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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. 16-0744**

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,

A handwritten signature in blue ink, appearing to read 'Brian R. Greene', is written over a light blue rectangular background.

Brian R. Greene

Enclosures

CC: Service List

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

In the Matter of the Petition of Direct Energy)
Services, LLC to Request the Public Service)
Commission to Issue, on an Expedited Basis,)
an Order Directing Delmarva Power & Light) PSC DOCKET NO. 16-0744
Company to Distribute an Educational Bill)
Insert Regarding the Options Available Under)
the Contract Awarded by the State of)
Delaware (Filed June 30, 2016))

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

August 31, 2016

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COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

I. Introduction and Background

On July 1, 2015, the Delaware General Assembly approved Senate Substitute No. 1 for Senate Bill 160, FY2016 Bond and Capital Improvements Act of the State of Delaware.¹ Section 68 of Senate Substitute No. 1 (“Section 68”) created an Electricity Affordability Committee (“EAC”) charged with: (1) evaluating an opt-in electricity program; (2) deciding if such a program is beneficial for customers; (3) selecting and contracting with a Commission-certified retail supplier; and (4) directing the Commission to coordinate the implementation of the program including appropriate customer awareness and marketing activities.

After a bid process, the Commission selected Direct Energy Services, LLC (“Direct Energy”) to provide the opt-in program pursuant to Section 68 as the “Electric Retail Supplier Exclusively Contracted by the State of Delaware.”

On June 30, 2016, Direct Energy filed a Petition requesting, on an expedited basis, an order directing Delmarva Power & Light Company (“Delmarva”) to distribute a bill insert regarding retail energy choice options offered to Delmarva’s customers by Direct Energy under the opt-in contract. According to the Petition, “[a]s part of Direct Energy’s response to the State’s request for proposals (RFP) it indicated that, for the citizens of Delaware to obtain the maximum benefit from the Contract, a Commission sponsored or coordinated consumer education effort would be helpful.”² The bill insert proposed in the Petition would be mailed to all of Delmarva’s eligible residential and small commercial and industrial (“RSCI”) customers and would provide

¹ Senate Substitute No. 1 for Senate Bill 160, at Section 68, a copy of which can be found at: [http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/SS+1+for+SB+160/\\$file/legis.pdf?open](http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/SS+1+for+SB+160/$file/legis.pdf?open).

² Petition at ¶ 4.

information on: (1) the customer's ability to shop; (2) assurances that a customer's distribution service will not be affected; (3) a summary of the EAC program; and (4) a description of the retail products along with the terms and conditions being offered by Direct Energy under the opt-in program.³ Direct Energy proposes to pay for the inserts and the incremental mailing costs so that neither Delmarva nor its ratepayers will bear the costs.

On July 26, 2016, the Commission entered Order No. 8922, establishing an intervention and comment date of August 31, 2016, as well as a hearing date on September 20, 2016. Pursuant to Order No. 8922, the Retail Energy Supply Association ("RESA"),⁴ by counsel, submits these comments in response to Direct Energy's Petition.

Since the time that Direct Energy filed its Petition, RESA and Direct Energy have conferred about the relief requested and the benefits of utilizing bill inserts to inform Delmarva's RSCI customers not only about choice in general and Direct Energy's opt-in program, but also other currently-available competitive offers. As a result of these discussions, RESA recommends that the Commission direct Delmarva Power to include two inserts in customers' bills – one as requested by Direct Energy and a second that would afford other retail suppliers the opportunity to list or describe their current offers. Modifying Direct Energy's request to include a second insert in the same bill is consistent with Section 68 and with Delaware's policy to establish

³ *In the Matter of the Petition of Direct Energy Services, LLC to Request the Public Service Commission to Issue, on an Expedited Basis, an Order Directing Delmarva Power & Light Company to Distribute an Educational Bill Insert Regarding the Options Available Under the Contract Awarded by the State of Delaware*, Docket No. 16-0744, Petition at 1-2 (June 30, 2016).

⁴ 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.

competitive retail electricity markets, and would enhance the visibility of choice options in Delaware consistent with the concerns raised by the EAC, as explained in more detail below.

II. RESA's Comments

1. Providing information through two bill inserts will ensure that customers receive information about all of the electricity offers available to them in the competitive market.

The development of Delaware's retail energy supply choice market is best served when customers receive information about the wide variety of products and services available from the various competitive suppliers making offers to Delaware consumers. RESA appreciates that Direct Energy was awarded an exclusive contract with the State of Delaware and commends Direct Energy for its work to facilitate competitive markets in Delaware. Consistent with that goal, RESA supports Direct Energy's Petition and believes that a second insert should be added to Direct Energy's insert, in the same bill. This would ensure that customers receive information about the available offers from retail suppliers who choose to be included in the insert.

Competition thrives when customers are empowered to learn about the whole range of offers available in the marketplace and select the best option to fit their families' and businesses' needs. Indeed, the policy goal of Section 68 and the programs under the retail enhancement programs under consideration in Docket No.15-1693 is to enhance competition – to bring more suppliers and products to the market and, at the same time, increase customers' awareness about their right to shop for electricity and the options available to them. As RESA expressed in the working groups, an exclusive contract between the State of Delaware and one supplier should be viewed as a first step to achieve the bigger goal of developing a competitive retail electricity market. As competition grows and the electricity market in Delaware develops for RSCI customers, RESA expects the number and types of offers available to Delaware customers to expand and evolve with customer preferences. Expanding the information available to

customers, as requested by Direct Energy in its Petition, to include two bill inserts – one for Direct Energy and one for all other suppliers in the market – would more fully inform customers of the array of offers available to them.

2. Providing information about available offers is consistent with Section 68, the EAC, and Delaware’s Electric Utility Restructuring Act of 1999, as amended.

The initial meetings of the EAC, to discuss implementation of Section 68 and the selection of an opt-in retail program, seemed to spark a broader discussion about the general lack of RSCI customers’ awareness about their right to shop for electricity, and the lack of competitive electricity options for RSCI customers. Subsequently, the Chairman of the EAC asked the Commission Staff and the Division of the Public Advocate (“DPA”) Staff to examine the structural aspects of energy choice in Delaware; investigate ways to enhance the visibility of and improve participation in customer choice; and examine what, if any, options might be available to enhance customer choice that may not have been considered.⁵ In response to the Chairman’s request, the Commission and DPA Staff convened two working group meetings with stakeholders to discuss these issues as well as the issues identified in Section 68.

After the working group process, the EAC recommended that the Commission open a separate docket to consider specific programs to “enhance customer choice, lower energy supply costs consistent with the public interest, as well as examine options for increasing customer awareness and education in Delaware regarding these issues.”⁶ In response, the Commission opened Docket No. 15-1693 and identified specific programs for consideration that could

⁵ See, e.g., Delaware Public Service Commission and Delaware Division of the Public Advocate, Joint Review of Delaware’s Customer Choice, Findings and Recommendations for Electricity Affordability (Nov. 13, 2015).

⁶ Docket No. 15-1693, *In the Matter of the Review of Customer Choice in the State of Delaware*, Order No. 8845 at 3 (Jan. 19, 2016).

enhance choice. Thus, through the implementation of Section 68, participation in the EAC, and the consideration of new programs in Docket No. 15-1693, the Commission has shown a desire to develop competitive electricity markets consistent with Electric Utility Restructuring Act of 1999⁷ and Delaware's Electric Utility Retail Customer Supply Act of 2006.⁸ The Commission's actions are also consistent with Commission Staff's previous observation that, "[t]he policy underlying [the Electric Utility Restructuring Act of 1999] was to encourage a competitive market for the supply of electricity and the availability of customer choice, as well as to deregulate the generation, supply and sale of electricity."⁹

The utilization of two bill inserts encourages the competitive market and enhances choice visibility in line with the goals of Section 68, the EAC's mission, and Delaware statutes. First, it ensures that the State's contract with Direct Energy will be successful, as all eligible customers will receive information about Direct Energy's program and the opportunities it presents for them to realize savings. Second, by informing customers of their variety of shopping opportunities as opposed to opportunities from just one supplier, the use of two bill inserts will increase customers' awareness and education about their right to purchase electricity from their choice of electric suppliers.¹⁰ Third, allowing for two inserts is consistent with the Commission's oversight over the State opt-in program and also the Commission's responsibility to educate customers about choice. Specifically, Section 68 designates the Commission as the entity to

⁷ 72 Del. Laws, c. 10 (1999).

⁸ 75 Del. Laws, c. 242 (2006).

⁹ *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, Motion of Commission Staff Seeking a Review of Retail Electricity Supply Prices on Behalf of Delmarva Power & Light Company Customers and Consideration of Long Range Alternative Supply Option at ¶ 9 (filed August 14, 2014).

¹⁰ 26 Del. C. § 1003.

coordinate implementation of the State program, “including appropriate customer awareness and marketing activities.” Expanding the information sent to customers to include additional available offers paints a more complete picture for customers and allows them to obtain the benefits of retail competition consistent with the Electric Utility Restructuring Act.

The use of two inserts is especially necessary because the Commission does not have a means for customers to find and compare current offers. By comparison, the Pennsylvania Public Utilities Commission has developed and maintains a website, www.papowerswitch.com, where customers can search for available offers and choose what is best for them. Other commissions such as Maryland and the District of Columbia maintain lists of available offers on their own websites. There is no such mechanism in Delaware for customers to find and compare available offers. Without this kind of tool for customers, it is even more imperative that Delaware find other methods to educate customers about the Direct Energy program and other offers in the market. And, perhaps more importantly, even if this type of tool did exist, it would not be as effective as a bill insert sent to account holders who will open the bill because they need to pay it. There is no assurance that a customer will, on his or her own, visit a web page, especially if they are unaware of their right to choose to begin with.

Furthermore, the use of two bill inserts fends off any argument that allowing only Direct Energy to be on a bill insert discriminates against other retail suppliers who are active in Delaware. Finally, in an order allowing for two inserts, the Commission could include language that this is a one-time event, made possible by the unique legislation that is Section 68, and that the Commission’s decision will not serve as precedent to require a bill insert for any retail supplier that chooses to market to RSCI customers in the future. Simply put, this is a wonderful opportunity for the Commission to educate RSCI customers about available electricity offers

from retail suppliers, including by Direct Energy through the State program, in a fair and non-discriminatory manner, at no cost to Delmarva or its ratepayers.

In sum, the use of two bill inserts helps to more fully inform customers of their right to choose and of available offers, consistent with Section 68, the EAC, and the Electric Utility Restructuring Act of 1999.

3. The inserts can be implementation timely.

Under RESA's recommendation, Direct Energy would design and pay the incremental costs for its own bill insert, as it requested in its Petition. Other suppliers, however, which presumably offer prices, contract durations, and value-added products and services different from those offered by Direct Energy, and who have invested in Delaware, should have the opportunity to be included on a separate insert to ensure that customers are afforded the opportunity to understand the electricity market and the offers available to them. The retail suppliers that desire to be included in the second insert would be required to pay their portion of the cost of the insert and Delmarva's incremental mailing costs.

To implement this approach, RESA recommends that the Commission require Delmarva to provide a list of retail suppliers actively serving RSCI customers as of September 1, 2016. Commission Staff, with the assistance of RESA if requested, would contact these suppliers and convene a meeting along with DPA to discuss the design, substance, printing, and other details regarding the insert.¹¹

RESA is confident that this process can be concluded in a short period of time so as to facilitate Direct Energy's request for an expedited conclusion of this proceeding and to begin

¹¹ Alternatively, or in addition to contacting retail suppliers actively serving Delmarva's RSCI customers, the Commission could issue a Public Notice convening a meeting to discuss the issues relating to the "all other suppliers" bill insert.

mailings by the end of October 2016. The retail suppliers who desire to participate in the mailing would be required to pay their share, as described above. Members of RESA who are actively serving Delaware's RSCI customers look forward to participating in these meetings and to developing a bill insert that will educate Delmarva's customers about the competitive offers available to them.

III. Conclusion

RESA appreciates the opportunity to provide comments in response to the Direct Energy Petition. RESA respectfully requests that the Commission direct Delmarva Power to include two inserts in bills for residential and small commercial customers that, collectively, will provide customers with information about the range of retail energy supply offers available from competitive suppliers as set forth above.

Respectfully submitted,

RETAIL ENERGY SUPPLY ASSOCIATION

By Counsel

/s/ Brian R. Greene
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Comments was sent on August 31, 2016, to all those identified on the service list for Docket No. 16-0744.

/s/ Brian R. Greene
Brian R. Greene