BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

In The Matter Of Reviewing Customer Energy Choice in the State of Delaware	PSC Docket No. 15-1458

<u>COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION</u>

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1. Introduction and Background

On October 21, 2015, the Delaware Public Service Commission ("Commission") and the Division of the Public Advocate ("DPA") issued a Public Notice of Electricity Affordability Workshops ("Notice"). The Notice described recent legislation and related actions affecting electricity customers in Delaware, and explained that the Commission Staff and DPA would begin an examination of "the structural aspects of energy supplier choice in Delaware; investigate ways to enhance the visibility of and improve participation in customer choice (either product specific or generically); and examine what, if any, options might be available to enhance customer choice that may not have been considered."[1] The Notice established dates for the workshops and also established November 6, 2015 as the due date for written comment relating to the review of customer choice in Delaware.

The Retail Energy Supply Association ("RESA")[2] participated in the two workshops and appreciates the opportunity to submit comments regarding the issues referenced above and discussed at the meeting. RESA is a non-profit trade association of independent corporations that are involved in the competitive supply of electricity and natural gas. RESA and its members are actively involved in the development of retail and wholesale competition in electricity and natural gas markets in various states throughout the region, including Delaware, Maryland,

[1] Notice at 2.
[2] The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

Pennsylvania, New Jersey, and the District of Columbia. Therefore, RESA brings considerable experience and expertise to the table when it comes to the issues affecting retail markets.

As explained below, Delaware faces several challenges when it comes to growing its competitive retail electricity market, especially for mass market customers.[3] For example, the small amount of load as compared to its neighboring states, and the disjointed service territory of Delmarva Power and Light Company ("Delmarva"), are made more complicated by the fact that customers in certain municipalities in Delaware are prohibited from participating in the competitive market and entering into contracts with retail suppliers. Not only are approximately 70,000 Delaware residential customers shut out of participating in the competitive market, but their exclusion, coupled with Delmarva's unique service territory, present challenges to retail suppliers that are, or that are considering, marketing to choice customers in a cost-effective manner.

Recent statistics highlight the difficulties Delaware has had in developing a competitive market for mass market customers. After a decade of customer choice, only about 10% of Delmarva's residential customers and approximately 31% of small commercial customers had contracted with a retail supplier as of June 2015, the most recent data available.[4] These percentages lag behind other jurisdictions that have implemented SOS or default service procurement structures and market-enabling programs that are designed to enhance competition while also ensuring that the SOS or default rates remain stable and affordable.

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[3] Mass market customers are residential and small commercial commercials. For purposes of these comments, small commercial customers are commercial customers with monthly peak load contribution ("PLC") of less than 25 kW.

[4] Delmarva Power, Electric Supply Choice Enrollment Information Monthly Report for the Period Ending June 26th, 2015, *available at* http://depsc.delaware.gov/electric.shtml.

The downside to Delmarva's failure to develop a competitive retail market is that 90% of Delmarva's residential customers and 69% of Delmarva's small commercial customers – a total of 272,118 customers[5] – have not received the benefits that the General Assembly envisioned when it adopted the Electric Utility Restructuring Act of 1999 ("the Act")[6] and, later, the Electric Utility Retail Consumer Supply Act of 2006.[7]

A well-designed and successful SOS structure and associated programs ultimately benefit customers by increasing their ability to choose from numerous suppliers and competing product offerings. Moreover, with increased supplier participation comes downward pressure on commodity prices, just as has occurred in other competitive areas and markets. A competitive market will yield offerings that extend beyond the price of electricity and include products such as energy efficiency and conservation services as well as green products and services. Additionally, suppliers may elect to offer services and products that include non-energy items and involve affinity partners (including items such as airline miles, discounts at retail stores, and so forth). Improving Delaware's SOS structure and implementing market-enhancing programs as explained below will assist retail suppliers who want to enter the Delaware market and also allow existing retail suppliers to increase their service offerings and products. Yet, as Delaware's neighboring states have advanced to more market-friendly SOS structures and programs, Delaware has stood pat.

The good news is that the Commission can overcome these challenges and low shopping percentages with careful planning and implementation of certain programs that will facilitate the development of competitive markets. The participants in the recent workshops discussed several

[5] *Id.*
[6] 26 Del. C. § 1001 *et seq.*
[7] § 1003 *et seq.*

of these programs, as well as Delmarva's SOS structure in general. The Commission would not have to re-invent the wheel to transition to an SOS structure or to design the market-enhancing programs that the workshop discussed and which are explained below. Other states have recognized the important role that the SOS structure and associated programs have in creating a competitive retail market, and have made improvements and implemented new programs to facilitate the development of a competitive retail market. These Comments hopefully will provide an explanation and better understanding of what other states are doing to bring the benefits of a competitive market to their citizens. There is a definite role that the Commission can and should play in making competitive markets a reality for all customers, and the time to start is now.

With that background, RESA recommends that the Commission require Delmarva to implement the following programs to enhance the visibility of and improve participation in customer choice.

