

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

IN THE MATTER OF THE CESSATION OF )  
COMMISSION REGULATION OF THE ) PSC DOCKET NO. 06-262  
DELAWARE ELECTRIC COOPERATIVE, INC. )  
(FILED AUGUST 10, 2006) )

**ORDER NO. 7008**

This 22<sup>nd</sup> day of August, 2006, the Commission determines and Orders the following:

1. By the provisions of 26 Del. C. § 223 (2004 Supp.), the General Assembly and the Governor gave the members of the Delaware Electric Cooperative, Inc. ("DEC") the power to decide whether this Commission should continue to enforce state laws governing how DEC is to provide its utility services to consumers in DEC's statutorily-prescribed service territory. An independent auditor retained by DEC has now certified (on August 10, 2006) that DEC's members have made their choice; by an overwhelming vote, they have decided to "remove" DEC and its utility services from the regulatory supervision of this Commission.<sup>1</sup>

2. In light of the members' election, the Commission's regulatory supervision of DEC will end on August 25, 2006. On that date, the Commission will no longer have the authority to implement

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<sup>1</sup>See 26 Del. C. § 223(a)(6), (a)(7) (2004 Supp.). The members' vote not only ends Commission oversight (26 Del. C. § 202(f) (2004 Supp.)) but also shifts the statutory regime governing how DEC provides its utility services. See 26 Del. C. § 1018 (2004 Supp.) (Electric Utility Restructuring Act shall not apply after "opt-out" election by cooperative) and 26 Del. C. § 224 (2004 Supp.) (setting forth obligations of exempt cooperative).

and enforce the provisions of the Public Utilities Act of 1999, and the Electric Supply Retail Customer Supply Act of 2006, as they relate to DEC.<sup>2</sup> The Commission now enters this Order to carry into effect the end of its oversight of DEC.<sup>3</sup>

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

1. That, beginning August 25, 2006, the Commission shall not have any regulation or supervision, as granted by any statutory provision, over the Delaware Electric Cooperative, Inc., except as such oversight is continued under 26 Del. C. § 224(2) & (9) (2004 Supp.). Beginning on such date, the Commission shall no longer have any supervision and regulation over the rates, practices, operations, property rights, equipment, and facilities of the Delaware Electric Cooperative, Inc., except as may be permitted by 26 Del. C. § 224(2) & (9) (2004 Supp.).

2. That, effective August 25, 2006, all currently pending proceedings, or portions of pending proceedings, that relate to the

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<sup>2</sup>The provisions of 26 Del. C. § 224(2) (2004 Supp.) preserve Commission authority over DEC for the purposes of adjusting service territory boundaries. In addition, if DEC chooses to continue to provide its services under an unbundled, "restructured" regime, the Commission will have continued oversight over its implementation of "net metering" and the licensing of electric suppliers. See 26 Del. C. § 224(9)a. (2004 Supp.).

<sup>3</sup>In some instances, the end of Commission oversight means that DEC will have to pick up some of the obligations that the Commission would perform. For example, under the federal Public Utilities Regulatory Policy Act ("PURPA") of 1978, DEC, even as a non-rate regulated electric utility, will have to make its own decision, as part of a public proceeding, whether to implement the various new PURPA standards. See e.g., 16 U.S.C. § 2621(a)-(c). Similarly, DEC will have to decide whether, after August 25, it will still have to prepare annual ten-year procurement plans, continue its demand-side management efforts, and file reports about such activities with the Office of Management and Budget and the Controller General. See 26 Del. C. §§ 1007(c)(2), 1008(b)(2) (as amended by 75 Del. Laws ch. 242 §§ 6, 7 (2006)).

Delaware Electric Cooperative, Inc.'s obligations or duties as a public utility, electric distribution company or utility, or Standard Offer Service supplier, are terminated. The designated Hearing Examiner in any such pending proceeding is authorized to terminate such proceeding, or portion of such proceeding, that relates to the Delaware Electric Cooperative, Inc., and shall provide notice to the Delaware Electric Cooperative, Inc. of such termination. The above terminations shall not apply to pending proceedings that involve the matters remaining under the Commission's regulatory supervision pursuant to the provisions of 26 Del. C. § 224(2) & (9) (2004 Supp.). If the Delaware Electric Cooperative, Inc. desires to continue to participate in any terminated proceeding as an intervening party, it shall promptly file for intervention under the Commission's Rules of Practice and Procedure.

3. That, effective August 25, 2006, all prior Orders, directives, and rules and regulations entered or adopted by the Commission shall no longer apply to the Delaware Electric Cooperative, Inc., except as such Orders, directives, or rules and regulations implement the regulatory authority preserved to the Commission under 26 Del. C. § 224(2) & (9) (2004 Supp.).

4. That, in the calculation of the assessment due under 26 Del. C. § 115 for the calendar year 2006, the "gross operating revenue" for the Delaware Electric Cooperative, Inc. shall include the "gross revenue" collected and derived by the Delaware Electric Cooperative, Inc. from its intrastate public utility business during the period January 1, 2006 through August 25, 2006. The Delaware

Electric Cooperative, Inc. is obligated to file a final return for such gross operating revenue prior to March 31, 2007. The Delaware Electric Cooperative, Inc. is obligated to pay an assessment on such gross operating revenues in accord with 26 Del. C. § 115 (1989 & 2005 Supps.).

5. That, on or before August 25, 2006, the Delaware Electric Cooperative, Inc., shall submit to the Commission the name, address, telephone number, and Internet e-mail address for a "contact" person to whom the Commission can forward consumers' complaints or inquiries concerning the Delaware Electric Cooperative, Inc.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary