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By Electronic Filing

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

**Re: Comments of Retail Energy Supply Association
Regulation Docket No. 49**

Dear Ms. Nickerson:

Enclosed please find the Retail Energy Supply Association's Request for Temporary Waiver in the above-captioned proceeding. We respectfully request that the Commission consider this request at its January 10, 2017 administrative meeting.

Please contact me should you have any questions regarding this matter.

Sincerely,

/s/ Brian R. Greene

Brian R. Greene

Enclosures

CC: Service List

that scenario holds – and RESA hopes that it does – RESA requests a waiver until April 1, 2017, to ensure a smooth transition to the new Rules as explained below. Alternatively, if the new Rules are not published on February 1, 2017, then RESA requests that the effective date be scheduled six-to-eight weeks from the actual effective date, whenever that may be.

II. Background

RESA presents its recommended implementation timeline after much thought and deliberation among its members. The transition to the new Rules is a huge undertaking within the supplier community that, if done *incorrectly*, will lead to confusion in the marketplace and potential negative shopping experiences. This is an outcome that can and should be avoided.

As the Commission is aware, the new Rules represent a complete overhaul and re-write of the existing Rules, adding numerous requirements and obligations upon suppliers active in the Delaware market that do not exist today. Suppliers will need to modify their internal systems, enrollment and marketing practices, notices to customers, and terms and conditions of service. In addition, they will need to revise their training materials and programs to ensure compliance with the new Rules. In sum, the new Rules include significant changes that will require suppliers to update or develop, and implement, new processes and procedures. Consider a few examples:

- Contract Summaries must be drafted, printed, and incorporated into supplier enrollment processes and communications;
- New variable price disclosures must be added to contracts, contract summaries, and sales scripts;
- Historical variable pricing information must be compiled and made available for residential and small commercial customers;
- Suppliers must develop means to provide variable price customers with notice of changes in their variable price, then incorporate this disclosure mechanism into customer contracts and agent training materials;
- New notices must be developed for contract renewals;

- Agent training materials must be revised and agents must be trained accordingly;
- Telemarketing processes must be updated to include new disclosures and suppliers must ensure that sales calls and third-party verifications (“TPVs”) are conducted and recorded in accordance with the new telemarketing requirements;
- Door-to-door marketing processes must be updated, including changes to scripts, enrollment forms and contracts, and agents must be trained on the new Rules;
- Criminal background checks meeting the specific criteria in the new Rules must be performed for new door-to-door agents;
- Contracts for green power products must be revised; and
- Sales, marketing, and customer service agents and representatives serving Delaware customers must be trained on all of the requirements under the new Rules.

These are some of the necessary changes that support a short delay in implementation of the Rules to ensure the transition is efficient and successful. For some suppliers, these changes will require significant modifications to their business processes. For many others, the transition is simply a large technological undertaking that takes time and must be implemented correctly. For all, it includes changes to the terms and conditions of service, renewal letters, and TPVs for those suppliers that use them. Suppliers will be required to make these changes – deploying considerable resources and incurring significant expenses – to implement the new Rules.

III. Mitigating Transition Challenges and Costs

A short implementation window, as requested, provides a reasonable period of time to transition to the new Rules. Importantly, providing this window will allow for an efficient transition and continuity of retail suppliers’ Delaware operations. Absent this window, suppliers generally will incur extensive costs and risks to rush implementation. However, a reasonable implementation period will allow suppliers to manage a seamless transition with existing

operations and compliance resources, minimizing the costs to suppliers, for the benefit of Delaware customers.

While one might suggest that suppliers could change their operations well before the Rules become final rather than seek a temporary implementation waiver, that suggestion would fail to recognize the reality on the ground for suppliers in Delaware. First, as explained above, the new Rules impose upon suppliers extensive new requirements in Delaware. Second, unlike regulated utilities, which can recover prudently incurred costs through captive ratepayers, retail suppliers must recover costs associated with implementing the new Rules through the prices they charge their customers. If suppliers make all of the changes necessary to comply with the new Rules prior to the rules becoming final, they risk having to go back and revise their processes and materials a second (or third) time, wasting valuable resources and incurring excess costs that can translate into less attractive offers to Delaware customers. By mitigating transition costs through a short implementation window following finalization of the Rules, suppliers can minimize price effects for Delaware customers while also ensuring a smooth transition to the new Rules.

IV. A Temporary Market Waiver Is Not Unprecedented for Revisions to Consumer Protection Rules.

RESA members underwent a similar transition to revised consumer protection rules in Maryland. In the first quarter of 2016, the Maryland Commission finalized revised rules which, upon publication, were set for a March 14, 2016 effective date. The Maryland Commission granted RESA's request for a market waiver, delaying the effective date until May 1, 2016.⁴ The approximately six-week waiver in Maryland allowed suppliers time to make the required

⁴ Md. Pub. Serv. Comm'n, *Letter Order*, Rulemaking 54 (Mar. 9, 2016) (granting requested waivers to suppliers for new rules provisions scheduled to take effect on March 14, 2016, until May 1, 2016).

changes by Day One and ensured a seamless transition to the new rules. RESA's waiver request in this filing is based on its members' review of the required changes and also the Maryland Commission's decision that six weeks (and the desire for the effective date to land on the first of the month) is a reasonable time to allow suppliers to be in compliance on the effective date.

V. Implementation Timing Request

RESA recommends that the Commission delay implementation of the new Rules by six-to-eight weeks. As stated above, assuming the effective date is scheduled for February 11, 2017, RESA requests an April 1, 2017 effective date, which would allow suppliers the time they need to comply and also marks the start of a new month and new quarter. This short waiver will not unreasonably delay the enhanced consumer protections and benefits provided in the new Rules, nor will it prejudice any stakeholder. Therefore, RESA requests that all provisions of the Rules become effective within six-to-eight weeks of the scheduled effective date, and RESA recommends April 1, 2017 if the Rules are to become effective February 11, 2017.

VI. Conclusion

A six-to-eight week implementation timeline properly balances the desire to implement the new Rules as quickly as possible with the reality that technology, current business practices, and the magnitude of the new Rules warrant a deliberate and thoughtful implementation process. Moreover, there is good cause to grant the requested waiver, as explained above. Therefore, RESA requests that the Commission adopt the timeline as proposed and explained above.

Respectfully submitted,
RETAIL ENERGY SUPPLY ASSOCIATION
By Counsel



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CERTIFICATE OF SERVICE

I certify that the foregoing Request for Waiver was mailed or e-mailed to all parties identified in the service list for this proceeding.

/s/ Brian R. Greene
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