2. Purchase of Receivables ("POR")

As explained below, POR programs are widely recognized as integral components of competitive electricity markets, and jurisdictions that have implemented POR programs have experienced increased shopping to the benefit of customers. In fact, POR programs exist or are being developed in virtually every jurisdiction that allows retail choice, including in the service territories of the Delmarva's affiliated electric distribution companies ("EDCs") in Maryland and the District of Columbia.[8] Implementing such a program in Delaware would benefit

[8] Similar POR programs have been implemented in Massachusetts, New York, Connecticut, Pennsylvania, and Illinois.

customers in the Company's service territory and would be consistent with Delaware's policy encouraging electric competition as set forth in Electric Utility Restructuring Act of 1999.[9]

a. <u>POR Programs are Widely Accepted.</u>

Other jurisdictions have recognized the important role that POR programs play in developing competitive retail electricity and natural gas markets. In New York, for example, where POR exists in each of the New York service territories, the New York Public Service Commission identified POR as a "best practice" leading to "major success" in the residential market.[10] The Pennsylvania Commission has recognized that, "a viable POR program is an essential element to the creation of a competitive market for generation in Pennsylvania."[11] In a separate proceeding, the Pennsylvania Commission endorsed POR programs for natural gas utilities and stated, among other things, that POR programs "promote efficiencies, reduce costs to consumers and reduce barriers to market entry…. If this barrier to competition is reduced, the net result, for the benefit of consumers, is greater access to alternative supplier offers and competitive prices."[12] The District of Columbia Public Service Commission, in directing Pepco/DC to implement a POR program, stated that the purpose of its POR program is "to encourage electricity competition in the District by encouraging Suppliers to participate in the electricity market," and that the program should be designed to allow Pepco to recover all of its costs associated with POR from suppliers with no subsidy from distribution or SOS customers.[13] There is no reason why Delaware should not follow the lead of so many other jurisdictions and

[9] 26 Del. C. § 1001 *et seq.* (2013).
[10] New York Public Service Commission Case 00-M-0504, Retail Policy Statement at 15 (Aug. 25, 2004).
[11] Pennsylvania PUC Docket No. M-2009-2104271, Opinion and Order at 27 (Aug. 6, 2009).
[12] Pennsylvania PUC Docket No. I-00040103F0002, Final Order and Action Plan at 11-12.
[13] *See* D.C. Public Service Comm'n, *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Formal Case No. 1085, Order No. 17052 at ¶ 38 (Jan. 18, 2013) (directing Pepco to implement a POR program in D.C.).

implement a POR program. RESA recommends that the Commission require Delmarva to implement a POR identical to the programs of its affiliate companies in Maryland and the District of Columbia, both of which are structured so as to encourage competition, not place an economic burden on ratepayers, and provide full cost recovery for the EDC.

An effective POR program allows retail suppliers to avoid some or all of the large, upfront costs associated with collections and entering new markets, and allows suppliers to offer their products and service to customers to whom they might not have made offers without a POR program. With non-recourse POR as exists in Maryland and D.C., a retail supplier generally need not perform credit checks or accept pre-payments because the retail supplier will receive payment from the EDC. Thus, not only are retail suppliers encouraged to enter new markets that have POR and to expand current offerings in a particular service territory, but in the process they bring additional products and services, including lower pricing, to more customers than they otherwise would have without POR. An effective POR program can be implemented without adding costs to the EDC because the supplier, through the discount rate, will be paying for the implementation and ongoing costs of the program. Generally speaking, the EDC's uncollectible rate should not increase, because the EDC would maintain the responsibility for collecting revenues from virtually the same subset of customers – 90% of Delmarva's total residential customers who are on SOS – that it does today.

Furthermore, an important feature of POR programs is that they create efficiencies by leveraging the existing EDCs' billing platforms, for which all customers paid, and EDCs' collections practices. A POR program also helps keep retail suppliers on equal footing with the EDCs in terms of uncollectible costs. The EDC has the ultimate stick, in its ability to terminate customers for non-payment, which mitigates the EDC's collection risk. At the same time, retail suppliers, without an effective POR program, do not enjoy priority or even equality under Delmarva's current payment posting system. POR programs address these inequities while at the same time allow retail suppliers to reach customers that they otherwise would not have reached, and allowing EDCs to continue to terminate service to a retail supplier's customer for non-payment of the customer's supply charges.

b. Delmarva's current payment posting system is inadequate and unfair to retail suppliers.

The importance of a POR program to the development of a competitive retail market cannot be understated. Put simply, POR programs provide retail suppliers with a better opportunity to be paid than when customers make partial payments through utility consolidated billing. Most residential and small commercial customers and many C&I customers that currently take electricity from a retail supplier receive one consolidated bill from their EDC that includes both EDC and retail supplier charges. When the EDC receives payment, it forwards the amount paid for the commodity portion of the bill to the retail supplier.

Under the current system in Delaware, when a customer makes a partial payment, suppliers are for all practical purposes the last entities to be paid and are at risk of receiving no payment for their portion of the bill charges.[14] Moreover, the delinquent customer continues to receive "free" energy because the EDC will not disconnect if the partial payment satisfies the EDC's outstanding debt. Unlike the regulated utilities, retail suppliers do not have the regulatory authority to terminate customer service for partial or non-payment. As a result, retail suppliers are in the position of not getting paid and their ability to serve the widest cross-section of

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[14] *See* Delmarva Power & Light Company, Electric Supplier Agreement 41-42 (2003), *available at* http://www.pepcoholdings.com/_res/documents/detpsagrsep03.pdf. If a customer makes a partial payment, it will be applied first to Delmarva's arrearages, then to supplier arrearages, then to Delmarva's current charges, then to the supplier's current charges, and finally to charges for the supplier's value-added services.

customers is limited. Further, the current system discourages and is a significant impediment to retail suppliers that desire to enter the Delaware market.

A POR program is an initial step towards leveling the playing field. It would require the Company to purchase the supplier's receivables and provides a more equitable and stable treatment of partial payments than the current payment hierarchy.

c. Positive POR program results in Maryland and elsewhere support implementation of a POR program in Delaware.

RESA has long advocated that POR programs, standing alone, are not the primary or sole driver of shopping statistics. And while the success of a POR program cannot be viewed in a vacuum, it cannot go unnoticed that EDCs that have implemented POR programs have experienced increased shopping.

The jurisdiction that hits closest to home is Maryland. As the information in Table 1 demonstrates, Maryland's electric and natural gas utilities, including Delmarva's EDC affiliates Delmarva Power/MD and Pepco/MD, have experienced significant increases in both the number of customers taking advantage of the increase in options available to them and the number of retail suppliers serving customers since the inception of POR:[15]

[15] *See* the Maryland Commission's Electric Choice Enrollment Monthly Reports, available on the Commission's website at: http://webapp.psc.state.md.us/intranet/ElectricInfo/enrollmentrpt_new.cfm,The BGE Gas and WGL/MM statistics were taken from the Maryland Commission's Gas Choice Enrollment Reports, available on the Commission's website at: http://webapp.psc.state.md.us/intranet/gas/gasenrollmentrpt_new.cfm. With respect to the Maryland POR programs, the District of Columbia Public Service Commission has opined that, "Commission review of the Maryland POR program suggests that it has resulted in increases in supplier participation in the electricity retail market." DC PSC Formal Case No. 1085, Order No. 16916 at ¶ 25 (Sept. 20, 2012).

	TABLE 1 – MARYLAND RESIDENTIAL SHOPPING STATISTICS SINCE THE INCEPTION OF POR PROGRAMS												
	% of Shopping Customers							**# of Retail Suppliers Serving Enrolled Customers**					
	End of June 2010	**End of Oct. 2011**	**End of July 2012**	**End of July 2013**	**End of July 2014**	**End of July 2015**		**End of June 2010**	**End of Oct. 2011**	**End of July 2012**	**End of July 2013**	**End of July 2014**	**End of July 2015**
Delmarva Power/MD	1.6	10.1	13.7	17.1	19.3	15.6		9	21	25	30	36	38
Pepco/MD [16]	8.9	20.4	23.2	26.4	26.2	22.4		13	29	35	39	47	47
Potomac Edison	1.7	7.2	10.1	14.7	15.5	12.7		7	11	15	20	24	26
BGE - Electricity	8.2	22.9	25.3	29.7	30.1	25.9		14	37	39	49	54	55
BGE – Gas	9.8	16.2 (thru Sept. 2011)	19.8 (thru Sept. 2012)	26 (thru Sept. 2013)	24.9 (thru June 2014)	23.5 (thru June 2015)		8	13 (thru Sept. 2011)	19 (thru Sept. 2012)	25 (thru Sept. 2013)	26 (thru June 2014)	29 (thru June 2015)
WGL/MD[17]	17	18 (thru Sept. 2011)	20 (thru June 2012)	21 (thru Sept. 2013)	21.5 (thru June 2014)	22.1 (thru June 2015)		5	5 (thru Sept. 2011)	5 (thru June 2012)	19[18] (thru June 2013)	18 (thru June 2014)	18 (thru June 2015)

As can be seen in Table 1, residential shopping in Delmarva Power/MD has increased from 1.6% to 15.6% since the inception of POR. The number of suppliers serving those customer has increased from nine to thirty-eight. The other Maryland EDCs have experienced similar increases. Residential customers in Maryland now have more offers from which to choose. The implementation of POR programs played a large role in these increases, and there is

[16] Pepco/MD's POR program commenced in October 2010. As of the month ending September 2010, 10.6% of Pepco's residential customers were shopping, served by 14 licensed suppliers. See the Electric Choice Enrollment Monthly Report for the Month Ending September 2010. As can be seen on the chart, these numbers have increased since the inception of POR in Pepco's service territory.

[17] Historical percentages for WGL/MD can be found on the District of Columbia PSC website: http://www.dcpsc.org/customerchoice/whatis/gas/t3.shtm and http://www.dcpsc.org/customerchoice/whatis/gas/t2.shtm.

[18] Information on the MD PSC website lists 19 suppliers serving residential customers in the WGL/MD service territory. Information on the DC PSC website lists 12 suppliers serving residential customers in the WGL/MD service territory. Although different, both numbers are a significant jump from the five suppliers serving residential customers as of the end of June 2012.

no reason to believe that Delmarva could not implement a similar program, with similar successes, in Delaware.

d. The POR program will benefit, and certainly not negatively impact, Delmarva's customers.

