

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE REVIEW OF)
CUSTOMER CHOICE IN THE STATE OF)
DELAWARE) PSC Docket No. 15-1693
)
(Filed December 23, 2015))

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: May 15, 2018

MARK LAWRENCE
SENIOR HEARING EXAMINER

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Mark Lawrence, duly-appointed Hearing Examiner in this Docket pursuant to 26 Del. C. §502 and 29 Del. C. ch. 101 and by Commission Order No. 8845 dated January 19, 2016, reports to the Commission as follows:

I. APPEARANCES

On behalf of the Retail Energy Supply Association ("RESA"):

By: BRIAN R. GREENE, ESQ.
Greene Hurlocker, PLC

On behalf of Delmarva Power and Light Company

("Delmarva", "Delmarva Power," "DPL," or "the Company"):

By: TODD L. GOODMAN, ESQ.
Associate General Counsel

On behalf of the Public Service Commission Staff

("Staff" or "Commission Staff"):

By: JAMES McC. GEDDES, ESQ.
Staff Counsel

On behalf of the Division of the Public Advocate ("DPA" or Public Advocate"):

By: REGINA A. IORII, ESQ.
Deputy Attorney General

II. BACKGROUND

A. PROCEDURAL BACKGROUND OF THE CUSTOMER CHOICE DOCKET

1. On December 14, 2015, the Electricity Affordability Committee ("EAC"), created by the General Assembly to examine energy supplier choice in Delaware, petitioned the Commission to review ways of enhancing customer choice in Delaware including whether to: (1) adopt a Purchase of Receivables program; (2) include third-party supplier information on Delmarva Power & Light Company's bills; (3) allow new and relocating customers to receive supply from their preferred supplier immediately; (4) allow customers to enroll with a third-party supplier without requiring them to provide their Delmarva Power identifying information; (5) re-examining Standard Offer Supply ("SOS") procurement; (6) finalizing Commission regulations governing third-party electric suppliers;¹ and (7) establish periodic monitoring of the status of customer choice.

2. The EAC requested that the Commission implement recommendations to enhance Customer Choice, reduce energy supply costs, and increase customer awareness and education in Delaware regarding these issues. The Petition sent by the EAC to the Commission is attached hereto as Exhibit "1" and explains the General Assembly's concerns about

¹ See PSC Regulation Docket 49 for the final third-party electric supplier Rules adopted by the commission. REG. 49 in the Commission's DelaFile online computer filing system.

customer choice and competition among electric suppliers in Delaware.

3. The Commission opened this Docket on December 23, 2015, and after publishing public notice of this Docket, has since then conducted publicly-noticed workshops and a number of conference calls between the parties. Some of the issues identified above have been resolved, are still pending or were addressed in other proceedings.

4. The Division of Public Advocate intervened as a party on February 9, 2016 pursuant to its statutory right. On March 29, 2016, by PSC Order No. 8870, after no objection from any party, I permitted the Retail Energy Supply Association (RESA) to intervene as a party.²

5. The parties, RESA, the Public Advocate, Staff and Delmarva Power³ each submitted detailed Comments addressing the issues in this Docket. A non-party, WGL Energy Services, Inc., a third party supplier, also filed a detailed Public Comment.

6. On January 22, 2018, I held a Conference Call with the parties and discussed the status of this Docket and issues raised between the parties. The parties agreed upon March 8, 2018 as the Evidentiary Hearing date with the hearing to be held at the Commission's office in Dover. A Public Notice of Evidentiary Hearing, the form of which was agreed upon by the parties, was published in the News Journal and The Delaware State News, on January 25, 2018, and in the Cape Gazette on January 26, 2018.

7. On February 28, 2018, I held a Pre-Hearing Conference Call

² RESA is a non-profit trade association of independent corporations which are engaged in the business of competitive supply of electricity and natural gas, in various neighboring states and Delaware (Petition at ¶1.) RESA asserts that its members are interested in implementation of Delaware's retail choice enhancements and the impact on Delaware's evolving competitive retail electricity market (Petition at ¶3.)

³ Delmarva is a wholly-owned subsidiary of Pepco Holdings, Inc., which is a wholly-owned subsidiary of Exelon Corporation.

with the parties. After the March 8th hearing was mutually cancelled due to inclement weather, the hearing was rescheduled for April 19, 2018. A Public Notice of Evidentiary Hearing, the form of which was agreed upon by the parties, was published in the News Journal and The Delaware State News, on January 25, 2018, and in the Cape Gazette on January 26, 2018.

8. On April 19, 2018, the parties entered into a Stipulated Order signed by me which limited the scope of the hearing that day to three (3) issues: a) whether to adopt a Purchase of Receivables ("POR") program, and if so, under what conditions; b) whether Delmarva should be required to provide customer retail choice bill inserts ("bill inserts") to customers, and if so, with what content and how often; and c) whether Delaware should have a supply choice website ("Choice Website"), and what role the Commission should have, if any, regarding the website. Regarding each issue, who pays the cost is also at issue.

9. The parties stipulated that they were deferring the following issues until a final non-appealable Order occurred in Maryland Public Service Commission Public Conference Docket No. 44: a) Enroll with Your Wallet or alternatives such as secure internet look-up tools, which allow customers to enroll in public locations such as malls and public events; and b) Seamless Moves & Instant Connects, which allow third party customers to transfer service to a new location or to immediately obtain service when they apply for service without any waiting period, respectively. Finally, the parties agreed that they would request that the Commission open a docket to address whether third party supplier consolidated billing of distribution and supply charges should be

adopted in Delaware.⁴

10. On April 19, 2018, I held the Evidentiary Hearing in Dover. RESA, Staff and the Public Advocate presented one (1) witness and Delmarva Power presented two (2) witnesses. The evidentiary record consists of three hundred and seventy one (371) pages of hearing transcript and twenty three (23) hearing exhibits admitted into evidence.⁵

B. THE APRIL 19, 2018 EVIDENTIARY HEARING & FACTS IN EVIDENCE

1. PURCHASE OF RECEIVABLES PROGRAM

11. At the Evidentiary Hearing, RESA's witness was Frank Lacey of Electric Advisors Consulting(Tr. - 137). The DPA's witness was Consultant Barbara Alexander (Tr. - 235). Staff's witness was Public Utility Analyst, Clishona Marshall, (Tr.- 282). Delmarva's witnesses were Susan Devito, Director of Pricing and Regulatory Services and Diane Goff, Manager of Business Applications for Exelon's Customer Operations. (Tr. - 336). As opposed to using the witnesses names, this Report will refer to their respective clients' names because the evidence is the testimony at the evidentiary hearing and the Comments filed by the parties.

12. In Delaware, if a Purchase of Receivables Program or "POR" was

⁴ 26 Delaware Code §1011(a)(1) currently provides as follows:

(a) The following provisions shall govern metering and billing for customers in DP&L's service territory:

(1) Each customer shall have the right to choose to receive separate bills from DP&L and from its electric supplier, or to receive a combined bill from either DP&L or its electric supplier, for electric supply, transmission, distribution, ancillary and other services, consistent with the regulations of the Commission.

⁵ Exhibits entered into the evidentiary record will be cited herein as "Exh. _". References to the transcript from the evidentiary hearing will be cited as "Tr. _- _ pg #."

approved by the Commission, Delmarva Power would purchase the accounts receivable of the non-billing third party suppliers of electricity. Currently, for customers served by a third party supplier, Delmarva Power bills customers for the customer's distribution charges and the supply charges of their third party supplier. (Tr. 151-52,298) If a customer does not pay the distribution charges or the supply charges or both, Delmarva Power currently has the right to terminate the customer's service. (Tr.-232) However, Delmarva Power does not currently purchase the third party suppliers' accounts receivables.

13. Third party suppliers currently have written agreements with Delmarva Power to bill and seek collection of their unregulated charges on the Delmarva bill. (Exh.5) This allows the third party providers to avoid credit and collection costs, billing costs, and permits Delmarva Power to present the suppliers' charges on Delmarva's bills along with the threat of termination of service for non-payment. (Exh. 5) However, the payment of those unpaid supply charges are ultimately the responsibility of the third party suppliers because Delmarva Power charges the third party suppliers back for any unpaid energy supply charges. (Exh. 18)

14. Under a POR Program, a utility purchases the receivables at a discount rate equal to the third party supplier's actual uncollectible rate, in addition to some other deductions described later herein. (Tr. 310-11) In the first year, Delmarva argues that, the discount rate should be set at zero to also accurately determine how many third party suppliers (and customers) participate during the first year. (Exh. 18) For example, third party suppliers could decide not to participate in the new POR

program, suppliers could operate in such a manner that many of its customer seek Standard Offer Service ("SOS") from Delmarva, etc. (Id.)

