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August 31, 2016

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
Docket No. 14-0283

Dear Ms. Nickerson:

Enclosed please find Comments of the Retail Energy Supply Association in the above-captioned proceeding.

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

Sincerely,

Brian R. Greene

Enclosures

Cc: Service List (by Email only)

BEFORE THE

DELAWARE PUBLIC SERVICE COMMISSION

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

I. Introduction and Background

The Retail Energy Supply Association ("RESA")[1] submits these comments in response to the Delaware Public Service Commission's ("Commission") request for comments on London Economics International LLC's final report and recommendations, titled "Review of Alternative Electricity Procurement Processes for the Provision of Delmarva Power's Standard Offer Service" (the "Report"), dated April 29, 2016, and in particular the recommended portfolio approach. RESA previously provided comments and responses to a list of questions posed by the Commission upon the release of a draft Report,[2] and participated in the stakeholder workshop on July 21, 2016 to discuss the final Report.

After assessing the possible costs and risks associated with various types and durations of wholesale power procurements for Standard Offer Service ("SOS"), the Report recommends that the Commission require Delmarva to adopt a new SOS procurement portfolio. That

[1] 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.

[2] Comments of the Retail Energy Supply Association, *In the Matter of the Commission's Review of Delaware's Retail Electricity Pricing and Potential Long Term Approaches to Secure Lower Price Energy,* Docket No. 14-0283 (Oct. 30, 2015).

recommendation, by itself, is good news, as RESA has for years advocated that the current laddered three-year annual procurements utilized by Delmarva, where the contract prices that Delmarva pays for its SOS supply are averaged together and reduced to a retail rate that changes twice per year, is not a model for the development of a robust, sustainable competitive retail market. The current procurement 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 electricity prices that are three years old. 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.

And that is what has happened in Delaware. Even though, as the Report notes, SOS rates have been higher than underlying wholesale market prices, thereby creating headroom for retail suppliers to beat Delmarva's Price-to-Compare ("PTC"), only 10% of residential customers and 27% of small commercial customers (defined, for purposes of these comments, as non-residential customers with less than 25 kW PLC) had contracted with an electric supplier as of July 2016.[3] These low shopping percentages lag behind other jurisdictions that have implemented SOS or default service procurement structures that are designed to enhance

[3] Delmarva Power, Electric Supply Choice Enrollment Information Monthly Report for the Period Ending July 2016, *available at* http://depsc.delaware.gov/electric.shtml.

competition while also ensuring that the SOS or default rates remain stable and affordable. Moving towards SOS rates that are more market-reflective is a critical step in developing a robust and sustainable competitive market in which customers truly benefit.

In its prior comments, RESA recommended an SOS structure for the stakeholders', consultants', and the Commission's consideration; specifically, RESA recommended that: (1) the SOS procurement structure for residential and small commercial customers be modified to transition from the current three-year supply contracts to one-year contracts; and (2) the SOS procurement structure for all other non-residential customers, with the exception of GS-T customers, be modified to transition from the current one-year supply contracts to three-month supply contracts. These are examples of changes to the current SOS structure that will advance competition, bring benefits to customers, and are consistent with Delaware law and with the SOS or default service structures of other jurisdictions.

With that background, RESA welcomed the Report's conclusion to overhaul the current SOS structure. The new structure recommended in the Report, however, includes elements that would thwart the development of competition, potentially increase SOS rates higher than they otherwise would be, and shift monetary risk to customers. Specifically, the Report recommends a portfolio of: (1) laddered two-year fixed-price full requirements contracts that would represent 30% of the supply requirement; (2) two laddered 10-year fixed price, fixed quantity (block energy and capacity) contracts, with one contract procured every five years, that would represent 42% of the total supply requirement; and (3) spot market purchases that would represent the remaining 28% of the total supply requirement.[4]

[4] Report at 10.

As explained below, RESA continues to believe that its proposed SOS portfolio of one-year procurement contracts for residential and small commercial and industrial ("RSCI") customers satisfies Delaware law and will enhance competition. RESA's procurement proposal will also prevent above-market SOS rates for extended periods of time. Promoting retail competition is important because a competitive marketplace provides customers with a considerable choice of energy products and services. In a competitive marketplace, customers can obtain and assess information about the broad spectrum of innovative and tailored energy products and services that are offered by third party retail electric suppliers. Customers can then compare these value-added products and services with those offered by other electric suppliers, as well as SOS, and choose the combination that best meets their needs.

II. RESA agrees with the Report's conclusion that Delmarva's current SOS procurement model must be modified.

As referenced above, RESA has for years advocated that the current SOS procurement model consisting of laddered three-year contracts impedes the growth of retail competition and also leads to higher SOS rates for customers.

First, the current model impedes the growth of retail competition because the longer-term three-year contracts can become out-of-market quickly and result in intermittent, "boom/bust" scenarios for competition as opposed to continuous and sustainable competition. The Report acknowledged the propensity of Delaware's laddered three-year contracts to create periods of above-market prices when wholesale prices are decreasing, and the converse during periods when wholesale market prices are increasing:

> … the three year, laddered approach to FRS procurement that Delmarva has employed tends to result in prices that do not

> necessarily reflect the current market conditions. As such, this can create a "boom and bust" cycle where competitive supplier rates are sometime competitive with SOS rates, but other times much more expensive. This behavior will adversely affect the development of robust competition in the retail market.[5]

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. The goals of Delaware's Electric Utility Retail Customer Supply Act of 2006[6] cannot be realized if the SOS structure allows for "boom and bust" cycles in the competitive market. 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 product offerings to consumers and long-term [retail supplier] investments within Pennsylvania."[7] The Maryland Commission has also recognized that the lack of market-reflective SOS rates can negatively impact competition and, in turn, harm customers. In adopting quarterly SOS contracts for medium sized non-residential customers, the Maryland Commission ruled:

[5] Report at 51.
[6] 75 Del. Laws, c. 242 (2006).
[7] *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).

> ... an SOS product that remains unchanged and disconnected from prevailing market prices for undue periods of time can deter market entry and thus deprive customers of the varied retail products that would be available when more retail suppliers enter the market. Entry will only occur when the opportunity to compete against the SOS product is sustained and continuous, not intermittent.[8]

The same holds for the creation of a sustainable retail market in Delaware. Largely as a result of the three-year procurement structure, there have been few electric suppliers serving RSCI customer in Delaware, denying customers of the diversity of value-added products and services that competition can bring; products which meet customers' individual needs, including costs savings, fixed prices, the ability to fix or float various proportions of their energy and/or certain cost components of the supply and over various terms, as well as electricity from renewable energy sources or other attributes of value.

Second, the Report recognizes that longer-term contracts will typically include sellers' risk premiums, which will lead to SOS rates that are higher than they would be under shorter-term contracts (such as the one-year contracts that RESA recommends for SOS procurements). This was evident by the Report's conclusion that the current use of three-year SOS contracts "comes at a cost," with embedded risk premiums corresponding to approximately $10/MWh, or 11% of the supply offer price.[9] Figure 10 of the Report reflects the historical three-year contract prices versus what the prices might have been had Delmarva utilized shorter SOS contracts. As Figure 10 shows,

> . . . in the context of decreasing market prices, shorter contracts would have resulted in cheaper cost of supply (on average) over the study period by virtue of following the market conditions more

[8] Maryland Commission Case No. 9056, Order No. 81019 at 15 (Aug. 28, 2006).
[9] Report at 8.

> closely. For instance, the historical average cost of supply was $92.8/MWh with three year contracts, while the cost could have been $91.3/MWh with two year contracts and $89.9/MWh with one year contracts.[10]

Third, there is no way to know what future market prices may be, so it is impossible to structure an SOS portfolio of longer-term contracts to "beat the market" or to increase the chances of a lower SOS rate. Even assuming that is possible – which it is not – doing so ignores Delaware law and policy favoring the creation of a competitive retail market. Regarding longer-term contracts, the Report indicates that, in rising price conditions, longer-term contracts "will lag behind market prices and provide SOS customers with lower supply costs than shorter term contracts. Conversely, in declining price conditions, longer term contracts will provide SOS customers with higher supply costs than shorter term contracts."[11] What the Report fails to mention is that, generally, retail suppliers have shown they are not inclined to participate in jurisdictions that utilize longer-term contracts and, therefore, regardless of where wholesale prices are, customers concerned solely about price have few if any options from which to choose. As examples, in New Jersey, only 13.1% of eligible residential customers have switched to a competitive supplier and only 29.2% of commercial customers (less than 500 kW).[12] In the District of Columbia, only 14.4% of residential customers have switched.[13] The three-year procurement contracts in New Jersey and in the District are virtually identical to those in Delaware, and are a significant reason for the lack of shopping in each jurisdiction.

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[10] Report at 32.
[11] Report at 54.
[12] New Jersey Electric Switching Statistics – June 2016, *available at* http://www.state.nj.us/bpu/pdf/energy/edc07.pdf.
[13] D.C. Pub. Service Comm'n, Status of Electric Choice in the District, *available at* http://www.dcpsc.org/PSCDC/media/PDFFiles/Electric/electric_sumstats_no_cons.pdf.

This lack of vibrant customer choice may not seem like a significant problem when SOS rates are low compared to the market price. It will be a problem, however, when SOS rates are high compared to the market price and those same customers have few or no competitive options to lower their electricity costs or to experience other benefits from the competitive marketplace. This is what is happening now in Delaware, as the SOS rate is higher than the market price and has been for some time. With three-year SOS contracts, significant portions of the SOS rate were locked in during times when market prices were higher than they are today. Yet, 89% of Delmarva's residential customers remain on SOS and pay more for their electricity than they should. This fact alone should raise serious red flags for the Commission and all stakeholders. While one day that scenario could flip, and market prices could be higher than the SOS rate, under the current structure the scenario will flip yet again, and customers will have few or no options from which to choose, just as they do today. That is not a structure that will result in a sustainable, robust competitive market.

One of the proven ways to ensure customers have consistent access to a broad range of products and services from electric suppliers is to price SOS in a manner that avoids a sustained divergence from underlying wholesale market prices. This can be achieved by ensuring SOS rates are more market reflective through the procurement of shorter term supply contracts and by ensuring that the lag time between procurement and delivery is as short as possible. The longer the lag between energy procurement and delivery, the more likely the SOS rate will diverge from current market prices at the time of delivery.

III. The inclusion of 10-year contracts in the SOS portfolio is unreasonable.

RESA recommends that the Commission reject the Report's proposal to include in the SOS portfolio laddered 10-year, block contracts bid out five years apart. At the July 21 working group meeting, Delmarva Power set forth a litany of reasons why the use of 10-year contracts is unreasonable, and RESA agrees with most, if not all, of those reasons. Not only would longer-term contracts thwart competition, but they would also transfer monetary risk to Delmarva Power and, in turn, to Delmarva's rate payers who are statutorily required to cover Delmarva's costs of procuring the power needed to provide SOS.

First, in prior comments and above, RESA has explained that longer-term SOS procurement contracts simply are not consistent with the creation of a competitive market. Requiring SOS RSCI customers to pay for electricity based in part on 10-year weighted average bids, which can be significantly higher or lower than current market prices for extended periods of time, serves as a barrier to robust, sustainable retail competition, as it results in "boom/bust" cycles as explained above. In short, if SOS rates diverge from current market prices for an extended period of time (either up or down), retail suppliers are likely to view that market as presenting only intermittent opportunities to attract customers. Locking in even a portion of the SOS rate (when averaged with other portions to arrive at a final SOS rate) will result in an SOS rate that has a "lag effect" when compared to wholesale market prices and will thwart the development of retail competition just as the current three-year contracts have thwarted competition to date. This is because longer-term contracts provide customers with price signals that become stale over time and that bear little relationship to actual energy market conditions.

Second, the entire premise behind longer-term contracts in the SOS portfolio is based on the concept of price stability – that the inclusion of longer-term contracts in the portfolio parlay into SOS rates that are more stable than a portfolio comprised of shorter-term contracts. That premise is not necessarily true. A longer-term contract procured when prices were low can cause customers to misunderstand price signals and not realize the true cost of energy over time as market prices increase. Then, when the longer-term contract expires and is replaced by a new long-term contract at a higher price, there is the possibility for rate shock because the SOS rate did not reflect the true cost of energy and was replaced by one that does. This is what happened when Delmarva's rate caps came off several years ago, causing SOS rates to spike. A better way to ensure price stability is through more frequent rate changes.

Numerous other jurisdictions have moved to shorter-term contracts; indeed, the former Pennsylvania Commission Chairman and Vice-Chairman explained in 2013 that three-month default service supply contracts will not harm customers. They concluded that three-month contracts "will likely decrease the volatility felt by consumers."[14] Also, the Maryland Commission considered the issue of rate stability when it adopted three-month SOS contracts for medium-sized commercial customers. The Maryland Commission concluded that "frequent, albeit small rate changes, are a better vehicle for insuring relative rate stability (and a more gradual reflection of changes in current market prices) rather than longer periods of frozen rates,

[14] *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Case No. I-2011-2237952 (Joint Statement of Chairman Robert F. Powelson and Vice Chairman John F. Coleman, Jr., issued on Feb. 14, 2013).

followed by rate shock."[15] As has been seen first-hand in other jurisdictions, an appropriate level of SOS rate stability can be achieved with shorter SOS contracts. Moreover, and perhaps more importantly, customer preferences for price stability are not homogenous. With robust and sustainable retail competition, customers are afforded the opportunity to choose the level of price stability that meets their individual needs as well as a multitude of other products and services.

Third, as the stakeholders discussed at the July 21 working group, the risk premiums embedded in longer-term contracts are real and represent more than a bidder's attempt to maximize margins. There is uncertainty in pricing, migration risk, congestion, transmission outages, weather, fuel changes, regulatory and legal risks, usage patterns, hedging, credit and collateral, and more. It was pointed out at the working group that the Report possibly understates the true risk premiums included in a 10-year contract; in the Report, the risk levels attributed to three-year contracts are the same as the risk levels in a 10-year contracts, which may not be an accurate assumption. In any event, the higher risk premiums will lead to higher SOS rates, much to the chagrin of SOS customers who, by virtue of the inclusion of longer-term contracts, will have fewer third party options from which to choose to escape what are likely to be higher SOS rates.

Fourth, the inclusion of longer-term contracts such as 10-year contracts introduces risk to Delmarva which, if realized, would be passed on to Delmarva's customers. As the Report points out, "[t]he size of the contract must also be carefully considered, as larger contracts may

[15] Maryland Commission Case No. 9056, Order No. 81019 at 16 (Aug. 28, 2006), applications for rehearing denied, Order No. 81093 (Nov. 2, 2006).

actually increase exposure of the SOS provider to spot market purchases."[16] But, before anyone can assess the extent to which Delmarva risks becoming a "day trader" of energy, one threshold question was whether a 10-year product of the type envisioned in the Report even exists in the market today. Assuming that it does, any added costs incurred for any reason, including over-reliance on spot purchases or losses from selling excess energy and capacity into the spot market, would land on SOS customers. There is no reason to introduce this kind of risk into the SOS portfolio when entities exist in the market today that specialize in undertaking exactly this kind of activity, with business models include the creation of risk management portfolios. They utilize various physical generation and financial instruments and employ teams of experts to manage pricing risks. It is more appropriate to employ an SOS portfolio that depends on shorter-term contracts and which does not transfer these various risks to SOS ratepayers.

Fifth, the Report appears to rely on 10-year contracts to offset the reliance on spot purchases. As the working group discussed, even if the SOS rate is partially set through spot purchases, the rate itself would only change twice per year. However, a portfolio comprised of 28% spot purchases and 42% 10-year contracts essentially balances uncertainty with higher-priced, anti-competitive longer term contracts. There does not seem to be a valid reason to introduce this added risk to the SOS portfolio when simply decreasing the contract durations as RESA has recommended will allow for price stability and the procurement of SOS contracts

[16] Report at 37.

with smaller embedded risk premiums than those included in two-year and three-year contracts.[17]

IV. RESA's Proposed SOS Procurement Structure

RESA encourages the Commission to transition to a market reflective procurement structure to promote competition. The Report acknowledged, and RESA agrees, that "[c]hanging the length of the [full requirements service] contracts for future procurement auctions would not require a major effort."[18] Consistent with the Report's analysis, RESA believes that the Commission can and should modify SOS procurements using transitional contracts until the expiration of current contracts.[19] However, RESA's procurement proposal, as set forth below, lays out a transition plan to more market-reflective SOS rates, which will promote competition for the benefit of Delaware consumers, while ensuring that SOS customers do not continue to suffer long periods of out-of-market SOS prices.

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[17] That being said, as RESA explained in prior comments in this docket, RESA remains concerned that the current wholesale SOS model perpetuates a strong status quo bias in favor of the incumbent utility. Because of the current model's failure to lead to a competitive market and its inability to conquer the "status quo bias" – explained as the tendency of individuals to prefer status quo options when faced with new alternatives, such as electing an incumbent, purchasing the same product or brand, staying in the same job, etc. – RESA believes that SOS can and should be fulfilled by a competitive retail supplier or suppliers rather than Delmarva. While RESA understands that some legislative changes may need to be made to pave the way for that transition to occur, RESA recommends that the Commission consider the transition to competitive supplier-provided default service in this proceeding. The retention of Delmarva, the incumbent EDC, as the provider of SOS presents structural barriers that impede competitive market development, to varying degrees based on customer class, ultimately preventing customers from achieving the benefits of a fully workable and competitive market. To address this, RESA proposes that the Commission implement a process by which retail electricity suppliers would be transitioned into the SOS role in the near term. This is the optimal way to accomplish the objective of a fully robust, sustainable competitive retail market structure which provides both downward pressure on prices and spurs innovation that results in new products and services for consumers and businesses while potentially creating needed jobs and other economic development opportunities in Delaware. RESA is willing to participate in a collaborative to reach consensus with stakeholders as to the best path towards implementation of a retail SOS model.

[18] Report at 55.

[19] *Id.*

1. RESA's Proposal for RSCI Customers:

To overcome the negative effects of the current SOS procurement structure and promote the development of a sustainable, competitive retail market in Delaware, RESA recommends that the Commission direct Delmarva to begin a transition for SOS residential and small commercial customer classes that will ultimately end with quarterly SOS rates. Beginning with next year's SOS auction, Delmarva would begin the transition from 3-year laddered SOS supply contracts to 1-year contracts, a transition that would take three years to complete. Beginning next year, Delmarva would procure supply to serve one-third of the residential and small commercial (under 100 kW) SOS load using one-year contracts procured no more than 60 days prior to delivery. The remaining two-thirds would have already been procured in prior auctions. In year two of the transition, Delmarva would procure two-thirds of its RSCI SOS load using one-year contracts. In year three, the first phase of the transition would be complete, with 100% of the SOS supply for RSCI load being procured with one-year contracts. During the first phase of the transition under RESA's proposal, SOS rates would continue to change twice per year, on a seasonal basis, just as they do today. After the SOS annual wholesale contracts expire, they would be replaced with three-month contracts, just as is being contemplated in Pennsylvania and Illinois.

RESA's proposal is consistent with Delaware law, which established choice and encourages the development of competitive retail electricity markets. Additionally, Delaware law requires Delmarva Power to formulate an integrated resource plan ("IRP") that evaluates available supply options during a 10-year planning period to meet its customers' needs "at a minimal cost."[20] While there is no definition of "minimal cost," it is generally understood, and the Report acknowledges, that shorter-term energy contracts do not include the risk premiums associated with longer-term contracts. According to the Report, the historical average costs to Delmarva Power RSCI SOS customers for three-year contracts was higher due to a risk premium incorporated into the bids, relative to what they could have been under one-year contracts that have smaller market risk premium.[21]

Moreover, other jurisdictions, such as Pennsylvania, have statutes that require the utility's default service to be "least cost," and the Pennsylvania Public Utilities Commission ("PA PUC") has approved default service plans that include supply contracts with durations of one year and less. As one recent example, in January 2015, the PA PUC approved a default service plan for PPL Electric Utilities Corporation in which 45% of the supply to support residential and small commercial and industrial customers will be procured through six month contracts and the other 55% will be procured through twelve month contracts.[22] As another example in a field of many, in January 2013, the PA PUC approved a default service plan for Duquesne Light Company that, for residential customers, consisted entirely of 1-year supply contracts.[23] At the time, Duquesne Light's residential default service customers were being served via a 29-month fixed price, which is even less market reflective than the current

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[20] 26 Del. C. § 1007(c)(1).
[21] Report at 32.
[22] PA PUC, *In re: Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and PPA Procurement Plan for the Period June 1, 2015 through May 31, 2017*, Docket No. P-2014-2417907, Joint Petition for Approval of Partial Settlement at 7 (Sept. 12, 2014).
[23] PA PUC, *Petition of Duquesne Light Company for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015*, Case No. P-2012-2301664, Opinion and Order (Jan. 25, 2013), a copy of which can be found at: http://www.puc.state.pa.us//pcdocs/1210459.docx.

Delmarva Power SOS rate, and the PA PUC determined that 1-year contracts satisfied Pennsylvania law calling for "least cost" and "stable" default service rates.[24] To RESA's knowledge, customers in the PPL and Duquesne Light service territories have not complained that their default service rates lack stability, and Duquesne Light's 12-month contracts were in place during and after the 2014 polar vortex.

As yet another example, the PA PUC voted unanimously to require EDCs, by June 1, 2015, to offer a 3-month default service product or, alternatively if legislative efforts fall short, a shorter-term product versus what is currently being offered to residential and small business customers.[25] The Commission issued this directive with the main goal of creating a more market-based price-to-compare, which mitigates the potential for over- or under-recovery by the EDC as well as the potential for "boom-bust" scenarios to occur.[26] As mentioned above, the Commission ruled that "the elimination of potential 'boom/bust' cycles will create a more sustainable retail market, which, in turn, should lead to enhanced product offerings to consumers and long-term EGS investments within Pennsylvania."[27]

In conjunction with the order, the former PA PUC Chairman and Vice-Chairman issued a statement on February 14, 2013. In addition to acknowledging that shorter-term contracts

[24] *Id*. at 37. The PA PUC in 2015 modified Duquesne Light's default service portfolio, keeping the 12-month contracts but requiring that they be laddered contracts. PA PUC, *Petition of Duquesne Light Company for Approval of a Default Service Program for the Period from June 1, 2015 through May 31, 2017*, Docket No. P-2014-2418242 (Opinion and Order at 25, issued January 15, 2015), a copy of which can be found at: http://www.puc.state.pa.us//pcdocs/1337912.docx. RESA would be open to modifying its proposal in this proceeding to ladder the proposed 12-month contracts, although the ensuring retail SOS rates would not be as market reflective as RESA's current proposal.

[25] *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Case No. I-2011-2237952, Final Order at 41 (Feb. 15, 2013), a copy of which can be found at: http://www.puc.state.pa.us//pcdocs/1214105.docx).

[26] *Id*. at 24.

[27] *Id*. at 24, 14.

"reduce the likelihood of a 'boom or bust' customer migration cycle and the likelihood of significant over- or under-collections" by the EDC,[28] they rejected the argument that 3-month default service contracts would harm customers by subjecting them to price volatility. They concluded that the PA PUC's proposed reforms "will likely *decrease* the volatility felt by consumers."[29] They concluded that:

> … the Commission's proposal of transitioning customers that remain on default service to more market-based pricing will not harm those customers. Further, customers wanting price stability have every opportunity to purchase such a product from a competitive supplier in the form of a fixed-price contract.[30]

The Commission should look to decisions and orders such as those mentioned above for guidance in determining the appropriate Delaware SOS structure. RESA recommends that the Commission consider annual SOS supply contracts as the next logical step in advancing retail competition in Delaware.

2. RESA's proposal for medium and large C&I customers:

Delmarva Power currently provide SOS to its non-residential customers, other than small commercial and industrial and GS-T customers, by procuring power utilizing one-year procurements, and there are 11 GS-T customers that receive hourly-priced service. Under RESA's proposal for non-residential customers larger than 25 kW (with the exception of GS-T customers), Delmarva Power would transition from one-year SOS supply contracts to 3-month

[28] *Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Case No. I-2011-2237952 (Joint Statement of Chairman Robert F. Powelson and Vice Chairman John F. Coleman, Jr., issued on Feb. 14, 2013, a copy of which can be found at: http://www.puc.pa.gov/general/pdf/Comm-SM/Powelson_Coleman_JTStmt_dir2237952_021413.pdf) ("Joint Statement"). The PA PUC's February 14, 2013 press release can be found at: http://www.puc.state.pa.us/about_puc/press_releases.aspx?ShowPR=3118.

[29] Joint Statement at 3 (emphasis in original).

[30] *Id*. at 4.

contracts. As explained below, these customers have exhibited a tendency to shop for their electricity, and the time is right to transition to a more market-reflective SOS rate to sustain and grow the competitive market and options for these customers. Ultimately, these customers should receive hourly pricing as their default service.[31]

Perhaps the best comparison involving similarly-sized customers is Maryland's Type II service to customers 25 kW up to 600 kW. When the Maryland Commission adopted three-month contracts for these customers, 67% of the Type II load was already shopping. In Delaware, approximately 59% of the similarly-sized customers, representing almost 85% of the load, were shopping as of July 2016.[32] Even the smaller medium-sized C&I customers (25kW up to 99.9 kW) have shown a propensity to shop, as 51% of those customers representing 54% of that load had shopped as of July 2016.[33] In essence, these customers have not been shy about testing the market. Transitioning these customers to quarterly SOS rates that are more market-reflective than the current 1-year contracts will ensure that competitive options continue to thrive and grow.

The Maryland Commission, in adopting quarterly SOS rates for its 25 kW to 600 kW customers, addressed the impact of quarterly rate changes on price stability. The Commission

[31] In the PPL and PECO service territories, the PA PUC recently approved default service plans that provide for hourly default service for customers above 100 kW. *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2015 Through May 31, 2017*, Docket No. P-2014-2417907 (Opinion and Order issued on January 15, 2015), a copy of which can be found at: http://www.puc.state.pa.us//pcdocs/1338235.docx; *see also Petition of PECO Energy Company for Approval of its Default Service Program for the period from June 1, 2015 through May 31, 2017,* Docket No. P-2014-2409362 (Opinion and Order at 39, issued December 4, 2014) (approving a Partial Settlement that includes a timeline to lower the hourly threshold to 100 kW, holding in part that the Partial Settlement is consistent with prior Commission pronouncements), a copy of which can be found at: http://www.puc.state.pa.us//pcdocs/1329463.docx.
[32] Delmarva Power, Electric Supply Choice Enrollment Information Monthly Report for the Period Ending July 2016, *available at* http://depsc.delaware.gov/electric.shtml.
[33] *Id*.

determined that "rate stability is an important public policy goal generally, and particularly with respect to SOS," and that "[t]he upshot is that frequent, albeit small rate changes, are a better vehicle for insuring relative rate stability (and a more gradual reflection of changes in current market prices) rather than longer periods of frozen rates, followed by rate shock.[34] Thus, just as quarterly rate changes were acceptable in Maryland for this customer group, RESA recommends that quarterly supply procurements and rate changes be implemented for Delaware's medium and large C&I customers that are currently served SOS via one-year contracts.

V. Conclusion

RESA appreciates the opportunity to comment on the above issues. RESA recommends that the Commission take all reasonable steps to develop robust and sustainable competitive electricity markets and to ensure appropriate consumer protections. The SOS structure plays a huge role in that process. RESA requests that the Commission adopt RESA's proposed modifications as explained above.

[34] *In the Matter of the Commission's Investigation into Default Service for Type II Standard Offer Service Customers*, Case No. 9056, Order No. 81019 at 16 (Aug. 28, 2006), a copy of which can be found at: http://webapp.psc.state.md.us/Intranet/Casenum/NewIndex3_VOpenFile.cfm?ServerFilePath=C:\Casenum\9000-9099\9056\\079.pdf (application for Rehearing Denied, Order No. 81093 (Nov. 2, 2006), a copy of which can be found at: http://webapp.psc.state.md.us/Intranet/Casenum/NewIndex3_VOpenFile.cfm?ServerFilePath=C:\Casenum\9000-9099\9056\\090.pdf).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Comments were emailed on August 31, 2016, to each person included on the service list for this proceeding.

/s/ Brian R. Greene
Brian R. Greene