As explained above, successful POR programs play a vital role in bringing more retail suppliers to the service territory, leading to additional products and services being offered to the benefit of all customers.[19] At the same time, a properly structured POR program allows the LDC to recover its costs of the POR program from participating retail suppliers who utilize the LDC's consolidated billing. RESA recommends that Delmarva be required to model its POR program after its affiliated EDCs' programs in Maryland and the District of Columbia. Such a POR program would not negatively impact customers.

In that regard, in April 2012, the District of Columbia Public Service Commission directed Pepco/DC to report on the impact of Pepco/MD's POR program on its Maryland customers.[20] In response, Pepco/DC reported that the Maryland POR program is structured in a manner that does not impact retail customers:

> [The Maryland POR] program is funded by the third-party retail suppliers through the discount paid on receivables. . . . Neither Standard Offer Service customers nor distribution customers are directly impacted by this program.[21]

[19] *See, e.g.,* DC PSC Formal Case No. 1085, Order No. 16916 at ¶ 25 (Sept. 20, 2013) ("In general, the primary purpose of the District POR program is to promote customer choice, thereby increasing competition and reducing commodity price of electricity.").

[20] *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Formal Case No. 1085, Order No. 16767 (April 26, 2012).

[21] *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Formal Case No. 1085, *Response of Pepco to Commission Order No. 16767 and Proposed District-Specific POR Program Plan* at 11 (June 25, 2012); *see also* DC PSC Order No. 16916 at ¶ 21 (noting that, with respect to the Maryland POR program, "Pepco states that neither Standard Offer Service customers nor distribution customers are directly impacted by this Program.").

Pepco/DC also concluded that, under its proposed POR program in the District, were the program to be funded through the use of a discount rate, "neither SOS nor distribution customers would be impacted by the program."[22] A POR program in Delaware modeled after the District and Maryland programs, as RESA recommends, would likewise have no negative cost impact on Delaware customers.

e. POR Program Structure

RESA recommends that the Commission direct Delmarva to implement a POR program identical to the programs currently used in D.C. and Maryland, including the key components discussed below.[23]

i. Transition Plan

Delmarva would purchase the current billed accounts receivable balance on each consolidated billed account at the appropriate discount rate. Suppliers then receive payment for the entire balance approximately 30 days after the implementation date. All non-current balances as of the approved effective date would be billed by the Company for 90 days. Any payment(s) collected as a result of these billings would then be remitted by the company to the supplier at the end of the 90-day period. Delmarva would also implement an auto cancel process as part of the implementation process. After conversion, if Delmarva cancels a customer's usage (and subsequent Company charges) for a given billing period, the Company would also cancel

[22] *Id.* at 12.

[23] *See* Letter from Wendy E. Stark, General Counsel, PEPCO, to Brinda Westbrook-Sedgwick, Commission Secretary, D.C. Public Service Commission (Sept. 20, 2013); *see also* D.C. Public Service Commission, *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia*, Formal Case No. 1085, Order No. 16916 (Sept. 20, 2012). For more information on the Maryland POR program, refer to Delmarva Power's Maryland POR program. Delmarva Power & Light, Maryland Electric Supplier Coordination Tariff 23a, Schedule 3 (2013), *available at* http://www.pepcoholdings.com/_res/documents/DPLMDSupplierCoordinationTariffFiled.pdf.

the corresponding supplier charges. If payment to the supplier was previously made, the Company would recover the amount originally remitted.

ii. Each SOS class would have its own discount rate.

As in D.C and Maryland, Delaware should require that Delmarva calculate a discount rate for each standard offer service customer class. In other words, there would be different discount rates for residential, small commercial, MGS-S, LGS-S, and GS-T.[24]

iii. Computation of Discount Rate

The discount rate applied to receivables purchased under the new program should be set at a level ensuring the POR program is revenue neutral for the Company and minimizes the cost to suppliers. The rate should be derived by adding (i) uncollectible costs associated with shopping customers' accounts; (ii) a program development cost component; and (iii) a late payment revenue component. These three components should be calculated, and included in the discount rate, as discussed below:

Uncollectible Expenses: Inevitably, some revenue billed by the utility will be left unpaid by customers. The amount of uncollectible revenue will then be written off, and should be accounted for in the discount rate. The uncollectible expense component should be a percentage calculated by dividing the estimated electric supplier uncollectible expenses associated with each rate schedule by the electricity revenues billed for all suppliers for that rate schedule.

Program Development Costs: Program development costs reflect the costs of the POR program above what the utility would normally expend in the course of business during the

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[24] These appear to be the SOS customer groupings as established in the Settlement approved by the Commission in PSC Docket No. 04-391 in 2005, and still in use today.

period in which POR is implemented. It is RESA's understanding that, by waiting to implement the POR program until the Company implements its new billing system, there will be no implementation costs. If the Company proves that it will incur implementation costs, the Commission will need to determine the appropriate amortization duration for purposes of the Company's recovery of those costs.