15. In any event, the discount rate is re-set in the second year and payment is offset from the monthly payments the utility makes to the third party suppliers from billing the third party suppliers' customers for the supply charges. (Exh. 18) According to RESA, there should be a different discount rate for each SOS residential and small commercial SOS class i.e. MGS-S, LGS-S, GS-T. (Exh. 10) This is because the uncollectible amount differs amongst each rate class. (Tr.-188) Also, according to Delmarva Power, the Discount Rate is subject to periodic Commission review and the "reconciliation" described above and should occur one (1) year after implementation. (Exh. 18)

16. A major issue raised by RESA and Delmarva Power is, if the Commission approves a POR program, are customers' late fees paid to Delmarva Power or the third party suppliers? Late payments decrease the discount rate. (Tr.-333) No evidence was proffered as to how much this late fees issue typically involves per year.

17. Delmarva Power argues that that this Commission should follow the position afforded Exelon's affiliates Philadelphia Electric Company ("PECO") in Pennsylvania and Commonwealth Edison ("ComEd") in Illinois which are permitted to recover late fees by the Pennsylvania and Illinois Commissions. (Tr.-366) Staff and the Public Advocate support Delmarva Power's position that it should be permitted to continue to collect late fees from the customers of third party suppliers and apply them to the distribution rate base. (Tr.-294,239) RESA argues that Delaware should follow Maryland and the District of Columbia's Commissions' position that

Delmarva Power's affiliates do not recover the late fees paid by the customers of third party suppliers. (Exh.9; Tr.-210)

18. According to Delmarva Power and the Public Advocate, since Delmarva would be incurring the non-payment risk of the third party suppliers' customers, performing all of the collection work, and late fees reduce the distribution rates of all customers, SOS and third party supplier customers, the late fees should be credited to Delmarva Power. (Tr.-193-94, 322-24) Delmarva Power currently reduces distribution rates with late fees from its distribution customers and would under a POR Program. (Tr.-300-01) If the third party suppliers were awarded the late fees under a POR Program, the suppliers are not obligated to pay any portion of those fees to their customers. (Tr.-186)

19. According to Delmarva Power, "with respect to the accounts of choice customers, Delmarva Power [currently] only incurs uncollectible expenses for the distribution rate portion of the bill. The distribution rate portion of the bill averages approximately 25-30% of the total bill for a typical customer. The other 70-75% of the bill is attributable to the electric supply provided by SOS or choice suppliers. Currently, if a choice customer does not pay his or her bill, Delmarva Power incurs the 25-30% uncollectible for the distribution rate and the choice supplier incurs the 70-75% uncollectible reflecting the supply rate." (Exh. 18)

20. "Under the proposed POR Program, however, Delmarva Power would be purchasing the receivables of the choice suppliers; therefore, it is necessary to establish an appropriate Discount Rate to reflect the receivables that do not get paid (aka, bad debt) and

the fact that there are certain other costs associated with collecting bad debts." (Exh. 18) Delmarva pays suppliers five (5) days after the supplier's bill date. (Exh. 19)

21. RESA argues that the Commission should not permit Delmarva Power to recover third party suppliers' customers' late fees. (Exh. 9) According to RESA, the Commission should follow the Maryland and District of Columbia Commissions by awarding late fee revenue to third suppliers. (Id.) By cross-examination of Delmarva's witness, RESA's position is that awarding late fee revenue to Delmarva increases the Discount Rate, thereby benefitting Delmarva. (Tr.- 332-34) There was no RESA testimony that the third party suppliers would pass on the late fee revenue onto customers.

22. Delmarva Power will also incur Program Development costs in implementing a POR program. This increase to the Discount rate involves programming the POR program into Delmarva's computer system for billing the customers of third party suppliers. (Exh. 18.) Delmarva's current cost estimate is between \$150,000 and \$200,000 to be paid for by third party suppliers, as testified to by Pepco's Director of Pricing and Regulatory Affairs. (Tr.-295; 351-52) RESA argues that the incurred amount should be paid back by third party suppliers during an amortization period of two (2) to five (5) years. (Exh. 8) No other evidence was proffered as this issue. Besides these initial Program Development Costs relating to billing, there was no testimony at the hearing presented about any implementation costs subsequent to the initial Program Development costs.

23. However, in its Comments, Delmarva raised additional costs

other than initial Program Development Costs related to billing such as "legal costs, regulatory costs, Staff consulting fees," testing, and "other operational and maintenance costs associated with implementing and maintaining a POR program in Delaware." (Emphasis supplied; Exhs. 18, 19) Delmarva will also only purchase commodity charges, not any non-commodity services. (Exh. 19)

24. Delaware's Electricity Affordability Committee asked the Commission "to implement those actions the Commission feels will enhance opportunity for customer choice in Delaware, [and] help lower energy supply costs for electric customers..." (Exh. 1) Except for the Public Advocate, all parties-Staff, Delmarva Power and RESA-all favor implementing a POR program. (Exhs. 5,6,18,7) According to the Public Advocate, "[e]very publicly available comparison of actual retail supplier prices with utility default service prices over a reasonable period of time has documented that the vast majority of residential customers pay more to suppliers for generation supply service than the applicable default service price." (Exh.5) Ms. Alexander provided a compilation of studies in Connecticut, New York, Maryland, Maine, Pennsylvania, and Illinois. (Id.)

25. According to the Public Advocate, if the Commission does adopt a POR program, "any POR program that the Commission approves should be accompanied by a condition that Delmarva be empowered to threaten to disconnect service for unpaid supplier charges only to the extent that such unpaid supplier charges do not exceed what the customer would have been required to pay for SOS. Any incremental unpaid supplier charges should be subject to recourse back to the supplier pursuant

to normal debt collection policies applicable to other competitive markets." (Exh. 5) This position has not yet been adopted by any state commission. (Tr.-276)

26. Delmarva Power's witness called implementing the disconnection of service for unpaid supplier charges only to the extent that such unpaid supplier charges do not exceed what the customer would have been required to pay for SOS as "complex," that it would likely delay implementation of the POR program, and it would cost both Delmarva Power and third party suppliers additional money in altering their transactions to accommodate these changes in computer code changes. (Tr. 353-55). The inherent problem is that the SOS prices change for customers, customers have different contract terms, and each supplier has a different unit price. (Id.)

27. The unconverted evidence presented by Delmarva Power is that implementing a POR program in Delaware will take "at least one (1) year" from the date of the Commission Order, assuming the Public Advocate's proposed "no more than SOS price program" is not implemented. (Tr. 353-55; Exh. 19.) According to Delmarva, until there is a written Commission Order in this Docket, giving Delmarva clear direction as to its responsibilities regarding not only a POR program, but also bill inserts and a third party website, it cannot move forward as to any of the three (3) issues pending at this time. (Exhs. 15, 18, 19)

2. SUPPLIER BILL INSERTS

28. According to a Delmarva Comment, "[p]roviding bill inserts on behalf of competitive suppliers involves a host of issues, including the appropriateness of using regulated assets to advance the interests

of unregulated entities. In Delaware PSC Docket No. 16-0744, Direct Energy petitioned the Commission for an order to require Delmarva Power to distribute a bill insert on behalf of Direct Energy. Delmarva, RESA, the Public Advocate and Commission Staff all objected to Direct Energy's petition.

29. The Docket was resolved through a proposal by Delmarva, which was joined by RESA and DPA, agreed to by Staff and the parties, and approved by the Commission. The resolution included Delmarva's issuance of a non-supplier specific bill insert that included general educational information regarding customer choice. The insert referred customers to a Commission-maintained website for additional information on customer choice. The bill insert also included a list (with contact information) of electricity choice suppliers that are actively accepting Delaware customers.

