply with these requirements and the requirements in other Sections of these Rules may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier’s ESC, or other sanction as determined by the Commission.