

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE REQUEST BY)
DELMARVA POWER & LIGHT COMPANY FOR A)
RULING OF NON-APPLICABILITY OR,) PSC DOCKET NO. 05-122
ALTERNATIVELY, A PARTIAL WAIVER OF)
LIMITATIONS ON THE PROVISION OF)
COMPETITIVE SERVICES)
(FILED MARCH 31, 2005))

ORDER NO. 6622

AND NOW, this 10th day of May, 2005;

WHEREAS, at the conclusion of a 1981 Lease Agreement entered into between the Town of St. Michaels, Maryland ("St. Michaels") and Delmarva Power & Light Company ("Delmarva"), St. Michaels intends to exercise its franchised right to serve electric customers in the St. Michaels area;

WHEREAS, St. Michaels intends to issue a Request for Proposals to several entities, including Delmarva, to operate and maintain, beginning October 15, 2006, its distribution facilities and perform other necessary and customary services that a utility provides to its customers;

WHEREAS, pursuant to a Settlement Agreement in PSC Docket No. 99-582, the Commission issued Order No. 5469 (June 20, 2000) in which it designated certain activities and the provision of various services as "regulated" (*i.e.*, services and activities that can be provided by Delmarva) or "competitive" (*i.e.*, services and activities that the utility cannot provide);

WHEREAS, on March 31, 2005, Delmarva filed with this Commission a petition seeking a declaratory ruling on whether certain activities and services it contemplates providing to St. Michaels, if it is the successful bidder, are deemed "regulated" activities or whether such activities or services are classified as "competitive;"

WHEREAS, in the alternative, in order to permit it to bid on the St. Michaels' Request for Proposal, and to allow it to engage in the activities and provision of services if it is the successful bidder, Delmarva requests that the Commission issue an Order waiving the prohibition against it providing competitive services under Order No. 5469 (June 20, 2000);

WHEREAS, the Company published a form of notice (attached as "Appendix A") announcing this filing in *The Delaware State News* on April 29, 2005 and in *The News Journal* on April 30, 2005;

Now, therefore, **IT IS ORDERED**:

1. Pursuant to 26 Del. C. § 502 and 29 Del. C. ch. 101, the Commission refers this matter to Hearing Examiner Ruth A. Price to determine whether this case presents a sufficient controversy for an evidentiary hearing to be held before a hearing examiner or whether this matter should be referred directly to the Commission for disposition;

2. Pursuant to 26 Del. C. § 102A, Hearing Examiner Price is delegated the power to determine the form and manner of public notice of any hearing undertaken by her in this proceeding. Hearing Examiner Price is specifically delegated, under Rule 21 of the Commission's

Rules of Practice and Procedure, the authority to grant or deny petitions to intervene.

3. The Commission Staff is directed to investigate this matter and to report to the Hearing Examiner in thirty (30) days the status of the investigation;

4. The Commission finds that the form of notice published by Delmarva Power & Light Company in the *Delaware State News* and *The News Journal* newspapers, attached hereto as "Appendix A," is sufficient and adequate to inform the public and other interested persons of the nature of this filing and the requirements for participation in this matter, including the date (on or before May 20, 2005) by which they must file a petition to intervene in this docket;

5. James McC. Geddes, Esquire, is appointed to represent the Commission Staff in this matter.

6. Delmarva Power & Light Company is hereby advised that the cost of this proceeding may, under the provisions of 26 Del. C. § 114(b)(1), be charged to the utility.

7. 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/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

PSC Docket No. 05-122, Order No. 6622 Cont'd.

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

“APPENDIX “A”

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE REQUEST BY)
DELMARVA POWER & LIGHT COMPANY)
FOR A RULING OF NON-APPLICABILITY OR,) PSC DOCKET NO. 05-122
ALTERNATIVELY, A PARTIAL WAIVER OF)
LIMITATIONS ON THE PROVISION OF)
COMPETITIVE SERVICES)
(FILED MARCH 31, 2005))

P U B L I C N O T I C E

**TO: ALL ELECTRIC AND NATURAL GAS CUSTOMERS OF DELMARVA
POWER & LIGHT COMPANY, AND OTHER INTERESTED PERSONS**

On March 31, 2005, Delmarva Power & Light Company (“Delmarva”) filed a petition seeking a ruling by the Delaware Public Service Commission (“DPSC” or “Commission”) that a 1999 settlement agreement approved by this Commission in Docket No. 99-582 does not apply with respect to certain activities that may be performed by utility employees under a contract that might be entered into between Delmarva and the Town of St. Michaels, Maryland. Alternatively, if the Commission were to rule that the settlement agreement did apply, Delmarva has requested that certain provisions of that settlement agreement be waived for the limited purpose of permitting such activities to be performed.

As set forth in the petition, as of October 2006, the Town of St. Michaels intends to resume its exercise of its franchised right to serve electric customers in the St. Michaels area after the

termination of a 1981 agreement under which Delmarva has operated St. Michaels' facilities and billed customers in that area under Delmarva's Maryland retail rates. The Town of St. Michaels plans to issue a request for proposals from various entities, including Delmarva, to operate and maintain its distribution facilities and perform other services that a utility would provide to its customers. The 1999 settlement agreement provides, among other things, that Delmarva's utility personnel will not perform competitive activities.

Delmarva's petition notes that the work that its employees would be performing are typically utility services, that its rates and charges to the Town of St. Michaels will be subject to regulatory oversight by the Maryland Public Service Commission and, thus, these services may not be competitive services under the settlement agreement. Delmarva further notes, however, that because other entities, including non-regulated entities, may be qualified to perform such services, the planned work could be deemed to be competitive and, thus, a waiver of that portion of the settlement agreement would be necessary to permit Delmarva to perform the work.

The Commission has determined that it is appropriate to seek public input on this petition before acting. Any person or group wishing to participate formally as a party in this docket with the right to submit evidence and to be represented by counsel must, in accordance with Rule 21, petition the Commission for and be granted leave to intervene in the proceedings in this docket. To be timely, all such petitions must be filed with the Delaware Public Service Commission at 861 Silver Lake Boulevard, Suite 100, Cannon Building,

Dover, Delaware 19904 on or before May 20, 2005. Petitions received thereafter will not be considered except for good cause shown. Alternatively, interested persons may comment on the petition by letter to the Commission at the above address. Such comments will be taken into consideration, but the commented person will not be a party to the proceeding.

Copies of the petition filed in this proceeding are available for public inspection during normal business hours at the Commission's Dover office at the above address, or, by appointment, at the Division of the Public Advocate, located on the 4th Floor, Carvel State Office Building, 820 North French Street, Wilmington. Please call for an appointment at (302) 577-5077.

Individuals with disabilities who wish to participate in these proceedings or to review the filings may contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, by writing, telephone (including TRS or text-telephone), or otherwise. The Commission's toll-free telephone number within Delaware is 1-800-282-8574. The Commission can also be reached at (302) 739-4333 and that number should also be used for Text Telephone calls. Inquiries can also be sent to the Commission by Internet e-mail to "janis.dillard@state.de.us."