30. Finally, the resolution included development and implementation by Commission Staff of a webpage on the Commission's website that lists in alphabetical order, the name, telephone number, website address, and link to website, of each Commission-certified supplier that as of October 6, 2016, is actively offering supply choice options to Delmarva Residential and Small Commercial customers in Delaware. That page was created by Staff in a timely manner. (See Order No. 8947 in PSC Docket No. 16-0744 (October 6, 2016))." (Exh. 15)

31. "The issue of whether Delmarva Power could, and if so, under what conditions, distribute advertising bill inserts for competitive retail suppliers would require consideration by, and an order from,

the Commission. Delmarva is not able to provide any kind of cost estimate for bill inserts until the many issues involved have been resolved." (Id.)

32. Except for stating that it wants Delmarva Power to provide quarterly inserts and an annual mailing provided by participating third party suppliers with specific supplier information, RESA has provided no additional information as to the suppliers' intended content of its inserts except they will address "choice" issues. (Exhs. 7,8) Staff, the Public Advocate and Delmarva Power have all taken the position that many issues as to content and cost have to be worked out, although the suppliers must be required to pay for any inserts the Commission orders. (Exhs. 6, 5, 15, respectively) The Public Advocate's initial position was that third party suppliers should pay for their mailings themselves. (Exh. 5)

33. At the hearing, Staff supported the Commission's supplier company-neutral approach to inserts, where the inserts simply discuss choice options. (Tr. 285-86)

3. CHOICE WEBSITE

34. RESA proposes that the Commission issue a Request for Proposals for a third party to develop, operate, and maintain a "robust" shopping website specific to Delaware. Bidders would include fee structures in their proposals to ensure that the website is self-sustaining and does not require use of state funds. RESA supports a reasonable fee charged to third party suppliers who wish to post information on the shopping website. Because the costs of the website would be recovered from suppliers through user fees, RESA does not anticipate any need to recover costs from utilities.

RESA is willing to work with other stakeholders to help develop the specific parameters and criteria for the RFP. RESA would support a reasonable fee charged to suppliers who wish to post information on the shopping website. (Exh. 10)

35. Staff, the Public Advocate and Delmarva Power did not oppose RESA's proposal in their Comments or at the hearing. Although the Public Advocate initially suggested that Staff review some state-maintained neutral, user-friendly choice websites which Staff did by reviewing the sites of nearby Pennsylvania, Maryland, and the District of Columbia, Staff's position was that: 1) this state's Department of Technology and Information ("DTI") did not commit that it could or would maintain such a state-maintained website; and even if DTI did from a technology standpoint, 2) Staff did not want to be responsible for the constant updating of supplier information and offers and the operation and maintenance of a state site, as it "had limited knowledge and resources to do so." (Exh. 6) This issue was not addressed to any meaningful extent by any of the parties at the hearing.

C. SUMMARY OF COMMENTS FILED BY PARTIES

36. The following are significant verbatim portions of Comments filed by the parties and one non-party. The Comments filed by the parties have been admitted into evidence. I have condensed the Comments to aid the Commission, and slightly changed the Comments only when necessary to make the Comments readable in this Report. These Comments are not exhaustive of the issues raised by the parties but give a good background of many issues raised by the parties. For example, the first comment is a comment filed by RESA.

1. PURCHASE OF RECEIVABLES PROGRAM

a. RESA (Exh. 7)

37. Delmarva Power estimated this body of work separately and estimates that the work to implement POR in Delaware would cost between \$150,000 and \$200,000. This estimate is based on using some of the same principles from when POR was implemented in the District of Columbia. Delmarva acknowledges RESA's observation concerning the POR costs for the District of Columbia, however, that work is performed in a previous billing system and the code used on that system is not re-usable. New coding would need to be developed and tested for the new billing system.

38. In the District of Columbia, Delmarva's affiliate, Pepco, estimated POR implementation costs at \$150,000.⁶ At the time, Pepco was using a billing system that was scheduled for replacement, and Pepco explained that it would not incur any incremental costs to implement POR if the Commission waited for the new billing system - "Solution One" - to be implemented.⁷ The D.C. Commission ordered Pepco to implement POR under the then-existing billing system, despite the cost, which it did in October, 2013. Pepco later reported the program development cost for POR to be \$84,884. Solution One went live in January, 2015.

39. It appears that, had Delmarva implemented POR functionality when it, too, transitioned to Solution One at the same time that Pepco did, there would not have been any POR-related implementation costs to

⁶ D.C. Public Service Commission Formal Case No. 1085, *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Order No. 16916 at p.3 (Sept. 20, 2012).

⁷Order No. 16916 at p.5.

discuss in this proceeding. If that is correct, RESA's position is that suppliers should not be required to pay any amount - much less \$150,000 or more - to implement POR in Delaware when these costs could have been avoided altogether with reasonable and thoughtful decision-making at the time Delmarva transitioned to its current billing system.

40. Additionally, RESA is concerned about the impact that Delmarva's proposed POR implementation costs will have on the overall discount rate. If the discount rate is too high, then suppliers might opt not to utilize the POR program. Currently active suppliers may decide to withdraw from the Delaware market, and other suppliers may decide not to enter the Delaware market. This will impact suppliers' ability to transact business in Delaware and will harm customers who will have fewer options from which to choose. It will also jeopardize Delmarva's ability to recover POR-related implementation costs.

41. A reasonable solution to this cost recovery dilemma might be to cap the amount of implementation costs, which presumably will be amortized over a period of years.... RESA is hopeful that Delaware will follow the repeated decisions from the Maryland and District of Columbia Public Service Commissions to include supply-related late fees from shopping customers in the POR Program.

b. DELMARVA POWER (Exh. 18)

42. Delmarva Power agrees that a POR Program should be implemented for choice providers in Delaware. POR programs are currently in place for Delmarva Power, Maryland, and for Delmarva Power's affiliate utilities: Atlantic City Electric Company and the Potomac Electric Power Company ("Pepco") in its service territories

in both Maryland and the District of Columbia.

43. In general, a POR Program is one in which the regulated delivery utility (in this case, Delmarva Power) will purchase from unregulated choice suppliers amounts owed to the choice suppliers by customers who have chosen to shop for their electricity supply. The general goal of a POR Program is to achieve efficiency in the billing and collection process by having only one entity, the regulated utility, as opposed to every retail supplier operating in Delaware, focus on the issue of recovery of delinquent accounts. The regulated utility must engage in this effort in order to collect its receivables in both delivery and standard offer service (SOS), so it can be appropriate to allow the regulated utility to be the entity to engage in collections on behalf of the choice suppliers as well. This operational efficiency should translate into cost savings for the choice suppliers so that they are able to offer better pricing to those customers who chose to shop for their energy supply.

44. Delmarva Power estimated this body of work separately and estimates that the work to implement POR in Delaware would cost between \$150,000 and \$200,000. This estimate is based on using some of the same principles from when POR was implemented in the District of Columbia. Delmarva acknowledges RESA's observation concerning the POR costs for the District of Columbia; however, that work was performed in a previous billing system and the code used on that system is not re-usable. New coding would need to be developed and tested for the new billing system.

45. Many of the elements of the existing Maryland POR Program

are acceptable to Delmarva Power for a proposed Delaware POR Program, with a few exceptions. An appropriately designed POR Program will protect SOS customers, distribution customers and the regulated utility from ultimately paying for bad debt associated with energy sold to choice customers by unregulated retail choice suppliers. Any appropriately designed POR Program will utilize a discount rate designed to reflect the uncollectible expenses, cash working capital and any implementation costs recognized by the regulated utility and ongoing incremental costs to include but not be limited to regulatory expenses, legal expenses and Staff consulting fees (all of which are included in the calculation of the "Discount Rate" that is applied to the balance due). The Commission would approve the Discount Rate prior to the effective date of the Program and any subsequent changes to the Discount Rate upon motion by the utility.

46. Delaware Power therefore recommends that on the Effective Date, Delmarva Power would purchase the receivables of each choice supplier who chooses to participate in the Program at the Discount Rate, for the contract supply balances incurred by each choice customer during the most recently billed billing cycle prior to the Effective Date, and for balances incurred for billing cycles thereafter.⁹

⁹ Example (using for illustrative purposes only an Effective Date of October 15, 2015): Customer A is billed on a billing cycle that runs from the 13th day of each month through the 12th day of the following month. During the September 13 - October 12, 2015 billing cycle, Customer A incurs a supply charge owed to Supplier A in the amount of \$100. On the October 15, 2015 Effective Date, that \$100 has not yet been paid by Customer A. On October 15, 2015, Delmarva Power purchases Customer A's \$100 balance from Supplier A at the discount rate approved by the Commission. Delmarva Power continues to purchase balances owed to Supplier A (and all registered Delaware choice suppliers) from the Effective Date forward.

47. Under Delmarva Power's recommendation, following the Effective Date, Delmarva Power would purchase the current billed accounts receivable on each consolidated billed account at the appropriate Discount Rate as approved by the Commission. Delmarva Power will only be required to purchase the commodity charges; Delmarva Power is not offering to purchase receivables associated with any non-commodity service.

48. If Delmarva Power were to buy 100% of the choice supplier's receivables, then Delmarva Power's uncollectible costs would increase significantly. This circumstance is due to the fact that there are always a percentage of customers who do not pay their bills. Currently, with respect to the accounts of choice customers, Delmarva Power only incurs uncollectible expenses for the distribution rate portion of the bill. The distribution rate portion of the bill averages approximately 25-30% of the total bill for a typical customer. The other 70-75% of the bill is attributable to the electric supply provided by SOS or choice suppliers. Currently, if a choice customer does not pay his or her bill, Delmarva Power incurs the 25-30% uncollectible for the distribution rate and the choice supplier incurs the 70-75% uncollectible reflecting the supply rate. Under the proposed POR Program, however, Delmarva Power would be purchasing the receivables of the choice suppliers; therefore, it is necessary to establish an appropriate Discount Rate to reflect the receivables that do not get paid (aka bad debt) and the fact that there are certain other costs associated with collecting bad debts.

49. Certain factors should be included in establishing the Discount Rate. Delmarva Power recommends that the initial Discount Rate for residential service customers (under a particular rate schedule) and electric non-residential customers (under a particular rate schedule) be determined by adding: (a) the Uncollectible Expense component; (b) the Program Development Cost and Ongoing Operational Cost Component; and (c) the Risk Component.

50. The Uncollectible Expense Component will be calculated by dividing the estimated supplier uncollectible expenses associated with each rate schedule by the electricity revenues billed for all electricity suppliers for that rate schedule. For the initial calculation, Delmarva Power will use the SOS uncollectible expenses and revenues for each rate class.

51. The Program Development Costs and Ongoing Operational Cost will include the incremental costs to develop the programming necessary for the Company's billing system to bill customers for the purchased receivables and any ongoing Operational Costs, including but not limited to legal costs, regulatory costs and Staff consulting fees.

52. The Risk Component should be set at zero initially, because the Risk Component is a placeholder to protect customers in the event of lack of participation in the POR Program. In addition, one year after implementation, the calculation of the Discount Rate should be derived by updating the initial Discount Rate calculated above and adding a Reconciliation Component to settle the imbalance.

53. Under a POR Program where late fees are paid to the choice supplier, they would be paid by choice customers to reduce the Discount

Rate and would (a) result in higher payments to the choice suppliers (due to the reduction of the uncollectible component by the late payment revenue) and (b) result in higher distribution rates to all distribution customers. Higher distribution rates would occur because currently, late payment fees are used to offset collection costs in base rates.⁹

54. Delmarva Power's position is that late fees should not be used to reduce the Discount Rate of the POR Program. If late fees are used to reduce the POR Program Discount Rate, then late fees paid by choice customers will, in effect, be paid to choice suppliers. Delmarva Power objects to this for the following reasons:

- a. Delmarva Power would be purchasing the receivables from the choice suppliers; therefore, choice suppliers will never experience being paid late. Allowing late payment fees by choice customers to be credited to the choice suppliers who are not incurring any late payments or collection effort costs would constitute an unjustified windfall for suppliers. In other words, suppliers are not obligated to pass along to customers the reductions contained in the Discount Rate. For the reason set forth immediately below this windfall to choice suppliers would come at the expense of all of Delmarva Power's customers.
- b. Currently, late payment fees collected by Delmarva Power from delinquent customers are applied to lower the collection costs in distribution base rates. Therefore, all customers benefit from lower distribution rates as a result of late payment fees. If those payments are instead credited to choice suppliers through a reduced POR Discount Rate, then all distribution customers will lose this benefit and distribution rates will increase the revenue requirement by the amount of this revenue that would now be given to choice suppliers.
- c. In the event that late payment fees supersede uncollectible and incremental costs, there will be a liability on Delmarva Power's balance sheet and the

⁹ If late payment fees are to be used in the future to lower the Discount Rate, then distribution rates to customers will increase by the amount of the late payment fees that will no longer be used as an offset to distribution rates.

Commission would need to determine how to account for a potential imbalance.

55. The ultimate goal of an appropriate Discount Rate is to reasonably estimate the percentage of receivables that will be collected by Delmarva Power. As part of the annual true up mechanism to set the Discount Rate, a Reconciliation Component is calculated on the imbalance separately for residential and non-residential customers. Delmarva Power will record an imbalance as a regulatory asset or liability which represents the difference between cumulative costs eligible for recovery and discount amounts for purchased receivables. Only when the imbalance represents an under collection for the Company will Delmarva Power earn interest at the Company's most recent deposit rate, adjusted for taxes. The Reconciliation Component rate is calculated by dividing the imbalance including interest earned (separately for residential and non-residential customers), by estimated electricity revenues billed for all electricity suppliers for those rate schedules. Any costs associated with the implementation of a POR Program would be recovered through the Discount Rate in order to keep such costs out of base rates and to ensure that such costs are only charged to those customers who are participating through use of a choice supplier for their electric supply.

56. Currently, with respect to the accounts of choice customers, Delmarva Power only incurs uncollectible expenses for the distribution rate portion of the bill. The distribution rate portion of the bill averages approximately 25-30% of the total bill for a typical customer. The other 70-75% of the bill is attributable to the electric supply provided by SOS or choice suppliers.

Currently, if a choice customer does not pay his or her bill, Delmarva Power incurs the 25-30% uncollectible for the distribution rate and the choice supplier incurs the 70-75% uncollectible reflecting the supply rate. Under the proposed POR Program, however, Delmarva Power would be purchasing the receivables of the choice suppliers; therefore, it is necessary to establish an appropriate Discount Rate to reflect the receivables that do not get paid (aka bad debt) and the fact that there are certain other costs associated with collecting bad debts.

57. In terms of implementing a POR program, Delmarva will need at least a year to perform the extensive programming and testing necessary to put the Program in place. Just because various POR programs are in place for other affiliate companies does not mean there would not be significant work required to implement a POR program in Delaware. The Company has approximately 430,000 customers in Delaware, between gas and electric customers. Each of those customers is billed under different rates, different regulations, different laws, etc. than Pepco Holdings' customers in other jurisdictions.

c. PUBLIC ADVOCATE (Exh.5)

58. The Commission should reject RESA's proposal to adopt a Purchase of Receivables Program similar to those in effect in the District of Columbia and Maryland. Every publicly available comparison of actual retail supplier prices with utility default service prices over a reasonable period of time has documented that the vast majority of residential customers pay more to suppliers for generation supply service than the applicable

default service price.¹⁰

59. Alternatively, any POR program that the Commission approves should be accompanied by a condition that Delmarva be empowered to threaten to disconnect service for unpaid supplier charges only to the extent that such unpaid supplier charges do not exceed what the customer would have been required to pay for SOS. Any incremental unpaid supplier charges should be subject to recourse back to the supplier pursuant to normal debt collection policies applicable to other competitive markets. This policy could be implemented by requiring suppliers to either submit charges based on terms of service and prices that guarantee that the customer will not pay more than SOS or agree to pay incremental costs to Delmarva to implement a collection scheme that isolates charges higher than default service prior to Delmarva's initiation of collection action for the supplier portion of the customer's bill. Alternatively, the current policies should remain in place. Suppliers who seek to charge more than SOS have always had the option to issue and collect their own bills.

60. POR is the single most important benefit that alternative suppliers have obtained in restructured states because it allows them to threaten and implement disconnection of regulated utility service to collect their unregulated charges, thus terminating the customer's access to essential electricity service.

61. RESA proposes the same POR program that is in effect

¹⁰ DPA's Consultant Ms. Alexander provided a compilation of studies in Connecticut, New York, Maryland, Maine, Pennsylvania, and Illinois.

for Delmarva in Maryland and Pepco in the District of Columbia. While RESA proposes that suppliers would pay for the implementation cost through the discount rate applied to each supplier's receivables, this offer to pay for these incremental costs does not respond to the DPA's primary concern. Alternative suppliers already have agreements with Delmarva to bill and seek collection of their unregulated charges on the Delmarva bill. This policy provides a significant and valuable benefit to alternative suppliers because it allows them to avoid credit and collection costs, billing costs, and presents their charges on utility bills, thus legitimizing their product as related to regulated utility service.

62. RESA now asks the Commission to require Delmarva to purchase supplier receivables without recourse and collect those charges, using the powerful tool of disconnecting essential electric service for nonpayment of these charges. RESA refuses to offer any real savings to Delmarva customers in return for this benefit and alternative suppliers' avoided collection costs. The DPA opposes this significant deterioration in consumer protection to implement benefits for suppliers without any showing of benefit to consumers.

63. It is inappropriate to compare Delmarva's ability to disconnect for nonpayment of the SOS charge with the suppliers' assertion by suppliers that they should have the same right for their unregulated charges. The SOS charge is approved by the Commission and procured pursuant to a Commission-approved methodology. The Commission and Delmarva are under a statutory

obligation to procure and provide this service to any customer who is not served by an alternative supplier. The SOS price is the result of a competitive bid and is reviewed by the Commission prior to its implementation. The SOS price passes through a contract price that reflects bids by wholesale market suppliers. As a result, Delmarva has the specific authority to bill and collect SOS under the same regulated collection practices that are applicable to the regulated distribution service billed by Delmarva.

64. On the other hand, supplier prices reflect a pricing methodology that is unknown or not publicly available and these prices include an unregulated and unknown profit margin. Under the normal rules applicable to competitive businesses in the retail market, suppliers should be obligated to collect these charges using the debt collection policies applicable to other retail merchants in Delaware, none of whom has the right to prohibit the customer from purchasing their product or service from other providers as a condition of debt collection. As a result, the POR program is a significant subsidy for third party suppliers.

65. RESA and suppliers in other states have attempted to justify this policy on the grounds that it will enhance retail competition and result in more customers choosing alternative suppliers. The DPA asked RESA for the criteria that should be applicable to a POR program and to "identify the benefits to consumers and ratepayers in Delaware if Delmarva is allowed to threaten disconnection and disconnect service for nonpayment of supplier charges that exceed SOS charges." Its reply did not identify any criteria outside of those adopted in

the District of Columbia and Maryland. Instead, RESA simply repeated its allegation that POR will contribute to increased shopping percentages and the number of active suppliers, and further claimed that "[t]he increase in available offers is a benefit to customers and includes not only offers based on price related competition, but also value added offers such as those discussed in [a discovery response]."

66. When the DPA asked RESA to identify the "value added" services or products currently offered by suppliers to Delaware residential customers and to provide the terms of service or other contractual documents related to the identified "value added" services or products, RESA responded that it does not have any information about such offers by suppliers in Delaware and that such information, if it exists, can be located on supplier websites. RESA then stated that many services and products exist in other restructuring states relating to energy efficiency, dynamic pricing options, and "a wealth of commodity plus" value-added products in today's retail energy markets that offer additional bundled services or benefits to consumers," attaching Exhibit [a discovery response] as a "sampling of recent news releases and articles that describe retail supplier investments in alternative service providers, new products, and new technologies."

67. RESA's responses to these vital questions relating to the adoption of POR do not support its own statements. RESA's argument appears to be that POR might very well result in higher prices, but that the higher prices are justified by other "value

added" or "commodity plus", services offered by suppliers. The Commission should carefully consider that RESA's own position is that it will not provide lower cost generation supply service to Delaware's customers if the POR is adopted. The Commission should carefully consider the lack of evidence for the contention that customers agree to pay more for generation supply and suffer the potential for disconnection of their electric service in return for the privilege of getting additional "value" when they enroll with a supplier.

68. First, suppliers do not inform customers that they charge more than Delmarva's SOS in return for these promotional gifts or other "commodity plus" services. Nor are they required to unbundle their prices and inform customers of how the cost of the promotional gifts or other products and services is reflected in the quoted generation supply prices.

69. Second, RESA has been unable to identify one "value added" service or attribute to generation supply sold in Delaware by a Delaware licensed supplier to justify the notion that such attributes or products somehow justify higher prices.

70. Third, the supplier charges that appear on customer bills in other states that have implemented POR do not include, and in fact are prohibited from including, non-energy related

charges or products.¹¹ The POR programs are limited to generation supply service expressed in a cents per kWh format. As a result, the alleged benefits with "value added services" do not appear on the customer's regulated electric bill. When the supplier prices are higher than default service, the customer is threatened with disconnection of their entire electric service for the failure to pay for supplier charges that are, in most cases, higher than the price charged by the default supplier for SOS.

71. Furthermore, there is no factual evidence in this record concerning the identification of and the prevalence of these other services or attributes that would allow the Commission to conclude that those benefits exceed the obvious risk of higher prices or the potential to lose essential electric service for the failure to pay supplier charges in excess of SOS. A careful review of the materials that RESA submitted in response to DPA-3-8 do not support the justification for higher prices or even support the alleged benefits identified by RESA:

- Most of these "value added" attributes have no documented impact on the customer's electric bill, such as a promotional gift card, charitable donation, a sports team souvenir, etc.
- The claim that any of these offers relating to "energy efficiency" have actually resulted in

¹¹ See, e.g., Pepco's Supplier Coordination Tariff (Maryland) that states with regard to POR: "All electricity charges resulting from the Supplier provision of Competitive Power Supply for Customers billed using Company Consolidated Billing will be purchased. The Company will not purchase receivables associated with non-commodity charges or Early Termination Fees." Available at: <http://www.pepco.com/uploadedFiles/wwwpepco.com/Content/Page Content /Tariff Repeats/SupplierCoordinationTariff PepcoMD.pdf> [Section 12.4.2 (a)]

lower consumption and /or savings on customer electric bills lacks support and has not been reviewed by any regulatory agency. Any such claims should be subject to the same oversight and evaluation as ratepayer-funded efficiency programs delivered by utilities.

- The claim of renewable or "green" energy is highly suspect because the supplier should quote the percentage increase in renewable energy beyond that already reflected in Delmarva's SOS. It is likely that some of these claims rely on the purchase of Renewable Energy Certificates from geographic locations that have no impact on the actual generation supply attributes of the PJM markets.
- One of RESA's examples relates to a supplier that at one time offered a "home solar" service bundled with its generation supply offer. However, NRG no longer offers "home solar;" it now only offers customers the option to participate in community solar programs developed by solar providers unrelated to NRG.¹²
- Many of these materials relate to offers made by suppliers in Texas, a market that is not comparable to the Delaware or any other state retail energy market.

72. While suppliers may offer an inducement to customers to enroll, such as a gift card, prepaid debit card, or incentives or discounts relating to the purchase of meals or other services by local businesses, those promotional gifts and inducements are not typically identified in the customer's contract. Nor is there any public information available to describe how, when, or in what amount these inducements have been provided. There is no policy basis for requiring Delmarva to threaten disconnection of service to collect a generation supply price higher than SOS as a result

¹² [The DPA] documented that Direct Energy and other suppliers in New York have routinely marketed renewable energy attributes at a higher price by relying on RECs that originate in geographic areas that do not interconnect with the New York ISO. See <http://www.nrghomesolar.com>, which refers or links the customer to a different NRG website that promotes community solar.

of these ephemeral or theoretical non-energy benefits that do not appear in the customer's contract or on their monthly bills.

73. The New York Public Service Commission conducted a lengthy proceeding to identify "value added" services offered by suppliers to New York consumers. The Commission found that there was no evidence that the suppliers in New York offered "value added" services that would impact the customer's electric bill:

"The most recent comprehensive review concluded that competitive retail energy markets are providing substantial benefits to large commercial and industrial customers, including a wide range of energy-related value-added services that assist customers in managing their energy usage and bills. In contrast, retail energy markets are not providing sufficient competition or innovation to properly serve mass market consumers."¹³

74. The DPA has consistently recommended that the Commission reject RESA's request to implement a POR program in Delaware because of the lack of benefit to Delmarva customers. However, in the event that the Commission did approve a POR program in Delaware, the DPA has consistently recommended certain conditions for POR that would prohibit a utility from threatening or actually disconnecting service for an amount that exceeds what the customer would have been charged for default service. Our proposal is similar to that adopted by the New York Public Service Commission in 2014:

"In light of the apparent scarcity of energy-related

¹³ New York Public Service Commission, Cases 12-M-0476 et al., *Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State, Order Taking Actions to Improve the Residential and Small Non-Residential Retail Access Markets* (issued February 25, 2014); *Order Granting and Denying Petitions for Rehearing in Part* (issued February 6, 2015). The Commission confirmed this finding in its Order Resetting Retail Energy Markets and Establishing Further Process, issued February 23, 2016, at p.4.

value-added products and services available in the residential and small non-residential markets; the high complaint rates; and what appears to be a large number of active ESCOs [Electric Supply Companies] generating revenues by offering consumers little more than higher prices, it is apparent that these markets are not providing sufficient competition or innovation to properly serve consumers.

Staff's investigation also showed that, with the exception of electricity from renewable sources, energy-related value-added products or services were generally very limited. Several ESCOs offer loyalty rewards, such as a cash rebate for customers who purchase service for a full year. Other ESCOs offer products with a price fixed for more than 12 months, which may provide important customer benefits. Very few ESCOs offered energy-related value added services to mass market customers such as demand management programs or tools, voluntary dynamic pricing programs or tools, or energy efficiency measures.

PULP [the Public Utility Law Project of New York] and AARP [American Association of Retired Persons] recommends that the utility be prohibited from terminating service to a customer if the customer's ESCO charges are higher than what the customer would have been charged for utility bundled service. We conclude that, in the event the customer owes more for service through an ESCO than what he or she would have owed for bundled utility service. The customer can avoid termination of service by paying the lesser amount. Further, in such cases the differential will be charged back to the ESCO. Utility termination notices modified to reflect this option must be filed with the Secretary to the Commission within 60 days of the date of this Order and in use within 90 days of the date of this Order. (emphasis added)"

d. STAFF (Exh.6)

75. RESA recommended approval of a POR program consistent with the existing POR programs maintained by Delmarva's Maryland and District of Columbia affiliates where Delmarva recovers its implementation costs through the discount rate, meaning that retail suppliers pay for the costs of implementing POR. Delmarva estimates the cost of implementation would be between \$150,000 and \$200,000.

Staff does not oppose implementation of a POR program and recommends that it be implemented as soon as reasonably possible.

2. SUPPLIER BILL INSERTS

a. RESA

76. RESA proposes that, with regard to "bill inserts with choice information," RESA recommends quarterly bill inserts and an annual choice information mailer "to be sent separately from the bill." RESA proposes that Delmarva issue a quarterly choice bill insert with information developed and agreed to through a stakeholder workgroup process. RESA recommends that the "participating suppliers" pay for the costs of these mailings.

77. Delmarva did not provide a cost estimate for ongoing quarterly bill inserts with choice information. Instead, Delmarva stated that it incurred incremental costs of \$6,027 for its previous bill insert, sent as part of the resolution in PSC Docket No. 16-0744.¹⁴ Participating suppliers split these incremental costs. RESA believes that the cost for the previous bill insert would be reasonable for future similar bill inserts. (Exh.8)

b. DELMARVA POWER

78. Providing bill inserts on behalf of competitive suppliers involves a host of issues, including the appropriateness of using regulated assets to advance the interests of unregulated entities. In Delaware PSC Docket No. 16-0744, Direct Energy petitioned the

¹⁴ In the matter of the Petition of Direct Energy Service, LLC to request the Public Service Commission to issue, on an expedited basis, an order directing Delmarva Power and Light Company to distribute an educational bill insert regarding the options available under the contract awarded by the State of Delaware (Filed June 30, 2016). See PSC Order No. 8947 (Oct. 6, 2016)

Commission for an order to require Delmarva Power to distribute a bill insert on behalf of Direct Energy. Delmarva, RESA, the Public Advocate and Commission Staff all objected to Direct Energy's petition.

79. The Docket was resolved through a proposal by Delmarva, which was joined by RESA and DPA, agreed to by Staff and the parties, and approved by the Commission. The resolution included Delmarva's issuance of a non-supplier specific bill insert that included general educational information regarding customer choice. The insert referred customers to a Commission-maintained website for additional information on customer choice. The bill insert also included a list (with contact information) of electricity choice suppliers that are actively accepting Delaware customers. Finally, the resolution included development and implementation by Commission Staff of a webpage on the Commission's website that lists in alphabetical order, the name, telephone number, website address, and link to website, of each Commission-certified supplier that as of October 6, 2016, is actively offering supply choice options to Delmarva Residential and Small Commercial customers in Delaware. That page was created by Staff in a timely manner. (See Order No. 8947 in PSC Docket No. 16-0744 (October 6, 2016)).

80. The issue of whether Delmarva Power could, and if so, under what conditions, distribute advertising bill inserts for competitive retail suppliers would require consideration by, and an order from, the Commission. Delmarva is not able to provide any kind of cost estimate for bill inserts until the many issues involved have been resolved.

81. Delmarva and RESA appear to agree that the issues involved in determining the cost of bill inserts are specific to each insert, for example: number of pages, color v. black & white, additional postage costs, additional printing costs, additional cost related to handling (i.e., physically inserting 300,000 inserts into billing envelopes), etc. At the request of RESA, and to the extent one example might be helpful, the incremental cost of the bill insert referred to above (in PSC Docket No. 16-0744) was \$6,027.00. The size of and timing of that insert resulted in no additional postage charges. The costs of that bill insert were paid for by the active retail electricity suppliers. (Exh.15)

c. PUBLIC ADVOCATE

82. RESA's proposal for bill inserts on behalf of suppliers is unaccompanied by any detailed discussions of important issues and consideration of the significant costs that Delmarva has identified. As such, the Commission should not adopt it at this time. Suppliers can use the customer mailings lists that Delmarva has and will continue to provide to licensed suppliers to undertake advertising and marketing communications to Delmarva's customers. To the extent that suppliers can coordinate mailings, such as through RESA or other comparable supplier organizations, economies of scale can be realized. (Exh.5)

d. STAFF

83. Staff does not oppose bill inserts related to customer choice and agrees that suppliers should be responsible for the costs related to the inserts. Staff agrees that issues regarding specific offers

available from suppliers would require additional discussion. Staff is particularly concerned that inclusion of supplier offers in Delmarva's bills could be seen as an endorsement from Delmarva or the Commission of those specific suppliers.

3. CHOICE WEBSITE

a. RESA

84. RESA proposes that the Commission issue a Request for Proposals for a third party to develop, operate, and maintain a "robust" shopping website specific to Delaware. Bidders would include fee structures in their proposals to ensure that the website is self-sustaining and does not require use of state funds. RESA supports a reasonable fee charged to third party suppliers who wish to post information on the shopping website. Because the costs of the website would be recovered from suppliers through user fees, RESA does not anticipate any need to recover costs from utilities. RESA is willing to work with other stakeholders to help develop the specific parameters and criteria for the RFP. RESA would support a reasonable fee charged to suppliers that wish to post information on the shopping website. (Exh.8)

b. DELMARVA POWER

85. It is not possible to develop an estimate for the costs of developing a potential Supply Choice Website until details concerning what the website would consist of are determined. Moreover, an outside contractor specializing in commercial website development would need to be engaged to provide the estimate. (Exh.15)

c. PUBLIC ADVOCATE

86. It is correct that many other retail energy market states

have created and maintain a website that requires suppliers to submit prices regularly and present their prices in a manner that compares their offers to the current Delmarva SOS. The DPA does not oppose the concept of a robust supplier choice website. However, the costs associated with creating and maintain such websites is not known at this time. As a result, whether the Commission seeks to explore this potential proposal further would require information from an experienced contractor and a consideration of how the costs for such a system are recovered and from whom.

87. The DPA suggests that the Commission consult with Pennsylvania and Connecticut regulators on their choice websites as to their design, the one-time and ongoing costs, as well as requirements imposed on suppliers with respect to what they submit and the frequency of their submittal of offers and pricing information to the website. Both of these choice websites reflect important features and design that we recommend the Commission consider in exploring this proposal. (Exh.5)

d. STAFF

88. Staff visited the websites of several states including neighboring states Pennsylvania, Maryland, and Washington DC. All appear to have user-friendly websites that allow consumers to easily shop for and compare supplier's offers. Staff fully supports the implementation of a similar website in Delaware so long as Staff would not be responsible for the operation and maintenance of the site, as we have limited knowledge and resources to do so. Staff has had discussions with the Delaware Department of Technology & Information

(DTI) and Delaware Government Information Center (GIC), however, have not been able to establish if such a website can be supported by DTI. Staff will continue to explore options regarding building, updating, and maintaining such a website. Although Staff supports such a website, its development and implementation may not be achievable as quickly as other aspects of this docket.

D. SUMMARY OF THE COMMENT FILED BY A NON-PARTY

89. Non-Party WGL Energy Services, Inc. ("WGL Energy"), a retail electric and gas marketer licensed in Delaware, Maryland, The District of Columbia and other states, but not a RESA member agrees with RESA, filed a Public Comment on December 22, 2017. It is signed by Bernice K. McIntyre, its Regulatory Strategy Director.

90. WGL Energy agrees with RESA as to the two (2) issues of the Purchases of Receivables Program and On-Going Bill-Inserts with Choice Information. Since WGL Energy and RESA agree on all aspects of these issues, I will not discuss them any further here.

91. However, WGL Energy disagrees with RESA regarding the type of Choice Website which should be established.

92. According to WGL Energy:

"WGL Energy does not agree with RESA's position on cost recovery for the costs of the website consultant nor with the model RESA proposes. WGL Energy respectfully recommends that the Commission use the website portal as its vehicle for educating customers about customer choice. WGL Energy encourages the Commission to look to the Pennsylvania Public Utility Commission's 'PA Power Switch' website (www.papowerswitch.com) as a model and not adopt the concepts suggested by RESA.

While WGL Energy agrees with RESA that private sector models exist for customers to find out about supplier offerings,

WGL Energy does not agree that this should be the primary function of a Commission monitored website where suppliers input information about open offers and where the Commission sets up a mechanism for comparison of those offers.

RESA's proposal is more akin to the existing websites like ChooseEnergy.com where suppliers pay a fee to be listed on the website and customers get to see the information that is provided there. There are several portals like ChooseEnergy.com, however, WGL Energy believes a Commission website should be a neutral environment where all suppliers are required to post information with the knowledge that a regulatory body sets the parameters for the information. For this reason, a Commission website should be funded by all customers whether they have selected suppliers or not. The cost recovery should be through utility rates or assessments. If a state supports competition and customer choice, then all customers should have access to information that is independently gathered and monitored by the Commission. The most effective way for the costs of such a website to be paid for is through all distribution customers' rates or through assessments paid both by the utility and suppliers not by a supplier-only funded mechanism."

III. DISCUSSION

A. PURCHASE OF RECEIVABLES

93. Like all parties except for the Public Advocate, I agree that the Commission adopt a Purchase of Receivables Program. I also agree with Delmarva Power that late fee payments from the customers of third party suppliers should not be included in the Discount Rate.

94. Delmarva argues that these late fees should be accounted for in the same manner as late payment revenues received by Delmarva from its distribution customers. Delmarva contends that the Commission that late payment revenues received by Delmarva from Supplier's customers should not be included in the Discount Rate and not be credited against uncollectable expenses. According to Delmarva, because Suppliers are never paid late under a POR program, they should not receive the benefit

of late payment fees. Delmarva maintains that all distribution customers, including third party suppliers' customers, will benefit from Delmarva's proposal because those fees will be credited against distribution expenses.

95. Delmarva (and the Public Advocate) argue further that, under a POR program, Delmarva bears all of the risk associated with receiving payment for the Suppliers' receivables. The Suppliers, on the other hand, are promptly paid by Delmarva through the POR program for their customers' receivables, subject to the applicable Discount Rate, regardless of whether the customer ultimately pays or pays late. Delmarva contends that Suppliers are fully insulated from any risk of late or non-payment. Delmarva essentially argues that late payment fees have no impact on the overall calculation of the proper Discount Rate to be applied to the POR program and should not be credited to the benefit of Suppliers because the Suppliers have already been paid by Delmarva under the POR program.

96. Delmarva further argues that late payment fees are a function of the cost to Delmarva of collecting its receivables under the POR program and the risk of receiving late payments falls entirely on Delmarva. According to Delmarva, late payment fees reimburse Delmarva for the cost of sending additional bills, making additional outbound calls, and sending late-paying customers notices. Delmarva asserts that the Discount Rate, on the other hand, reflects something different entirely. Delmarva argues that the Discount Rate is comprised of several parts, all of which recognize the various costs (expenses and time) of operating the Program and chief among the Discount Rate's components is program administration costs that would otherwise not be incurred but

for the implementation of the POR program.

97. Furthermore, Delmarva states that the Discount Rate also recognizes the cost of uncollectible invoices for which Delmarva has already paid the Supplier. Delmarva argues that the calculation of late payment fees and the calculation of the Discount Rate are two (2) separate issues and maintains that it is an error to confuse the treatment of the late payment fee with the calculation of the Discount Rate.

98. Delmarva also argues that its experience has shown the likelihood that, if late payment fees are used to offset uncollectable expenses in the Discount Rate, this offset could cause some Discount Rates to reflect negative balances. Delmarva argues that the concern is particularly acute for non-residential customer classes. Delmarva testified that negative Discount Rates, for example, have been reported by Delmarva affiliates because the inclusion of late payment charges in the Discount Rate is the main cause of the negative rate.

99. Delmarva argues that a negative Discount Rate has at least two (2) important consequences which warrant additional consideration. First, Delmarva contends that, a negative Discount Rate results in Suppliers receiving a windfall from customers whose receivables have been purchased by Delmarva. Second, negative Discount Rates would mean that Third-Party Suppliers' customers would be subsidized by SOS customers because Suppliers' customers would be enjoying the benefit of lower costs and SOS customers would have to bear the full risk associated with Delmarva's credit and collection costs.

100. I agree with Delmarva's arguments described above which have been adopted by the Pennsylvania and Illinois Commissions as they related

to PECO and Com Ed, respectively. I disagree with RESA's following arguments that late fees from the customers of third party suppliers should be deducted from the Discount Rate which have been adopted by the Maryland and District of Columbia Commissions.

101. RESA argues that the Commission should include late payment fees in the Discount Rate computation and use the annual true-up mechanism that is designed to insure that Delmarva recovers its POR program costs and to avoid a negative Discount Rate.

102. First, RESA contends that Delmarva does not consider the fact that the Discount Rate mechanism adopted by the Commission guarantees program cost recovery from Suppliers. RESA argues that POR Discount Rates will be revised or trued-up annually to reflect any under-collections and, if Delmarva does not recover its POR program costs in one year, the Discount Rate will be adjusted to recover the uncollected amounts the following year. RESA contends that Delmarva will thus be made whole. How Delmarva will be made whole for extra collection efforts was never explained by RESA at the hearing.

103. Second, RESA never countered Delmarva's assertion that Suppliers are insulated from the risks associated with receiving payment for the purchased Supplier receivables. The problem is, under a POR program, the third party suppliers, at least those performing legally, have 0% risk. Since the great majority of third party suppliers perform legally, the risk to third party suppliers under a POR Program is de minimis.

104. Third, RESA dismisses Delmarva's argument that excluding late payment fees from the Discount Rate computation is strengthened by

Delmarva's Affiliates experience, where the inclusion of late payment fees has resulted in negative Discount Rates. According to RESA, the re-set of the Discount Rate in the subsequent year as required by POR tariff will remedy the problem. The problem here is that this involves larger commercial customers who eventually pay - albeit late, according to testimony at the hearing, which may affect the re-set.

105. I reject RESA's arguments in favor of Delmarva's arguments. I recommend that the late fees of the customers of third party suppliers not be deducted from the Discount Rate.

B. SUPPLIER BILL INSERTS

106. I agree with Staff, the DPA, and Delmarva Power, that, third party bill inserts shall continue to be customer neutral permitted, along with one annual insert. The cost shall be shared by all active electric third party suppliers listed in the Commission's third party supplier website.

107. As stated in PSC Order No. 8947 (Oct.6,2016), the bill inserts shall include general information regarding customer choice and will refer to the Commission-maintained website, and/or the third party supplier-maintained website described later in this Report. Allowing specific third party suppliers to promote themselves at Delmarva Power's expense and/or at the expense of other third party suppliers in bill inserts mailed by Delmarva Power is unfairly prejudicial.

C. CHOICE WEBSITE

108. The Commission currently maintains a website of all active Electric Suppliers in Delaware linked to the suppliers' own websites. These suppliers are: a) certified with The Commission and registered

with Delmarva Power; b) have at least ten (10) residential or small commercial customers in Delaware; and c) have provided a verification to The Commission that they are fully prepared to accept residential and small commercial customers in Delaware. (PSC Order No. 8947, Oct, 2016 § 5)

109. RESA proposes a robust shopping website with current prices which would constantly fluctuate which would be maintained by a third party at the expense of Third Party Suppliers. (Exh.8) However, RESA proposes that the Commission issue a Request for Proposals for the Third Party. (Id.) Except for RESA, none of the parties support any additional Commission involvement in a website other than the current website.

110. I agree that the Commission continue its current Third Party Supplier website. Third Party Suppliers are free to maintain their own website if they wish, although only one (1) such website should be maintained for Delaware customers to avoid confusion. There should not be one website for RESA members and one website for non-RESA members.

IV. FINDINGS AND RECOMMENDATIONS

111. Pursuant to the Commission's instructions, I hereby submit for consideration these Findings and Recommendations.

112. The Commission has jurisdiction in this Docket pursuant to 26 Del. C. §201(a).

113. I hereby incorporate the facts from the Evidentiary Hearing and the facts in the evidence as described in Section II of this Report and Section III, the Discussion Section, in these Findings and Recommendations.

A. PURCHASE OF RECEIVABLES PROGRAM

114. I recommend that the Commission adopt a Purchase of Receivables Program ("POR") regarding third party suppliers for electric customers.

115. After the initial Program Development is completed, the initial Discount Rate should be set to the rate equal to the rate after deducting prior uncollectibles as described in the next paragraph, plus the Initial Program Development cost amortized over the following five (5) years. The active third party suppliers are also responsible for future Program Maintenance costs. After the initial five (5) year period, this should be done on a yearly basis.

116. I think the five (5) amortization period is necessary because a much larger lump sum is involved than periodic bill inserts. Some of the smaller suppliers may not be able to afford their share of such a large lump sum when the Commission wants to encourage competition among all suppliers, large and small. A five (5) year period will also give the larger suppliers some "breathing room" for implementation to occur. During implementation, Delmarva shall provide bills to the suppliers every billing cycle.

117. I do not agree with setting the Discount Rate at zero in the first year because it places the burden of uncollectibles upon Delmarva in the first year. I recommend that the Discount Rate in the first year be based upon the Participants' uncollectibles for the twelve (12) months prior three (3) months to the implementation month. This approach places the uncollectible burden in the first year upon the third party suppliers, as opposed to Delmarva's ratepayers. The second year will re-set and

will be based upon the first year of POR experience.

118. Late fees of customers of third party suppliers shall not reduce the Discount Rate.

119. The amounts billed by the third party suppliers to Delmarva shall exclude service charges, exit fees, early termination fees, or charges for products other than commodity.

120. The Discount Rate shall be re-set on a yearly basis by the Commission.

B. SUPPLIER BILL INSERTS

121. I recommend that past practice of allowing third party supplier company neutral inserts be permitted in Delmarva's bills continue. The inserts can describe choice options available to customers, the Commission's website or the suppliers' website described later in this Report. As requested by RESA, the inserts can be sent quarterly with one annual mailing and the cost shall be borne by the participating suppliers.

C. CHOICE WEBSITE

122. I recommend that the Commission's third party supplier website continue since it provides a good resource to current and potential customers of third party suppliers. I also recommend that participating suppliers be given the option without initial Commission intervention or participation to establish their own website.

123. I enclose as Exhibit "2" a proposed Order for the Commission's consideration.

Respectfully submitted,

Mark Lawrence

Mark Lawrence
Senior Hearing Examiner

May 15, 2018

EXHIBIT "2"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE REVIEW OF)
CUSTOMER CHOICE IN THE STATE OF)
DELAWARE) PSC Docket No. 15-1693
)
(Filed December 23, 2015))

AND NOW, this 21st day of August, 2018;

ORDER NO. 9220

WHEREAS, the Delaware Public Service Commission (the "Commission") has received and considered the Findings and Recommendations of the Hearing Examiner, which is attached hereto as "Attachment A", issued in the above-captioned docket, which was submitted after a duly-noticed public evidentiary hearing which was held on April 19, 2018; and

WHEREAS On December 14, 2015, the Electricity Affordability Committee ("EAC"), created by the General Assembly to examine energy supplier choice in Delaware, petitioned the Commission to review ways of enhancing customer choice in Delaware including whether to: (1) adopt a Purchase of Receivables program; (2) include third-party supplier information on Delmarva Power & Light Company's bills; (3) allow new and relocating customers to receive supply from their preferred supplier immediately; (4) allow customers to enroll with a third-party supplier without requiring them to provide their Delmarva Power identifying information; (5) re-examining

Standard Offer Supply ("SOS") procurement; (6) finalizing Commission regulations governing third-party electric suppliers,¹ and (7) establish periodic monitoring of the status of customer choice.

WHEREAS The EAC requested that the Commission implement recommendations to enhance customer choice, reduce energy supply costs, and increase customer awareness and education in Delaware regarding these issues.

WHEREAS, the Retail Energy Supply Association ("RESA"), Delmarva Power & Light Company ("Delmarva"), Commission Staff ("Staff"), and the Division of the Public Advocate ("DPA") have participated in the proceedings;

WHEREAS, On April 19, 2018, the parties entered into a Stipulated Order approved by the Senior Hearing Examiner which limited the scope of this evidentiary hearing to three (3) issues: a) whether to adopt a Purchase of Receivables ("POR") program, and if so, under what conditions; b) whether Delmarva should be required to provide customer retail choice bill inserts ("bill inserts") to customers, and if so, with what content and how often; and c) whether Delaware should have a supply choice website ("Choice Website"), and what role the Commission should have, if any, regarding the website. Regarding each issue, who pays the cost is also at issue; and

¹ See PSC Regulation Docket 49 for the final third-party electric supplier Rules adopted by the Commission.

WHEREAS, an evidentiary hearing was held before the Senior Hearing Examiner on April 19, 2018.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. That the Commission hereby adopts the May 15th, 2018 Findings and Recommendations of the Hearing Examiner, attached hereto as "Attachment A".

2. Purchase of Receivables Program. The Commission adopts a Purchase of Receivables Program ("POR") regarding third party suppliers for electric customers.

3. After the initial Program Development is completed, the initial Discount Rate shall be set to the rate equal to the rate after deducting the prior year's uncollectibles plus the Initial Program Development cost amortized over the following five (5) years. The active third party suppliers are also responsible for future Program Maintenance costs. After the initial five (5) year period, this shall be done on a yearly basis.

4. Late fees of customers of third party suppliers shall not reduce the Discount Rate.

5. The amounts billed by the third party suppliers to Delmarva shall exclude service charges, exit fees, early termination fees, or charges for products other than commodity.

6. The Discount Rate shall be re-set on a yearly basis by the Commission.

7. Supplier Bill Inserts. The past practice of allowing third party supplier company neutral inserts in Delmarva's bills

shall continue. The inserts can describe choice options available to customers, the Commission's website or the suppliers' website described in the next paragraph. The inserts can be sent quarterly with one annual mailing and the cost shall be borne by the participating suppliers.

8. Choice Website. The Commission's third party supplier website continue since it provides a good resource to current and potential customers of third party suppliers and Delmarva. The participating suppliers are given the option without initial Commission intervention or participation to establish their own website.

9. Pursuant to the Stipulation signed by the parties and approved by the Senior Hearing Examiner, the Commission defers the following issues until a final non-appealable Order occurs in Maryland Public Service Commission Public Conference Docket No. 44: a) Enroll with Your Wallet or alternatives such as secure internet look-up tools, which allow customers to enroll in public locations such as malls and public events; and b) Seamless Moves & Instant Connects, which allow third party electric supply customers to transfer service to a new location or to immediately obtain service when they apply without any waiting period, respectively. The Commission also orders that a separate Docket be opened now to address whether third party supplier consolidated billing is permitted in and should be adopted in Delaware.

10. This Docket shall be noticed for hearing before the Commission six (6) months from the date of this Order so that the

Commission can monitor the progress of this Docket, particularly as to the three (3) issues described in this Order.

11. The Commission reserves the jurisdiction and authority to enter such further Orders regarding the issues described herein as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary