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November 18, 2022

Donna Nickerson  
Secretary  
Delaware Public Service Commission  
Cannon Building  
861 Silver Lake Blvd., Suite 100  
Dover, DE 19904

**RE: REGULATION DOCKET NO. 99-9**

Dear Secretary Nickerson,

I am writing to supplement Delmarva Power & Light Company's ("Delmarva Power") comment it submitted by letter dated October 13, 2022 and at the Public Service Commission's ("Commission") November 2, 2022 meeting regarding the proposal in § 2.6.6 to shorten the current response period to written discovery in rate cases by eliminating the exclusion of holidays and weekends. The proposed version of § 2.6.6. with Delmarva Power's suggested edits in bold and bolded double strikethrough appears as follows:

In rate or other expedited cases such as Section 215 applications, applications for issuance of a certificate of public convenience and necessity, applications to abandon a previously-granted certificate of public convenience and necessity, or distribution planning matters, responses to discovery must be served no later than ~~fifteen (15)~~ **twenty-one (21)** calendar days, ~~excluding holidays and weekends~~, after service of the discovery, unless otherwise directed by the Commission, the designated Presiding Officer or Hearing Examiner. In all other cases the information requested shall be provided within thirty (30) days of service, unless otherwise directed by the Commission, Presiding Officer, or designated Hearing Examiner.

In its written comment, Delmarva Power opposed the proposal to § 2.6.6 because the unnecessarily *shortened* response period imposed resource concerns on public utilities that

traditionally bore the overwhelming brunt of responding to written discovery in rate cases. A 21 calendar day response period was reasonable to allow the public utilities sufficient time to identify any objections or privileges, identify the appropriate respondent, compile any requested documents, review the compiled documents for relevance and confidential material, and prepare the answer. As an alternative, however, Delmarva Power proposed that the 21 calendar day response period be limited to just rate cases and mergers, meaning Delmarva Power was not opposed to a 15 calendar day response period for applications for issuance of a certificate of public convenience and necessity, applications to abandon a previously-granted certificate of public convenience and necessity, or distribution planning matters.

Prior to the Commission's November 2, 2022 meeting, Artesian Water also submitted a written comment opposing the shortened 15 calendar day response period. No one submitted any written comments or arguments in favor of shortening the existing response period to a 15 calendar day response period. At the meeting, however, the Delaware Division of the Public Advocate ("Public Advocate") on behalf of itself and Commission Staff, argued against a 21 calendar response period for all of the cases listed in § 2.6.6, even though the Public Advocate and Staff agreed to provide a 21 day response period in Delmarva Power's last natural gas rate case (Docket No. 22-0002). Delmarva Power does not dispute the DPA and Staff comments regarding a 15 calendar day response period for non-rate cases or mergers. Those points, however, do not translate to rate cases or mergers.

To illustrate the need for a 21 calendar day response period in rate cases and mergers, the Company reviewed the written discovery it received in its two most recent natural gas base rate cases (Docket Nos. 20-0150 and 22-0002) and its most recent electric rate case (20-0149), all three of which involved rolling discovery. In Docket No. 20-0150, from April 24, 2020 through June 10, 2020, opposing parties issued the Company 289 data requests that included 688 subparts. In Docket No. 22-0002, from March 16, 2022 through April 27, 2022, opposing parties issued the Company 249 data requests that included 477 subparts. In addition to answering all of these data requests, the Company also had to produce hundreds of pages of documents. In Docket No. 20-0149, the amount of written discovery opposing parties issued the Company dwarfs that received in the natural gas cases. From May 13, 2020 through July 10, 2020, opposing parties issued 338 data requests that included 724 subparts. As these numbers illustrate, public utilities face voluminous written discovery in rate cases for which a 21 calendar day response period is reasonable. These questions are not limited to the Company's direct testimony and may include inquiries into other operational activities, which take time to identify the appropriate internal resource to answer, and for them to investigate.

To provide further context behind its proposal for a 21 day calendar period for rate cases, Delmarva Power also reviewed the number of responses it had to supplement in Docket Nos. 20-0150 and 22-0002. In Docket No. 20-0150, which included a 15 calendar day response period, Delmarva Power had to supplement or amend 62 responses. In Docket No. 22-0002, the Public Advocate and Staff agreed to a 21 day response period, same as what they now oppose. With a 21 day response period, the number of supplemental responses dropped from



62 to 34. The Company feels it was able to make this improvement because there was time to have additional reviews to ensure the witnesses were fully answering the questions.

Finally, following the November 2, 2022 Commission meeting, other public utilities have also weighed in on the response period in 2.6.6. On November 14, 2022, Tidewater Utilities, Inc., submitted a comment objecting to the proposed 15 calendar day response period. The same day, Chesapeake Utilities Corporation informed the Commission that it agreed with the comments made by Tidewater Utilities Inc., Delmarva Power, and Artesian Water Company.

Thank you again for the opportunity to provide these comments. Please contact me at [brian.jordan@exeloncorp.com](mailto:brian.jordan@exeloncorp.com) or Diane Goff at [diane.goff@pepcoholdings.com](mailto:diane.goff@pepcoholdings.com) with any questions.

Respectfully,

*Brian Jordan*  
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