Late Payment Revenues: Late payment revenues ("LPRs") should be included in the discount rate as an offset, just as they are in the D.C. and Maryland POR programs. As in the D.C. and Maryland program, the LPR percentage used in the discount rate for each rate schedule should be calculated by dividing the estimated electric supplier LPRs billed for all electricity suppliers for that rate schedule.[25] It is RESA's understanding that Delmarva, with its new billing system, can now track LPRs received from shopping customers for inclusion in the discount rate. Thus, the Company's ability to track LPRs, and to include them in the discount rate, should not be an issue in Delaware.

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[25] On numerous occasions, the Maryland Commission has rejected the EDCs' arguments to exclude LPRs from the discount rate. *See* ML# 146044, Letter Order (May 15, 2013); ML# 145725, Letter Order (May 15, 2013); ML# 146082, Letter Order (May 15, 2013); *In re: 2013 Electric Purchase of Receivables ("POR") Discount Rates, Comments of the Electricity Division*, ML#s 145613, 145725, 146045, 146082 (May 1, 2013); *ML#*s 142282, 143580, and 143820, Letter Order (Nov. 28, 2012); ML#s 119760, 121041, 121846, 122369, 122663 & 122860, Letter Order (June 10, 2010); ML#s 119980 and 120370, Letter Order (June 10, 2010); ML#s 119763, 120017, 120905 & 122880, Letter Order (June 10, 2010); *In re: COMAR 20.53 Compliance Filing*, ML# 116830, Letter Order (June 10, 2010); *In re: Administrative Docket Rulemaking No. 17 Compliance Plan of Baltimore Gas and Electric Company (BGE) – Supplement 414 to P.S.C. Md. E-6*, ML# 116827, Letter Order (Oct. 7, 2009); *In re: COMAR 20.53 Compliance Filing,* ML#s 116829 and 117655, Letter Order (Oct. 7, 2009); *In re: The Potomac Edison Company d/b/a Allegheny Power's Compliance Plan to Implement COMAR 20.53.05.03, 20.53.05.05, 20.53.05.06, 20.53.06.06, and 20.53.07.10,* ML#s 116824 and 117609, Letter Order (Oct. 5, 2009). Also, the D.C. Commission directed PEPCO to include late payment revenues in its POR program discount rate. *See* D.C. Public Service Comm'n, *In the Matter of the Investigation of a Purchase of Receivables Program in the District of Columbia,* Formal Case No. 1085, Order No. 16916 (Sept. 20, 2012). Pepco filed an Application for Reconsideration on the issue of including late payment revenues in the POR discount rate, which the D.C. Commission denied. Formal Case No. 1085, Order No. 17052 (Jan. 18, 2013)("This Order also denies Pepco's Application for Reconsideration requesting that late payment revenues be excluded from the calculation of the Discount Rate and its alterative request that the Commission rule that the Discount Rate should never be less than zero.").

In sum, implementation of a POR program is essential for the continued development of retail competition, and the resulting growth of consumer choice, in Delaware. Such a program will benefit customers. Further, comparable programs have already been approved in D.C., Maryland, and many other jurisdictions that support retail competition.

3. Accelerated Switching

RESA has consistently advocated in restructured states to shorten the time required for a customer to switch his or her electricity supply service. Under the current Delaware rules, enrollment transactions must be received 15 days before the customer's next scheduled meter read date for electricity customers. Thus, a customer that misses that window by one day would be required to wait approximately 45 days to switch to a chosen supplier and chosen electricity or natural gas product – and then 30 more days until the customer sees the supplier's charges on his or her bill. Consumers are growing increasingly accustomed to making a real-time shopping decision and reaping the benefits of that decision immediately; *e.g.,* their product is delivered to their house within days or sooner. In other words, customers expect to get what they buy in "Amazon time." Generally, suppliers have found that when they inform the customer that it could take up to two billing cycles to switch, customers do not understand the wait time and openly question whether the supplier is attempting to deceive them or has the operational acumen to provide the service. There is general confusion in the marketplace amongst customers who do not understand why they cannot switch to the supplier or product they want, when they want it, and instead have to wait simply because the utility's systems or the Commission's rules have not been updated. In 2015, there is no reason that a customer's energy shopping choice should not also be realized on a much faster timeframe than the current process. The wait time significantly diminishes a customer's shopping experience and denies customers the benefits they have chosen – whether it is saving money on their energy bill, or getting their renewable or even free power more quickly.

With faster switching times, customers are able to take advantage quickly of an offer and begin receiving the product they want, whether it be because they are saving money or because they want to receive their renewable product, or some other product that they have selected. Moreover, a customer that selected a product by mistake can switch quickly to the product of his or her actual choice. Furthermore, accelerated switching allows customer who switch to receive immediate offers from suppliers that they just left. This is called a "win-back" and is common in the industry, allowing customer to leverage faster switch times to take advantage of more advantageous offers.

Several other states have recently taken steps to implement and/or investigate implementation of expedited, off-cycle switches. Most notably, the Pennsylvania PUC issued a Final-Omitted Rulemaking and Order on April 3, 2014 amending and adding regulations addressing accelerated switching.[26] The new Pennsylvania regulations require the utilities to implement new accelerated switching rules within six months from the effective date of the regulations. All Pennsylvania utilities – those with smart meters fully deployed and those using traditional meters – are required to comply with the PA PUC's accelerated switching rules. For those utilities who have not deployed smart meters, estimated meter reads and customer supplied meter reads are used. It is RESA's understanding that, in Pennsylvania, PECO implemented multiple off-cycle switches in December 2014; PPL implemented multiple off-cycle switches in August 2015; and the First Energy Companies began implementing next day switches on August

[26] *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards For Changing a Customer's Electricity Generation Supplier*, Pennsylvania Commission Docket No. L-2014-2409383, Final-Omitted Rulemaking Order, (April 3, 2014).

30, 2015.[27] Other states, including Connecticut, New York, and the District of Columbia, are exploring or have explored accelerated switching either through legislation or the regulatory process. Maryland recently approved new regulations for publication and comment in the Maryland Register that include three-business-day accelerated switching and also require the electric utilities to process two switches (two enrollments and two drops) per month regardless of the meter read date. RESA recommends that Delaware follow the lead of Pennsylvania and other states and require Delmarva to implement accelerated switching for its customers.

4. Instant Connects and Seamless Moves

RESA recommends improvements to the switching process, including "instant connects" and "seamless moves." RESA proposes definitions for each. An "instant connect" is the ability of a customer's choice of supply service to start on the customer's first day of new utility service without the customer first having to enroll in SOS. A "seamless move" is the ability of a customer's choice of supplier to move with the customer to a new address within Delmarva's service territory without interruption and without the customer having to revert back to SOS. These two processes are currently not available in Delmarva's service territory in Maryland, creating clear preferences for SOS to the detriment of customer choice.

The Pennsylvania Commission entered a Final Order on February 15, 2013 requiring Pennsylvania utilities to implement instant connects and seamless moves by June 1, 2015.[28]

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[27] RESA notes that there are billing implications to implementing accelerated switching. For example, if a customer switches off-cycle, the utility could simply wait until the customer's normal billing period ends and send one bill with the names and charges of all suppliers that served the customer during that period. Alternatively, the utility could send a bill every time the customer switches, referred to by PECO as "bill on supplier switch," or "BOSS." In RESA's experience, customers generally either do not want, or get confused by, multiple bills per month. All of the other Pennsylvania utilities have implemented bill format changes to allow multiple suppliers (and their charges) to be listed on a single monthly bill to customers.

[28] By Secretarial Letter dated March 20, 2015, the Pennsylvania Commission restated its commitment to instant connects and seamless moves and concluded that such plans should be in place by July 1, 2016. The Commission directed the EDCs to file revised implementation plans demonstrating how they would

Regarding instant connects, the Commission in the Final Order agreed with the positions of the retail suppliers, including that instant connects help level the playing field between the utilities and suppliers because under today's rules the utility automatically receives the customer first, a benefit that facilitates the inherent presumption that utilities "own" their customers from the outset or which can reinforce customer apathy. The Pennsylvania Commission held that:

> For the reasons cited by the supplier community, we believe that the ability of a new customer to instantly connect to their selected EGS is a vital mechanism that will go far in making default service truly "default." As the suppliers point out, requiring all customers to first go on default service before obtaining service from a competitive supplier inappropriately makes the default service the "primary" service. This too easily hands the [utility] customers who may stay with default service simply out of inertia. This is unacceptable.[29]

In the same Final Order, the Pennsylvania Commission directed the utilities to implement seamless moves in their service territories by June 1, 2015. The Commission stated that, "seamless moves are a natural and expected part of the competitive market that have only been hindered by the current limitations of EDC account information systems."[30]

Delmarva's District of Columbia distribution affiliate, Pepco/DC, filed a report ("Report") with the District of Columbia Public Service Commission advising that it could program seamless move functionality into its billing system. While RESA reserves judgment on the substance and proposed timing identified in the Report, RESA was encouraged that the functionality can be attained.[31] In RESA's view, instant connects and seamless moves are

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achieve instant connects and seamless moves. All of the Pennsylvania EDCs, consistent with this directive, filed their implementation plans on April 20, 2015. The EDCs' plans are under consideration, and the Pennsylvania Commission has not wavered in its commitment to implementing instant connects and seamless moves.

[29] *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Final Order at 74-75, Pennsylvania Commission Case No. I-2011-2237952 (Final Order entered February 15, 2013).

[30] *Id*. at 74.

[31] *Investigation into Electric Service Market Competition and Regulatory Practices*, D.C. Commission Formal Case No. 945, Report of the Retail Competition Working Group on Seamless Move Functionality (Filed Nov. 26, 2014).

fundamental to improving the customer experience in a competitive market and eliminating a growing source of customer confusion in the marketplace.

5. Access to Customer Account Information with Customer Consent

RESA recommends that the Commission require Delmarva to provide retail suppliers a secure web portal to facilitate enrollments when customers wish to enroll. As the Commission may be aware, Delmarva transitioned to its new billing system and, in the process, issued its customers new account numbers and 22-digit Service Numbers. Delmarva now requires the 22 digit "Service Number" to effectuate a switch. Customers typically do not have access to their long Service Number, especially when they are away from their homes. Customers are used to signing up for a wide variety of products and services with information that they can remember or have readily available, not a 22 digit number.

For example, when customers see a retail supplier's kiosk in a mall and wish to enroll, they often do not have a copy of their electricity bill with their pertinent account information required to complete an enrollment. By enabling retail suppliers to obtain such information securely, with adequate safeguards in place, this tool would help more customers effect their choice of supplier more quickly and easily.

These look-up systems are becoming more and more common. For example, RESA understands that the Maryland natural gas utilities have already implemented a look-up tool to facilitate natural gas enrollments. Also in Maryland, the Commission has approved for publication in the Maryland Register regulations that would require the electricity and natural gas utilities to provide to retail suppliers, with customers consent, all numbers designated by the utility as necessary to process an enrollment.[32] This would require Delmarva's affiliates,

[32] Maryland Public Service Commission, Rulemaking 54.

Delmarva/MD and Pepco/MD, to provide the customer's Service Numbers to retail suppliers during the pre-enrollment process.

Also, Pennsylvania already has a similar requirement in place. On July 17, 2013, the Pennsylvania Commission entered a Final Order holding that, "the inability to obtain customer account numbers in the context of selling at public venues is a serious impediment to customer shopping."[33] The Commission continued that,

> We want customers to have the opportunity to shop and enroll with a competitive supplier at public locations like shopping malls, just as they can with wireless phone and other services and believe this sales venue offers several advantages over other sales channels like door-to-door or telemarketing. In a public venue it is usually the customer initiating the sales contact at a time and place of the customer's choosing. The ability to talk face-to-face with a sales agent may promote a customer's understanding of shopping for electricity, and doing so in a public location may be less intrusive than a transaction in a customer's residence. Public venues also offer opportunities for suppliers to focus on specific customer groups with products and services in which the group may be interested. For example, a conference of trade associations representing renewable power producers may be of interest to a supplier selling renewable generation. Marketing in public locations also enhances the visibility of suppliers and helps them build their brand identity with the general public – facilitating the process of getting consumers more familiar with our competitive retail generation market and the companies participating in it.[34]

All of the Pennsylvania utilities have implemented account number look-up tools, limited to when suppliers are marketing to customers away from their homes. Suppliers must log into the utility's secure supplier portal to obtain access to the tool. Suppliers must obtain signed letters of authorization from the customer before searching the customer's information, and the supplier can be held accountable for any transgressions. RESA recommends that the Delaware Commission require Delmarva to implement a look-up tool, which will make for a more pleasant

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[33] *EDC Customer Account Number Access Mechanism for EGSs*, Final Order at 3, Pennsylvania PUC Case No. M-2013-2355751 (Final Order entered July 17, 2013).
[34] *Id*. at 3-4.

shopping experience for customers and allow them to quickly and easily take advantage of desired products and services.

6. Market Reflective SOS Structure

Under the current SOS structure in Delaware, Delmarva procures electricity to serve its SOS load via an auction process. For residential and small commercial SOS customers, Delmarva Power procures one-third of its SOS obligation annually by entering into 3-year supply contracts with the winning auction bidders. The contract prices that Delmarva pays for its SOS supply are averaged together and reduced to a retail rate, which changes twice per year slightly based on the seasons. With the exception of its GS-T customers and perhaps a few other customers, Delmarva enters into 1-year supply contracts to serve its remaining SOS load. Delmarva Power's 11 GS-T customers receive hourly default service if they do not contract with an electric supplier.

Delaware's current SOS procurement structure is not a model for the development of a robust, sustainable competitive retail market because the structure does not allow for SOS rates that reflect underlying wholesale market prices. The inclusion of three-year contracts in the portfolio means that, at all times, there is a lag between the SOS rate and underlying wholesale market prices because the SOS rate includes the result of electricity prices that were established up to three years prior. Retail suppliers participate in the wholesale market on a daily basis. If there is a reasonable likelihood that sustained periods of time will arise in which a supplier cannot compete for business in a particular market because wholesale prices are higher than the locked-in SOS rate – and Delmarva's SOS is the largest competitor with the largest market share by far – then the supplier will simply avoid that market or not offer specific products in that market that are based on price competition as opposed to other value-added options. The result is a market that is devoid of true competition. Suppliers generally will not enter a market where they might be able to compete for business at certain times but definitely will not be able to compete at other times because the SOS rate continues to reflect stale prices.

Other states have recognized the important role that market-reflective SOS/default service rates have in creating a competitive retail market. For example, there is a trend among the utilities in Pennsylvania toward default service products that more closely resemble market conditions, creating a more market-based price-to-compare ("PTC").[35] SOS rates established by three-year laddered SOS supply contracts such as those utilized by Delmarva can become out-of-market quickly and result in intermittent, "boom/bust" scenarios for competition as opposed to continuous and sustainable competition. Delmarva's laddered three-year contract terms create periods of above-market prices when wholesale prices are decreasing, and the converse during periods when wholesale market prices are increasing. A truly functional and sustainable competitive market is not one in which market participants can operate some of the time, but not all of the time. Rather, to realize a robust, sustainable competitive market, retail suppliers need to be able to compete at all times and, in doing so, can offer products and services that go beyond price comparisons and involve a wealth of other products and services, including renewable energy, bundled products, affinity relationships, products dependent on smart meter data, and so forth. As the Pennsylvania Commission recognized, "the elimination of potential 'boom/bust' cycles will create a more sustainable retail market, which, in turn, should lead to enhanced

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[35] *See, e.g.,* Pa. Pub. Util. Comm'n, Case No. P-2014-2417907, Opinion and Order at 19-20 (Jan. 15, 2015). This transition toward more market-reflective default service products is consistent with the policy goals set forth by the Pennsylvania Commission. *See Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Case No. I-2011-2237952, Final Order at 29 (Feb. 15, 2013).

product offerings to consumers and long-term [retail supplier] investments within Pennsylvania."[36] The same holds for the creation of a sustainable retail market in Delaware.

On October 30, 2015, RESA submitted comments to the Commission addressing the problems with Delmarva's current SOS procurement structure and how it stifles competition. *See In The Matter Of The Commission's Review of Delaware's Retail Electricity Pricing and Potential long Term Approaches to Secure Lower Priced Energy*, Docket No. 14-0283, Comments of the Retail Energy Supply Association (filed Oct. 30, 2015). Rather than repeat its positions and reasoning here, RESA, for the sake of brevity, incorporates those comments by reference as though fully set forth. RESA recommends that the Commission to require Delmarva to transition to a market reflective procurement structure to promote competition.

7. Improvements on the Delmarva Consolidated Bill

The workshop participants discussed various way to allow retail suppliers a greater presence on, and access to, the Delmarva consolidated bill. For example, in Pennsylvania suppliers are now allowed to place their logos on the consolidated bill. In Maryland, Baltimore Gas and Electric allows retail suppliers to include non-commodity products on its consolidated bill, separate from the POR program, pursuant to the execution of a separate agreement that covers the billing service that BGE is providing. These types of bill access afforded to suppliers are important because they allow retail suppliers to establish better relationships with their customers. They also educate customers by drawing a clear separation between the regulated utility and the retail supplier. Moreover, by allowing additional products to be included on the customer's bill, customers benefit because suppliers can offer additional value-added products that otherwise the supplier would not offer because it would require a dual bill to the customer.

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[36] *Id*. at 24.

More and more, the retail energy business is transcending mere commodity sales, as customers are looking for not only the commodity but also value-added products and services such as warranty products, home audits, and so forth that are commonly sold in bundles. The two lines currently allowed for on the consolidated bill are not sufficient for suppliers to communicate important information regarding value-added products and services to their customers. Being able to provide these bundled products on the consolidated bill would likely increase the number of creative and innovative offers available to customers. RESA recommends that the Commission require Delmarva to increase suppliers' presence on, and access to, the Delmarva consolidated bill.[37]

8. Periodic Meetings

RESA recommends that the Commission Staff begin holding periodic stakeholder meetings to discuss various aspects of retail market. These meetings will allow the stakeholders to address issues in near real-time, hopefully before they become problems that the Commission must resolve. Stakeholders could discuss not only issues they are seeing in the market but also report on progress with respect to implementing the programs set forth above. Members of RESA have found that proactive communications can go a long way towards addressing market-related concerns and implementing programs timely and smoothly.

9. Conclusion

RESA presents the above programs and recommendations with an eye towards developing a sustainable and robust competitive retail market. RESA understands that some of

[37] Of course, the long-term goal is for suppliers and Delmarva to utilize, if the customer desires, "supplier consolidated billing" where suppliers sends one bill to their customers which includes the suppliers' charges and Delmarva's charges. This is used in Texas and many companies are already familiar with it. Under supplier consolidated billing, suppliers have a direct relationship with their customers, and the regulated monopoly EDC becomes a true wires-only delivery service.

the programs explained above could be costly, and the Commission will need to determine at some point how Delmarva would recover its implementation and maintenance costs. However, as was pointed out in the workshops, other states have moved forward with programs similar to those described above, which facilitate competition, and the utilities recovered, or are recovering, their costs.

RESA recommends that the Commission require Delmarva to implement the above-described programs according to the following proposed timeline:

(1) Immediately file with the Commission a POR program that mirrors its affiliates' programs in Maryland and D.C., to be effective by March 1, 2016;

(2) Implement accelerated switching (three business days) by June 1, 2016;

(3) Implement by July 1, 2016, a look-up tool similar to Maryland's new proposed rule in which suppliers may obtain from Delmarva the customer's account number, service number, and any other information required by Delmarva to process an enrollment, as well as other data elements such as usage information, during the pre-enrollment phase with the customer's consent;

(4) Implement Seamless Move and Instant Connect functionality by September 30, 2016;

(5) Implement improvements to the consolidated bill by March 1, 2016 along with the start of the POR program;

(6) Transition to market-reflective SOS rates for the next available SOS wholesale contract bidding in accordance with RESA's suggestions in its comments filed in Docket No. 14-0283 and incorporated herein.

RESA further recommends that the Commission require Delmarva to report monthly at its administrative meeting on the progress of adhering to the above timelines and dates. Finally, RESA recommends that the Staff of the Commission convene periodic stakeholder meetings to discuss market issues and developments and to receive updates on implementations issues and progress regarding the above programs.

Respectfully submitted,

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