GreeneHurlocker
Attorneys at Law

Brian R. Greene
BGreene@GreeneHurlocker.com
Direct Dial: 804.672.4542

March 4, 2026

VIA E-FILING
The Honorable Crystal Beenick, Secretary
Delaware Public Service Commission
861 Silver Lake Boulevard, Suite 100
Dover, DE 19904

Re: In the Matter of the Adoption of Rules and Regulations to Implement the Provisions of 26 Del. C. Ch. 10 Relating to the Creation of a Competitive Market for Retail Electric Supply Service (Opened April 27, 1999 and as Amended) PSC Regulation 3001

Dear Secretary Beenick:

On behalf of the Retail Energy Supply Association, attached are Comments to be filed in this matter.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Brian R. Greene

Enclosure
c: Service List

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE ADOPTION OF RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF 26 DEL. C. CH. 10 RELATING TO THE CREATION OF A COMPETITIVE MARKET FOR RETAIL ELECTRIC SUPPLY SERVICE (OPENED APRIL 27, 1999 AND AS AMENDED)	))))))	PSC REGULATION 3001

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

On January 7, 2026, the Delaware Public Service Commission ("Commission") issued Order No. 10928, directing the publication of revised Electric Supplier Rules (Reg. 3001). The Commission subsequently issued a Public Notice establishing a written comment date of March 4, 2026, to be considered at a hearing set for March 11, 2026. The Retail Energy Supply Association ("RESA"),[1] by counsel, submits these comments pursuant to Order No. 10928 and the Public Notice. RESA appreciates the opportunity to participate in these proceedings and to offer recommendations for regulations to move the competitive retail market forward.

I. About RESA

RESA is a non-profit trade association representing a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more innovative and efficient, customer-oriented outcome than the regulated utility structure. RESA and its members are actively involved in the development of retail and wholesale competition in electricity and natural gas markets throughout the United States. RESA has been

[1] The Comments expressed in this filing represent the position of 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 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.

involved in nearly every energy choice-related proceeding at this Commission for over 25 years, and numerous RESA members and their affiliates are electric suppliers serving retail customers in Delaware.

II. RESA's Comments on the Proposed Revised Regulations

1. Notice of Variable Price – § 7.1

The current § 7.1 requires a supplier to make the variable price for the next billing period available to the customer in a clear, easy-to-access format at least 12 days before the close of the customer's billing period. The current § 7.1.3 prescribes the various times when the supplier must disclose to the customer how to access the variable price, including at the time of contracting, in the contract summary, when sending required notices, upon request, and if the supplier were to change the directions for accessing the variable price.

The proposed revisions include two changes. First, the revisions would place an affirmative obligation on the supplier to notify the customer of a change in the variable price. Second, the supplier would be required to provide the notice "using at least 2 of the following methods: by telephone, written notice, or electronic notice." RESA does not oppose the first change, which would obligate suppliers to notify their customers of a variable price change. As explained below, RESA opposes the second change, which would obligate the supplier to send or transmit multiple notices using at least two different formats.

Requiring multiple notices in multiple formats is problematic, if not impossible, because suppliers often do not have a customer's telephone number, address, and valid email for communication. Additionally, customers sometimes do not have two methods of receiving a notice. Furthermore, customers do not want to receive notices in multiple formats and are often confused when it happens. As an example, a customer enrolling with a supplier usually does not want to

provide his or her cell phone number or email. As another example, if a customer wanted to receive *only* one communication, a second communication should not be required.

Moreover, electric suppliers must adhere to the Federal Trade Commission's ("FTC") Telemarketing Sales Rules ("FTC Rules), 16 CFR Part 310 *et seq*., which regulate telemarketing practices to protect customers. The FTC rules apply to a business's calls and texts to its current customers. Even if there is an "established business relationship" as defined in the FTC rules, a business cannot use a pre-recorded voice or auto-dial without prior written consent. The FTC rules will make it more difficult, if not impossible, to notify customers by phone or text of the next month's variable price. This supports RESA's recommendation for only one notice.

Given these challenges, RESA proposes to require suppliers to send one notice and to revise the proposed § 7.1 as follows:

> No electric supplier shall change a residential customer or small commercial customer's variable price unless, at least 12 calendar days prior to the close of the customer's billing period, the electric supplier provides the customer with notice **~~using at least 2 of the following methods:~~** by telephone, written notice, or electronic notice. The notice**~~s~~** shall clearly state the variable price and how to access the variable price.

To reiterate, RESA does not oppose an affirmative notice obligation by suppliers with customers where a variable price will change from one month to the next. RESA's recommendation is with respect to the number of notices and using two different formats.

2. Changes in Fixed Price or Material Terms – § 9.1

The current § 9.1 requires a supplier to notify the customer at least 30 days, and not more than 60 days, before the effective date of a proposed change to the fixed price or material term. The proposed revised § 9.1.1 would require suppliers to provide at least two notices in different formats (telephone, written notice, or electronic notice). Similar to the proposed notice provision

for a change in the variable price discussed above, providing two notices in different formats is problematic, if not impossible for both customers and their supplier.

Rather than reinvent the wheel on notices to a change in contract terms, RESA recommends the Commission adopt provisions akin to those in Pennsylvania Code § 54.10,[2] which mandates two notices to a customer. The first notice is provided 45 to 60 days prior to the expiration date of the fixed contract or the effective date of the proposed change in terms. Customers may choose how they want to receive the notice, and the rule lists six items that must be included in the notice. The items include not only a description of the change in terms or information about the contract expiration, but also that a second notice will be issued with details regarding the proposed change and the customer's options.

The second notice under the Pennsylvania rule is the "options notice," provided by first class mail at least 30 days prior to the expiration of the fixed contract or the proposed change in terms. The options notice advises the customer of the changes being proposed and informs the customer how to exercise his or her options, including the ability to accept the proposed changes, to choose another product offering from the customer's existing supplier, to select another supplier, or to return to utility service.

Pennsylvania's two-notice process has been in place since 2014, and many of the electric suppliers doing business in Delaware also do business in Pennsylvania, so it is a familiar process for suppliers and has served customers well. In implementing it in Delaware, RESA recommends that the two-notice process apply to both a change in fixed price contract terms and the expiration or cancellation of a contract. RESA's recommendation – which goes beyond the current or

[2] *See* https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter54/chap54toc.html#54.10.

proposed revised rule in terms of customer protection – would require the following redlines and would conform to Pennsylvania's Rule 54.10:

9.0 Notice of Change in Fixed Price or Material Terms; Expiration; and Cancellation.

9.1 ~~Changes in fixed price or material terms.~~ An electric supplier shall provide notice to its residential customer and small commercial customer ~~of any change in the fixed price or other material terms of service~~ prior to the expiration of a fixed price contract or prior to a change in contract terms: .

9.1.1 ~~Notice must be provided in at least 2 of the following ways: by telephone, written notice, or electronic notice~~. An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed price contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the electric supplier, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

9.1.1.1 A general description of the proposed change in terms of service.

9.1.1.2 The date a change shall be effective or when the fixed duration contract is to expire.

9.1.1.3 An explanation of why a change in contract terms is necessary.

9.1.1.4 A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.

9.1.1.5 A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed duration contract.

9.1.1.6 A statement indicating whether the existing fixed duration contract has a cancellation fee, and an explanation of the fee amount and how to avoid the fee, including a notice that the customer is not subject to the cancellation fee if the customer terminates the contract at any time after the customer receives the options notice required under this regulation § 9.1.2.

9.2 An options notice shall be provided, by first class mail, to each affected customer at least 30 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. The options notice must include:

9.2.1 A statement advising the customer of the specific changes being proposed by the electric supplier and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing electric supplier, to select another electric supplier or to return to SOS.

9.2.2 Information regarding new pricing or renewal pricing including the price to be charged, per kilowatt-hour, for the first billing cycle of electric supplier service:

9.2.2.1 If a customer fails to respond to the options notice and is converted to a month-to-month contract, the electric supplier shall provide a disclosure statement under § 7.1.

9.2.2.1.1 Notice of a subsequent change in pricing shall be provided to the customer at least 30 days prior to the new price being charged.

9.2.2.1.2 For customers who have elected to receive electronic communications from the electric supplier, notice of the change in pricing shall be transmitted in the manner chosen by the customer. For all other customers, notice shall be provided by first class mail.

9.2.2.2 If a customer fails to respond to the options notice and is entered into a new fixed duration contract, the electric supplier shall provide the fixed, per kilowatt-hour price to be charged and term length of the contract.

9.2.3 The telephone numbers and Internet addresses, as applicable, for the Office of Public Advocate and the Commission.

9.2.4 Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's electric supply contract.

9.2.5 A statement indicating whether the existing fixed price contract has a cancellation fee and, if so, that the customer is not subject to the cancellation fee if the customer terminates the contract at any time between the date of the options notice and the expiration date of the fixed price contract.

9.3 When a customer fails to respond to either notice, the following apply:

9.3.1 A fixed duration contract shall be converted to one of the following:

9.3.1.1 A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

9.3.1.2 Another fixed duration contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

9.3.2 The converted contracts shall remain in place until the customer chooses one of the following options:

9.3.2.1 Select another product offering from the existing electric supplier.

9.3.2.2 Enroll with another electric supplier.

9.3.2.3 Return to SOS.

~~9.1.2 The notices must precede the effective date of the proposed changes by at least 30 days and no more than 60 days.~~

~~9.1.3 Customers shall have at least 30 days to respond to the electric supplier's notices before the changes become effective.~~

~~9.2 Expiration or Cancellation of Contracts That Will Not Be Renewed. An electric supplier shall provide written notice to its residential customers or small commercial customers at least 30 days before expiration or cancellation of a contract that will not be renewed. The written notice shall include:~~

~~9.2.1 Final bill payment instructions;~~

~~9.2.2 A statement informing the residential customer or small commercial customer that, unless the customer selects a new service provider, cancellation of the Contract shall return the customer to SOS; and~~

~~9.2.3 The toll free telephone number and the website address of the Commission.~~

3. Enrollment, Marketing, and Advertising – § 11.3

The current § 11.3 requires electric suppliers to include their name, toll-free phone number, and address in their solicitations, advertising, and marketing materials. The proposed revised rule would require suppliers to also "[s]tate that the electric supplier does not represent" Delmarva Power & Light Company or the Delaware Public Service Commission. RESA opposes this proposed revision because it is likely to cause unintended confusion for customers.

Stakeholders discussed a similar proposal in the working group in approximately 2016. The challenge then – which remains a challenge today – is that a customer that hears or sees words such as "Delmarva Power" and "Commission" does not always ascertain the disclaimer associated with those words. Put differently, even when an electric supplier represents that, "I do not represent "[utility name]" or "I do not represent the [Commission]," the customer, hearing or seeing the name of the utility or the Commission, believes that the person speaking to them is with that

particular utility or Commission, or that the utility or Commission produced the written materials. This is a challenge that has existed for years, and suppliers have learned that the better practice is to state that, "I am not affiliated with your utility or the government." This does not eliminate the issue but tends to reduce confusion. At the same time, the more a supplier uses words like, "utility," "government," or specific names, the more chances that confusion will materialize.

4. Enrollment Authorization – § 11.6

The proposed § 11.6.3 would require electric suppliers to send written notices to customers within 7 calendar days of enrollment. RESA does not oppose this requirement; indeed, suppliers already send or transmit welcome letters to their customers that include the supplier's contact information and copies of the contract and contract summary. RESA opposes the proposed § 11.6.3.2, which would require the supplier to include in the notice "[t]he date on which the electric supplier will begin supplying electricity."

Typically, suppliers will inform their new customer in a welcome letter, or in the contract itself, that service will begin when the utility processes the enrollment. The utility, not the electric supplier, controls the actual switch date. RESA would not object to a more general notification such as, "Your service will begin when the utility processes the enrollment, which we anticipate to be within the next 10 calendar days" or something similar. A more general reference will: (1) allow the rescission period to expire, at which time the supplier will transmit the enrollment to the utility, which then has three business days to process the request (*see* § 4.3); and (2) still inform the customer of the approximate timing of his or her switch to the supplier's service.

Thus, RESA recommends that the Commission either delete the proposed 11.6.3.2 or adopt the following redlines:

11.6.3.2 ~~**The date on which**~~**That** the electric supplier will begin supplying electricity **when the utility processes the electric supplier's enrollment request**; and

5. Customer Lists – § 3.3

RESA has one proposal that is not included in the proposed revised rules. Section 3.3 requires the EDC (Delmarva Power) to make customer lists available to electric suppliers on a secure password-protected web portal. Customers may opt out of the list, and Delmarva Power refreshes the list every three years. The customer-specific information in the lists includes 10 items identified in § 3.3.2. RESA proposes to add to the list the customer's "EDC account number and any other number designated by the EDC as necessary to process an enrollment." As explained below, adding this data point is essential to suppliers' efficient participation in Delaware's competitive electricity markets and to customers' convenient exercise of their right to choose.

Delmarva Power customers are assigned utility account numbers and 22-digit "service numbers," the latter of which is required to process a switch to an electric supplier. These are the key pieces of information required for customers to enroll for electricity supply service. The account number and 22-digit service number are found on the customer's Delmarva Power bill.

No one memorizes their utility account number and certainly not a 22-digit service number, and no one carries their Delmarva Power bill around with them. Customers typically only have access to their bill when they are at home; as a result, electric suppliers emphasize marketing channels – such as residential telesales, door-to-door, and direct mail – that reach customers at their homes. Providing account and service numbers in a secure fashion enables customers to shop for retail electricity supply when they are away from home, the same way they shop for cell phone service or any number of other products and services as they go about their daily lives. Adding this

information to customer lists encourages suppliers to utilize marketing channels such as kiosks at brick-and-mortar stores as opposed to in-home channels.[3]

Pennsylvania has included customer account numbers and Choice ID numbers in customer lists since approximately 2011. In March 2025, the Pennsylvania Public Utility Commission ("PA PUC") entered an order continuing the use of customer lists.[4] In the Order, the PA PUC held that the utilities, as the historical monopoly providers, possess all the customer information, and that customer lists play a key role in providing a more level playing field.[5] The PA PUC specifically held that customer lists play a "crucial role in providing suppliers with the utility number that is needed to execute a supplier switch."[6] The PA PUC agreed that the utilities' use of a special number other than the account number, and which was created for the purpose of processing a switch, "further complicates" the fact that customers do not memorize or walk around with their utility bill: "[i]f it is unlikely a customer memorizes or has their utility account number readily available, it seems even more unlikely they would have the special switching number that they need."[7]

RESA recommends that the Commission require Delmarva Power to include customer account numbers and service numbers as part of the customer lists. The following redline would get the job done:

3.3.2 An EDC's customer list shall contain the customers':
- 3.3.2.1 Name;
- 3.3.2.2 Service addresses;
- 3.3.2.3 Billing addresses;
- 3.3.2.4 Billing country code (if available);
- 3.3.2.5 Tariff rate class and schedule;
- 3.3.2.6 Rate subclass/rate subcode (if available);
- 3.3.2.7 Meter read cycle;

[3] While customers can call Delmarva Power to get their account number, it is not an efficient process that facilitates a sales interaction.
[4] Guidelines for Eligible Customer Lists, PA PUC Docket No. M-2010-2183412, Order (March 13, 2025).
[5] PA PUC Order at 14.
[6] PA PUC Order at 14.
[7] PA PUC Order at 14.

3.3.2.8	Load profile group per tariff;
3.3.2.9	Whether the customer is an SOS customer; ~~**and**~~
3.3.2.10	Net metering (Y or N)~~.~~**; and**
3.3.2.11	**EDC account number and any other number designated by the EDC as necessary to process an enrollment;**

Respectfully Submitted,

RETAIL ENERGY SUPPLY ASSOCIATION

By Counsel

/s/ Brian R. Greene
Brian R. Greene*
GreeneHurlocker, PLC
4908 Monument Ave., 2nd Floor
Richmond, VA 23230
(804) 672-4542
BGreene@GreeneHurlocker.com

Counsel for the Retail Energy Supply Association

March 4, 2026
*Not Admitted in Delaware

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of March, 2026, a true copy of the foregoing Comments of the Retail Energy Supply Association was e-mailed to the following individuals:

Crystal Beenick, Secretary
Matthew Hartigan, Executive Director
Malika Davis, Deputy Director
Tymone Banks
Islah Causey
Lisa Driggins
Shona Marshall
Delaware Public Service Commission
861 Silver Lake Boulevard, Suite 100
Dover, DE 19904
Crystal.Beenick@delaware.gov
Matthew.Hartigan@delaware.gov
Malika.Davis@delaware.gov
tymone.banks@delaware.gov
islah.causey@delaware.gov
Lisa.Driggins@delaware.gov
Clishona.Marshall@delaware.gov

Kathleen Workman
Delaware Public Service Commission
820 North French Street, 6th Floor
Wilmington, DE 19801
Kathleen.workman@delaware.gov

Corinne Armann
Rebecca Batson Kidner, P.A.
15 Kings Highway
Dover, DE 19901
cja@kidner.com

James Nutter
Delaware Electric Co-Op
19354C Miller Road
Rehoboth Beach, DE 19971
jnutter@pgslegal.com

Maurice Simpson
Consstellation NewEnergy, Inc.
1310 Point Street
Baltimore, MD 21231
maurice.simpson@constellation.com

Brian R. Greene

4916-9875-4451, v. 4