

**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. 10 RELATING TO THE)
CREATION OF A COMPETITIVE MARKET)
FOR RETAIL ELECTRIC SUPPLY SERVICE) PSC REGULATION DOCKET 49
(OPENED APRIL 27, 1999; REOPENED)
JANUARY 7, 2003; REOPENED SEPTEMBER)
22, 2009; REOPENED SEPTEMBER 7, 2010;)
REOPENED JULY 17, 2012; REOPENED)
APRIL 15, 2014))**

**COMMENTS OF THE DELAWARE DIVISION OF THE PUBLIC ADVOCATE ON
THE PROPOSED REVISED ELECTRIC SUPPLIER REGULATIONS PUBLISHED ON
OCTOBER 1, 2016**

The Delaware Division of the Public Advocate (“DPA”) submits the following comments in support of the proposed Electric Supplier Regulations (the “Regulations”) that the Delaware Public Service Commission (the “Commission”) approved for publication in the Delaware Register of Regulations at its September 20, 2016 meeting.

The DPA agrees with the Retail Energy Supply Association (“RESA”) that the proposed Regulations, as amended after discussions with the Commission Staff and Delmarva Power & Light Company (“DPL”), should be adopted. The DPA appreciates Staff’s and DPL’s willingness to meet with the DPA and RESA to discuss the proposed Regulations, and believes that the parties made great progress in narrowing the contested issues in this docket to just two.

With respect to those two remaining open issues – the proper rescission period and the information to be included in the customer lists – we urge the Commission to approve the DPA’s and RESA’s proposed Regulations. That is, we urge the Commission to approve a three-business-day rescission period, and to adopt the customer list requirements to which the DPA

and RESA agreed. In the interest of brevity, we will not repeat RESA's arguments in our comments. The DPA submits that RESA's arguments in favor of a three-business-day rescission period and the information identified in the customer list section of the Regulations are persuasive, and the Commission should adopt them.

The DPA's comments urging the Commission to approve the proposed Regulations to which the DPA and RESA agreed address the dispute from a slightly different perspective than RESA's comments. The DPA is charged with protecting the interests of regulated utilities' residential and small commercial ratepayers. The current regulations contain very little in the way of customer protection. Given its statutory charge of ratepayer protection, it was very important to the DPA that sufficient customer protections be included in the revised Regulations, and the comments that the DPA has filed over the course of this proceeding have included significant customer protections.

Over the course of the months that the DPA and RESA met to negotiate, customer protection was the DPA's priority. But customer protection does not mean protecting customers from competitive electric suppliers. The General Assembly has decreed that Delaware customers have the right to shop for an alternative electric supplier, and that roadblocks to shopping should be removed. In effecting the General Assembly's intent, the DPA further believes that customers are bright enough to make decisions for themselves, and that customers should be expected to review information provided to them before they enter into a contract. However, the Regulations include provisions designed to address and (hopefully) prevent problems that have arisen with electric suppliers in other deregulated states. The DPA believes that the proposed Regulations that it and RESA submitted jointly, as amended after their

discussions with Staff and DPL, provide sufficient customer protections without turning the Commission into a nanny for customers.

The DPA respectfully submits that the Commission keep in mind that the DPA and RESA were the parties who were the furthest apart when this process began. That they were able to reach consensus with respect to the revisions to the Regulations should provide great comfort to the Commission that it is both effecting the General Assembly's intent of enhancing competition and protecting consumers from many (if not all) of the problems that have arisen in other choice jurisdictions. The Commission can also take comfort in the DPA's support for the Regulations as the party charged with protecting Delaware ratepayers. *See Constellation New Energy, Inc. v. Public Service Commission*, 825 A.2d 872, 883 (Del. Super. 2003) ("The Court also notes that it puts significant weight on the opinion of the Public Advocate, a party charged by statute to protect the Delaware ratepayers, that the settlement in in Delaware's best interest.").

For the foregoing reasons, as well as those advanced in RESA's comments, the DPA respectfully requests the Commission to reject Staff's and DPL's objections to the Regulations, and approve the Regulations submitted by the DPA and RESA as amended by Staff's and DPL's consent.

Respectfully submitted,

/s/ Regina A. Iorii

Regina A. Iorii (De. Bar No. 2600)
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8159
regina.iorii@state.de.us

Counsel for the Delaware Division
of the Public Advocate

Dated: October 31, 2016