



Brian R. Greene
GreeneHurlocker, PLC
1807 Libbie Avenue, Suite 102
Richmond, Virginia 23226
(804) 672-4542 (Direct)
BGreene@GreeneHurlocker.com

January 22, 2018

By Electronic Filing

Ms. Brinda Westbrook
Commission Secretary
Public Service Commission of the District of Columbia
1333 H Street, NW, 2nd Floor, West Tower
Washington, DC 20005

Re: Rulemaking 41

Dear Ms. Westbrook:

Attached for electronic filing in the referenced matter please find the Comments of the Retail Energy Supply Association.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Brian R. Greene'.

Brian R. Greene

Enclosure

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

The District of Columbia Standard Offers Service Rules)))	Rulemaking 41-2017
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**REPLY COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. Introduction

On December 15, 2017, the Public Service Commission of the District of Columbia (the “Commission”) issued a Notice of Proposed Rulemaking (“NOPR”) inviting comments on proposed amendments to Chapter 41 of Title 15 of the District of Columbia Municipal Regulations pertaining to Standard Offer Service (the “SOS Rules”). The NOPR states that the changes proposed to Chapter 41 of the SOS Rules is being proposed to make these rules consistent with proposed amendments to Subsection 327.35 of Chapter 3, the Consumer Bill of Rights (“CBORs”) regarding customer switching. The proposed change to Subsection 327.35 would alter the current switch times from 17 days before the customer’s next meter read date to three business days from the time the utility receives the switch request from the retail supplier, regardless of the meter read date. The NOPR proposes changes to Rule 4105.9 of the SOS Rules to effectuate Subsection 327.35.

The Retail Energy Supply Association (“RESA”),¹ by counsel, submits these comments in response to the NOPR. First, the proposed changes in the NOPR to Rule 4105.9(b) and (d)

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.

would not be consistent with three-business-day switching as proposed in the CBORs. Second, the proposed changes conflict with the District's three-business-day rescission period in the CBORs. As a result of these two issues, RESA submits proposed alternative language for the Commission's consideration.

II. Proposed Subsection 327.35 of the CBORs and Proposed Subsection Rule 4105.9 of the SOS Rules

In RM-3, the Commission has proposed Subsection 327.35, which would read as follows:

The Electric Utility shall transfer a Customer to a competitive electricity supplier in no later than three (3) business days after receiving the notice of an enrollment transaction from the competitive electricity supplier. The Electric Utility shall transfer a customer to Standard Offer Service in no later than three (3) business days after receiving the Customer's request.²

For the SOS Rules to be consistent with 327.35, the NOPR proposes the following changes to Rule 4105.9 of the SOS Rules:

4105.9 Notice of Transfers; Transfer of Service; Bill Calculation:

- (a) Notice of Transfer into SOS: A customer who intends to transfer into SOS shall do so by notifying the Electric Company and the SOS Administrator or by canceling service with its Competitive Electricity Supplier.
- (b) Transfer into SOS: If the customer notifies the Electric Company and the SOS Administrator no later than three (3) business days after receiving the notice of an enrollment transaction from the competitive supplier ~~less than seventeen (17) days before the customer's next normally scheduled meter read date~~, the Electric Company and the SOS Administrator shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the following meter read date. The Electric Company and the SOS Administrator shall accommodate the request to the greatest extent practicable.
- (c) Notice of Transfer out of SOS: Notice that a SOS customer will terminate SOS and obtain service from a Competitive Electricity Supplier shall be provided to the Electric Company and the SOS Administrator by the

² See Notice of Second Proposed Rulemaking, RM-3-2014 (Dec. 22, 2107).

customer's Competitive Electricity Supplier pursuant to Chapter 3 of Title 15 of the District of Columbia Municipal Regulations; and

- (d) Transfer out of SOS: If the Competitive Electricity Supplier notifies the Electric Company and the SOS Administrator no later than three (3) business days after receiving the notice of an enrollment transaction from the customer ~~less than seventeen (17) days before the customer's next meter read date~~, the Electric Company and the SOS Administrator shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the subsequent meter read date.

III. RESA's Concerns with the Proposed Changes to 4105.9.

As stated above, RESA has two concerns with the proposed changes to 4105.9. First, the change does not accomplish the Commission's intent of marrying the SOS Rules with the proposed CBORs when it comes to three-business-day switching. One goal of three-business-day switching was to remove the relationship between a customer's switch date and the meter read date. In other words, the utility will effectuate a switch within three business days of receiving the request regardless of the customer's meter read date. Under the proposed changes to 4105.9, however, the utility would continue to process switches on the meter read date.

Second, the proposed 4105.9(d) would require the supplier to notify the utility of the switch no later than three business days after entering into a contract with the customer. This conflicts with the three-business-day rescission period in the CBORs. Generally, a supplier and a customer enter into a contract, which triggers the three-business-day rescission period during which the supplier holds the enrollment and does not submit it to the utility.³ After the rescission period expires, the supplier submits the enrollment to the utility, which then has three business days to process it. The proposed rule 4105.9(d) would require suppliers to submit the request to the utility before the rescission period has expired.

³ For example, where a customer contracts with a supplier at a storefront or home in the District and the supplier obtains the customer's written or electronic signature pursuant to the CBORs, the three-business day rescission period begins on that day.

IV. RESA's Proposed Language

RESA proposes the following changes for the current 4105(b) and (d):

- (a) Notice of Transfer into SOS: A customer who intends to transfer into SOS shall do so by notifying the Electric Company and the SOS Administrator or by canceling service with its Competitive Electricity Supplier.
- (b) Transfer into SOS: The Electric Company and the SOS Administrator shall transfer the customer to SOS within three (3) business days of receipt of the customer's notice of intent to transfer into SOS. If the customer notifies the Electric Company and the SOS Administrator no less than seventeen (17) days before the customer's next normally scheduled meter read date, the Electric Company and the SOS Administrator shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the following meter read date. The Electric Company and the SOS Administrator shall accommodate the request to the greatest extent practicable.
- (c) Notice of Transfer out of SOS: Notice that a SOS customer will terminate SOS and obtain service from a Competitive Electricity Supplier shall be provided to the Electric Company and the SOS Administrator by the customer's Competitive Electricity Supplier pursuant to Chapter 3 of Title 15 of the District of Columbia Municipal Regulations; and
- (d) Transfer out of SOS: The selected Competitive Electric Supplier shall notify the Electric Company and SOS Administrator of the customer's selection after the expiration of the Rescission Period under Chapter 3 (Consumer Rights and Responsibilities) of Title 15 (Public Utilities and Cable Television). The Electric Company shall transfer a customer to the Competitive Electric Supplier in no later than three (3) business days after receiving the notice of an enrollment transaction from the Competitive Electric Supplier. If the Competitive Electricity Supplier notifies the Electric Company and the SOS Administrator no less than seventeen (17) days before the customer's next meter read date, the Electric Company and the SOS Administrator shall transfer the customer on the customer's next meter read date. Otherwise, transfer will occur on the subsequent meter read date.

Under RESA's proposed language, a customer transferring from SOS to a supplier would be switched within three business days after the supplier notified the utility of the switch. That would not happen under the language in the NOPR. Also under RESA's language, the SOS

customer that selected a supplier would be afforded the full benefit of the three-business-day rescission period, after which the supplier would submit the switch request to the utility. That also would not happen under the language in the NOPR.

Moreover, RESA's language allows a supplier to hold the SOS customer's switch request for longer than three business days – after the expiration of the rescission period – if the customer requests a later start date with the supplier. This scenario can happen if a supplier's offer does not begin until a specific date. It would also be consistent with the language throughout the proposed CBORs that applies to customers transferring from one supplier to another. In that scenario, a scheduled switch date beyond the expiration of the Rescission Period may be necessary if, for example, a customer seeks to avoid paying an early termination fee and therefore schedules a switch for the last day of his or her current contract. When marketing to customers, supplier generally will not know whether the customer is an SOS customer or is currently taking service from another supplier. Flexibility for scheduling the switch date, so long as the customer is afforded the full benefit of the rescission period, is reasonable and in customers' best interests.

V. Conclusion

RESA appreciates the opportunity to respond to this NOPR and respectfully requests that the Commission make the changes explained above.

Respectfully submitted,

RETAIL ENERGY SUPPLY ASSOCIATION

By Counsel



Brian R. Greene
GREENEHURLOCKER, PLC

1807 Libbie Avenue, Suite 102
Richmond, Virginia 23226
Tel: 804.672.4542 (direct)
Fax: 804.672.4540
BGreene@GreeneHurlocker.com

Dated: January 22, 2018

Certificate of Service

I certify that true copies of the foregoing Comments of the Retail Energy Supply Association were mailed on January 22, 2018 to all those identified on the service list for RM-41.



Brian R. Greene