

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)))))))
DELMARVA POWER & LIGHT COMPANY FOR
APPROVAL TO EXTEND AND REVISE ITS PILOT
PROGRAM RELATING TO TRANSPORTATION SERVICE
FOR SMALL RETAIL GAS CUSTOMERS (FILED JUNE
1, 2000)

PSC DOCKET NO. 00-315

ORDER NO. 5756

AND NOW, to-wit, this 24th day of July, A.D.2001;

WHEREAS, on June 1, 2000, Delmarva Power & Light Company ("Delmarva") filed with the Commission the present application in compliance with PSC Order No. 5070, dated April 27, 1999, and set forth the Company's position that the Commission should approve a two-year extension of the pilot program with some revisions; and

WHEREAS, pursuant to 26 Del. C. §§ 301 and 305, the Commission, in Order No. 5475, dated June 20, 2000, suspended the effective date of the application pending a hearing and assigned the proceeding to a Hearing Examiner to conduct the hearing and to prepare findings and recommendations pursuant to 26 Del. C. § 502, and 29 Del. C. ch. 101; and

WHEREAS, on March 2, 2001, all the parties to the proceeding except one submitted a Proposed Settlement to resolve all the issues in this proceeding. The remaining party was provided an opportunity to comment on the Proposed Settlement, but did not; and

WHEREAS, the Hearing Examiner presided over a duly noticed public evidentiary hearing, and thereafter prepared Findings and Recommendations, dated June 22, 2001, that recommended approval of a Proposed Settlement.

IT IS ORDERED:

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the Findings and Recommendations of the Hearing Examiner with the inclusion of the Proposed Settlement, a copy of which is attached to the original hereof.

2. That Delmarva Power & Light Company's Delaware Gas Tariff leaves numbered

81-93 shall be cancelled as of October 31, 2001.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Donald J. Puglisi
Commissioner

B. Lester
Commissioner

/s/ Jaymes

PSC Docket No. 00-315, Order No. 5756 Cont'd.

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/s/ Joann T. Conaway
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

**IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY FOR)
APPROVAL TO EXTEND AND REVISE ITS PILOT)
PROGRAM RELATING TO TRANSPORTATION)
SERVICE FOR SMALL RETAIL GAS)
CUSTOMERS (FILED JUNE 1, 2000)**

PSC DOCKET NO. 00-315

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: June 22, 2001

**ROBERT P. HAYNES
HEARING EXAMINER**

TABLE OF CONTENTS

Page

I. APPEARANCES..... 1
II. BACKGROUND..... 1
III. SUMMARY OF EVIDENCE..... 4
IV. DISCUSSION..... 7
V. RECOMMENDATIONS..... 12
Appendix A Proposed Settlement
Appendix B Proposed Order

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DELMARVA POWER & LIGHT COMPANY
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2000)**

**PSC DOCKET NO. 00-
315**

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Robert P. Haynes, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. § 502 and 29 Del. C. Ch. 101, by Commission Order No. 5475, dated June 20, 2000, reports to the Commission as follows:

I. APPEARANCES

On behalf of the Applicant, Delmarva Power & Light Company d/b/a Conectiv Power Delivery (“Delmarva” or “Company”):

RANDALL V. GRIFFIN, ESQUIRE

On behalf of the Intervenor,

The Division of the Public Advocate (“DPA”):

PATRICIA A. STOWELL, The Public Advocate

On behalf of the Public Service Commission Staff (“Staff”):

ASHBY & GEDDES

BY: JAMES McC. GEDDES, ESQUIRE

II. BACKGROUND

1. On December 1, 1998, Delmarva Power & Light Company ("Delmarva" or the "Company"), doing business as Conectiv Power Delivery, filed an application with the Public Service Commission of the State of Delaware (the “Commission”) for approval of a pilot program to establish a transportation service for small retail gas customers.

The Commission directed that a hearing be held on the application, and several intervenors participated, including potential gas marketers. The parties arrived at a proposed settlement, which the Commission approved in Order No. 5070, dated April 27, 1999.

2. Pursuant to Order No. 5070, Delmarva initiated a pilot program whereby up to 15% of its residential and small commercial/small industrial customers could select an alternative supplier of natural gas. Under the program, Delmarva would deliver to participating customers natural gas purchased from the third-party supplier that the customer had selected. The gas pilot program is to terminate on October 31, 2001, but Order No. 5070 also required Delmarva to make a non-confidential filing on or before June 1, 2000 in order to continue, expand, terminate, or otherwise modify the service (including rates and charges) provided under the pilot program.

3. On June 1, 2000, Delmarva filed with the Commission the present application in compliance with Order No. 5070, and set forth the Company's position that the Commission should approve a two-year extension of the pilot program with some revisions. Pursuant to 26 Del. C. §§301 and 305, the Commission in Order No. 5475, dated June 20, 2000, suspended the effective date of the application pending a hearing and assigned the proceeding to this Hearing Examiner to conduct the hearing and to prepare findings and recommendations pursuant to 26 Del. C. §502, and 29 Del. C. ch. 101.

4. The Commission further directed that public notice of the proceeding be published, with the notice requiring any interested person to petition to intervene on or before July 20, 2000 in order to be a party to the proceeding. The Commission received timely petitions to intervene from the following: SmartEnergy.Com, Inc., Chesapeake Utilities Corporation, Burns & McBride, Inc., Conectiv Energy Supply, Inc., and United Energy, Inc. I granted these petitions. In addition, the Public Advocate filed a notice of intervention and thereby became a party to the proceeding.

5. A procedural schedule was approved with two time phases, one for near-term issues posed by the continuation of the program, and one to address longer-term issues. On November 13, 2000, the Company submitted a letter motion requesting to file supplemental testimony and to suspend the procedural schedule. The proposed supplemental testimony accompanied the Company's request. The motion was not opposed, and I granted it.

6. In a Proposed Settlement dated March 2, 2001, all parties except Chesapeake Utilities Corporation and United Energy sought to resolve all issues in this proceeding. A copy of the Proposed Settlement is attached as Appendix A. A time period for comments on the Proposed Settlement was provided, but no party filed any comments in response thereto.

7. A duly noticed hearing was held April 5, 2001 in the Carvel State Office Building in Wilmington. The Company, Staff, and DPA appeared at the hearing in support of the Proposed Settlement. Staff and the Company each

presented a witness, and the Public Advocate made a statement. No member of the public appeared at the hearing to make any comments, nor did any person submit written comments pursuant to the public notice. The record in this proceeding consists of five exhibits and a thirty-page *verbatim* transcript of the proceedings. The parties did not file post-hearing briefs because there was no issue in dispute.

8. I have carefully considered the entire record of this docket, and based thereon, I submit for the Commission's consideration these findings and recommendations.

III. SUMMARY OF EVIDENCE

9. **Company.** The Company introduced into the record the direct testimony, filed June 11, 2000, of Charles L. Driggs, the Company's Manager of Gas Operations and Planning (Ex. 3); his supplemental direct testimony, filed November 13, 2000 (Ex. 5); the direct testimony of Heather G. Hall, the Company's Regulatory Coordinator, filed September 29, 2000 (Ex. 4); the Proposed Settlement (Ex. 2) ^[1]; and the oral testimony of Mr. Driggs in support of the Proposed Settlement. This evidence includes the Company's original position that sought to modify and extend for two years the current gas pilot program, and its revised position, as set forth in the supplemental testimony, that proposed to terminate the program due to changed gas supply market conditions, the 2000-2001 GCR, and a cost benefit analysis. The Company's final position is set forth in the Proposed Settlement and the oral testimony of Mr. Driggs in support thereof.

10. **Proposed Settlement.** The Proposed Settlement, dated March 2, 2001, includes four central provisions. The first provision, entitled "Termination of Pilot Program," simply terminates the Company's current pilot program gas tariff leaves numbered 81-93 on October 31, 2001, which is consistent with the termination date the Commission previously approved in Order No. 5070.

11. The second provision in the Proposed Settlement, under the heading "New Application," sets forth a process whereby the Company is to consider filing a new application to allow small customers to select their gas supplier. This provision requires the Company to hold a meeting prior to October 31, 2001 in order to discuss whether a new program would be economically viable. Thereafter, if there is general agreement that a new retail choice program for small customers would be economically viable, then the Company shall make an application for a new pilot program or one open to all small customers. The Proposed Settlement requires that such a filing be made six months before the gas is to flow under the program, and the filing's rates and charges are to be based on current cost data and fully supported through documentation. If market conditions do not appear to make such a new program economically viable, then on or before May 1, 2002, the Company shall file a letter explaining why a new program is not being proposed. The other settling parties reserve their right to respond to a filing, including proposing that a program be reinstated.

12. In the third provision of the Proposed Settlement, entitled "New Application Requirements," the Company agrees to continue to develop data exchange systems and billing system modifications that will facilitate a customer choice program. Staff also is to continue a process intended to result in the establishment of rules for service by third-party suppliers. Delmarva also agrees that it will not act inconsistently with the settlement approved in Docket No. 00-108, and the parties reserve certain rights if gas under a new program does not flow by November 1, 2002 due to billing problems. The Proposed Settlement specifically does not disturb the deferral mechanism in the settlement approved in Order No. 5070, which allows the Company to defer the pilot program's costs pending possible future recovery in a future base rate proceeding, subject to the parties' right to challenge to the claim, except on ground that it represents deferred costs. The new application provision also reflects the Company's agreement in any future application to allow ongoing customer enrollment, as opposed to the pilot program's one-time enrollment period. Delmarva also agrees to assess any stranded costs or system development costs, and to include its assessment in any future application to reinstitute a new program. Any new application will allow ongoing enrollment of customers, rather than the limited one-time window period in the current pilot program. Finally, the third provision of the Proposed Settlement allows the Company to consider modifications to its Gas Cost Rate mechanism, including monthly or quarterly filings.

13. The fourth term in the Proposed Settlement, entitled "Interim Reports," contains the Company's agreement to provide the settling parties with an update as to the progress made regarding the above settlement provisions. The updates are to be provided on September 1, 2001, December 1, 2001, and March 1, 2002, and each is to be followed by a meeting in order to discuss the issues raised in prior interim report, the progress made on systems development, progress made on development of rules for service by third-party suppliers, or any other related matters.

14. **Staff.** Staff did not file pre-filed testimony, but presented the oral testimony of Susan B. Neidig, Public Utilities Analyst, who testified that Staff believed the Proposed Settlement to be in the public interest.

15. **DPA.** The Public Advocate did not file any pre-filed testimony or present any witness, but she made a statement in support of the Proposed Settlement, stating that the gas marketers had withdrawn from the market and consequently there was no reason to continue the program at this time.

IV. DISCUSSION

I find that the settling parties have reached a settlement that is in the public interest, particularly in their recognition that other regulatory changes are needed before retail choice can work on an ongoing basis. The Proposed Settlement's four main provisions, as reviewed above, reflect a concerted effort by the settling parties to grapple with the difficult problems in introducing competition into a previously regulated environment. It is evident that the pilot

program proved that there was consumer interest in selecting gas suppliers when it provided savings from the Company's GCR rates. The program's lack of participation in 2000-2001 coincided with market prices increasing higher than the GCR rates. The program's initial success also may be attributable to the market prices being lower than the GCR rates in effect at the time.

Despite the fundamental problems with market prices "competing" against an estimated annual GCR rates, the pilot program was a useful experiment that actually had 6,313 residential accounts participate out of a maximum authorized level of 15,000, and 1,445 small commercial and industrial accounts participate out of the 1,500 authorized in Order No. 5070. Ex 2 at 5. The total number of accounts participating was approximately 7% of all the Company's customers, an amount higher than the Company had expected, and which the Company credited to the promotional activity undertaken by the participating marketers. Id. at 6, 9. The Company reported that five gas marketers initially participated in the program, which again was more than the Company had expected. Id. at 9.

The Company experienced a 609-account decline in the program's participation from October 8, 1999 to April 11, 2000. Id. at 6. The Company noted that most of the cancellations occurred at the very beginning of the program. The Company surveyed the customers' reasons for canceling, and found that 78 customers cancelled due to their relocation, 300 to 350 customers cited their confusion with some part of the program, 150 to 200 customers cited their inability to participate in the Company's budget billing program for the gas supply portion of the bill, and 100 to 150 cancellations were due to general customer dissatisfaction. Id. at 7-8. These factors are important considerations to try to remedy in any future program.

The Company also conducted a survey, as required by Order No. 5070, that found that all but one of the 25 randomly selected accounts saved money when compared to the Company's sales service, with the savings averaging 5.8% and 5.32% for the two months surveyed. Id. 14. The survey further found that customers cited cost savings as the main reason for selecting a gas supplier, with the availability of other services, i.e., bundling, also cited. Id. at 14-15. The Company's survey also noted that 83% stated that the enrollment was very easy to do, which is a bright note for any future program. Id. at 16

The Company's position to terminate the program was set forth in the supplemental testimony submitted in November 2000. The Company cited the following reasons: 1) the uncertainty of gas commodity pricing for the 2000-2001 heating season; 2) the evolving nature of retail choice in which the costs to expand the program outweigh the benefits at this time; and 3) the need to revise the Gas Cost Rate (GCR) mechanism to avoid marked differences between the levelized annual GCR and market prices. Ex. 5 at 4-5. The Company further noted that only 432 customers were participating going into the 2000-2001 heating season. Id. at 6. The Company's cited reasons are sufficient justification for the termination of the pilot program.

The Proposed Settlement is a just and reasonable resolution of the current pilot program and this proceeding. The program showed promise of some competition in its inception, but it became a victim of the rapidly changing gas prices that occurred in 2000. The problem may be more attributable to the existing GCR than the pilot program, but it is prudent to end the pilot program until the GCR may be addressed. The competition between GCR sales service and the service from gas marketers entails many considerations. For example, the GCR uses a fixed annual estimate of gas costs while marketers rely on more market responsive pricing. Delmarva sells its gas supply at cost while presumably marketers add a margin over their costs. Delmarva also has the ability to recover any prior period under collections in the next filing while gas marketers do not. Moreover, the very inclusion of prior period under and over collections causes a disparity between the estimated GCR and market prices. Finally, the budget billing issue also may need to be examined in the context of a future program.

The Proposed Settlement recognizes that changes may be needed to the GCR, which was not established to follow rapid changes in gas prices. Instead, the GCR was designed to provide an annual levelized rate to moderate changes in gas prices, with an annual reconciliation for under and over collections. In the Company's 2000 GCR the GCR apparently fell below the prices offered by the competing gas suppliers, who are not able to rely on a GCR to recover undercollected costs. Conversely, if gas prices had fallen below the Company's GCR during the enrollment period, then presumably more customers would have switched from sales service to competing lower cost suppliers. In either situation it is the Company's GCR that is not able to respond quickly to market conditions. Thus, retail gas supply competition may need an environment where both sales service and unregulated gas supply can respond to gas price changes on an equal basis and with the same opportunity to earn or lose money on the sales.

The Proposed Settlement also provides that the Company, in any future program, will allow ongoing enrollment, as opposed to the current program's enrollment only during a certain time period. Open enrollment is consistent with a free marketplace, but does pose regulatory problems because the Company remains the default supplier and, as such, remains responsible for obtaining gas supply and pipeline capacity for all its customers. Gas supply and pipeline capacity are not readily available to acquire, particularly during peak times. Moreover, obtaining and disposing of pipeline capacity (and its considerable fixed costs) in response to customers switching from sales to transportation service and vice versa presents a problem to be solved for small retail customers. The Proposed Settlement recognizes the thorny issue of possible stranded costs as one for future assessment.

The Proposed Settlement also provides for the deferral of costs, as previously approved in Order No. 5070. This will allow the Company to defer on its books the program's costs in the hope of recovery in some future base rate proceeding. The other parties preserved their right to challenge the Company's future ratemaking claim for cost recovery. The Commission in Order No. 5070 approved a settlement that established the pilot program, and included

in that settlement was a deferral of implementation costs limited to \$500,000, of which \$150,000 was for customer education on the program. This provision of the Proposed Settlement is reasonable and consistent with Order No. 5070.

The Proposed Settlement provides an agreement among the settling parties to work towards improvements in a future gas pilot program. The Proposed Settlement provides for a series of reports and meetings to keep the concept of retail competition for small customers alive. This provision will include participation of competitors in the process if they are interested. The fact that the gas marketers intervened in this proceeding, and signed the Proposed Settlement is particularly significant in supporting its reasonableness. These parties are important to retail competition because without competitors there can be no competition. The Company even noted their importance in promoting the pilot program. It is evident that the Commission and the parties gained valuable experience, which can be used to improve any future program. Hopefully the current demise of the pilot program will not sour customers' taste for a future program. In sum, the Proposed Settlement is beneficial because it keeps the concept of retail transportation for small customers alive until certain problems can be addressed in future Company filings or Commission proceedings.

V. RECOMMENDATIONS

- A. In summary, and for the reasons discussed above, I propose and recommend to the Commission that the Proposed Settlement, attached hereto as Appendix A, be approved in its entirety and without modification, and that its terms and conditions be enforceable as an order of this Commission.
- B. That the Company's tariff leafs numbered 81-93 of the Company's Delaware Gas Tariff shall be cancelled as of October 31, 2001.
- C. A form of an order implementing these recommendations is attached as Appendix B hereto for the Commission's convenience.

Respectfully submitted,

/s/ Robert P. Haynes_____

Robert P. Haynes
Hearing Examiner

Dated: June 22, 2001

APPENDIX A

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF DELMARVA POWER & LIGHT COMPANY)
TO EXTEND AND REVISE ITS PILOT PROGRAM) PSC Docket No. 00-315
RELATING TO TRANSPORTATION SERVICE)
FOR SMALL RETAIL GAS CUSTOMERS)
(Filed June 1, 2000))

PROPOSED SETTLEMENT

On this day, March 2, 2001, and subject to the reservations and ongoing procedures described herein, the undersigned parties hereby propose a complete settlement of the issues that have been raised in this proceeding as follows:

I. INTRODUCTION

On December 1, 1998, Delmarva Power & Light Company ("Delmarva" or the "Company"), doing business as Conectiv Power Delivery, filed an application with the Delaware Public Service Commission (the "Commission") for approval of a pilot program to establish a transportation service for small retail gas customers. The proceeding was docketed as No. 98-524. After various procedural steps, including notice of hearings, interventions, and settlement discussions, Docket No. 98-524 was concluded by Commission Order No. 5070, dated April 27, 1999, which approved a settlement (the Pilot Program Settlement). Pursuant to the Commission's Order and the Pilot Program Settlement, Delmarva initiated a pilot program to permit up to 15% of its residential and small commercial/small industrial customers to select an alternative supplier of natural gas. Under the program, Delmarva would deliver natural gas to the customer on behalf of the third-party supplier.

Under the Pilot Program Settlement, the tariff sheets establishing the pilot program were scheduled to terminate as of October 31, 2001. However, the Pilot Program Settlement also required that: "In a non-confidential filing to be made on or before June 1, 2000, Delmarva shall make a formal application to continue or expand, or terminate, or otherwise modify the service (including rates and charges) provided under the pilot program." Pursuant to this provision, Delmarva made an application on June 1, 2000, which filing provided background information regarding how the gas pilot program had operated to that point and included a proposal to establish "working groups" that would help establish systems that would facilitate a goal of providing retail choice to all gas customers within three years.

On June 20, 2000, in Order No. 5475, the Commission established this docket, set the application for hearing before the Hearing Examiner, ordered public notice of the proceeding, and requested interventions. In addition to Staff

and the Division of the Public Advocate, the following parties intervened: SmartEnergy.Com, Inc., Chesapeake Utilities Corporation, Burns & McBride, Inc., Conectiv Energy Supply, Inc., and United Energy, Inc.

Pursuant to informal discussions with Staff, the Company filed supplemental testimony on September 29, 2000, to provide additional details regarding the Company's proposal. In particular, that supplemental filing proposed that two sets of issues be developed: Track "A" issues, which would be addressed quickly so as to allow proposals to be put in place by October 31, 2001, and Track "B" issues that would deal with longer term issues of full retail choice on the Company's gas system.

However, also in September and carrying over to October, significant changes were occurring which put into question whether there was any economic basis for continuing the gas pilot program in its present form. Gas marketers who had been actively participating in the gas pilot program provided notice to their customers that they were withdrawing from the market and, thus, that the customers would be returned to Delmarva's standard utility gas sales service. As of November, 2000, only one gas marketer had not withdrawn completely from providing a competitive sales service to pilot program customers and that marketer (Conectiv Energy Supply Inc.) was providing the service only to a limited number of commercial customers whose contracts had not expired and/or were not subject to termination upon a limited notice period.

On November 13, 2000, Delmarva filed additional supplemental testimony, this time proposing that the gas pilot program be terminated as of October 31, 2001, as originally scheduled from Docket No. 98-524, but without an extension or expansion as had been contemplated in the June 1, 2000, filing.

After informal discussions to which all parties were invited to participate, it was agreed by the settling parties executing this settlement that the Hearing Examiner should recommend and the Commission should be urged to approve the following settlement.

II. SETTLEMENT PROVISIONS

A. Termination of Pilot Program.

The undersigned parties agree that the tariff leafs numbered 81-93 of the Company's Delaware Gas Tariff shall terminate as of October 31, 2001.

B. New Application.

On or before November 1, 2001, Delmarva shall convene a meeting including Staff, the Public Advocate and interested gas marketers to discuss whether natural gas markets are such that a new program would be economically viable for small natural gas customers to choose an alternative source of natural gas supply and to establish a date for

gas to flow under a new program, if initiated.

In the event that Delmarva believes and there is a general consensus (even if not unanimous) of participating attendees at such meeting that a new retail choice program for small gas customers would be economically viable, then on or before a date six months prior to the date for gas to flow under a new program, Delmarva shall make an application proposing either a new pilot natural gas small customer choice program or a retail choice program that is applicable to all small natural gas customers, which application shall be consistent with the outline of provisions set forth below. Any proposed changes to rates and charges associated with such application shall be based on current cost data and shall be fully supported through documentation. In the event, however, that market conditions do not appear to make such a new program economically viable, then on or before May 1, 2002, Delmarva shall file a letter explaining why a new program is not being proposed. Settling parties hereto reserve their rights to take any position in response to a filing made by Delmarva, including positions proposing that a program be reinstated notwithstanding a view that Delmarva may have expressed regarding the viability of such a program.

C. New Application Requirements.

The Company agrees that it will continue to develop EDI or internet-based data exchange systems and billing system modifications that would facilitate a natural gas small customer choice program. In this regard, Delmarva will participate in the development of regional standards for electronic transmission of data between and among Delmarva, third-party retail suppliers, and, to the extent necessary or appropriate, with interstate pipeline shippers. Staff will continue a process intended to result in the establishment of rules for service by third-party suppliers.

Delmarva will not act inconsistently with a settlement reached in Docket No. 00-108 relating to its billing system, which requires the modification of certain specified billing system programs and procedures prior to an expansion of the gas pilot program. Should Delmarva propose a start date for an expanded gas pilot program under which gas would begin flowing later than November 1, 2002, due to billing system issues resulting from the settlement in Docket No. 00-108, Settling Parties hereto reserve their rights to take any position in response to a filing made by Delmarva, including filing a complaint or other documents on or after February 1, 2002, proposing that a program be reinstated on a date proposed by such complaining party.

Nothing herein shall be deemed to modify the deferral mechanism established in paragraph II.J. of the settlement approved in Docket No. 98-524.

It is further agreed that system development costs associated with a new pilot program or a full retail choice program (other than those set forth in the settlement in Docket No. 00-108) will be deferred and that Delmarva may propose in a future base rate proceeding to recover such costs; no party hereto necessarily agrees that such costs should be recoverable and shall retain their rights to object to such recovery on any ground other than that the costs were incurred in past periods or that such costs were not deferrable absent a Commission order. As part of any proposal to recover such costs, Delmarva shall be required to establish the reasonability of the system developments made and the reasonability of the costs incurred.

Delmarva will also assess the extent of any stranded costs or system development costs associated with a full retail choice program and, to the extent any such costs are to be proposed for recovery in a base rate proceeding, shall include such information in any future application to reinstitute a natural gas small customer choice program. Without intending to limit the type of costs that may be viewed as "stranded" and without intending to limit any other parties' opportunity to oppose any such proposal, Delmarva states that "stranded costs" would generally involve intermediate and long-term gas commodity contracts, intermediate and long-term pipeline transportation and storage contracts, and specific facilities used for peak-load purposes such as Delmarva's LNG tank and associated equipment.

Any such application shall include provisions that would permit ongoing enrollments of customers, rather than a limited one-time window period.

In its application, or prior to that time, Delmarva may propose, but is not required to propose, modifications to its Gas Cost Rate ("GCR") structure, including possible proposals to modify that structure such that the GCR might be reset monthly or quarterly. Nothing herein places a restriction on any other party to this settlement or to any future proceeding to object to any proposed modification to the GCR structure or to limit the right of such party to propose GCR structural modifications on its own initiative.

In its application, Delmarva may propose, but is not required to propose, mechanisms for addressing issues relating to customers who choose an alternative supplier and then return to utility service.

For purposes of this subsection, a "base rate proceeding" shall include a proceeding in which gas delivery charges are reset through a traditional base rate case or other proceeding that establishes gas delivery rates on a comprehensive basis.

D. Interim Reports.

On each of September 1, 2001, December 1, 2001, and March 1, 2002, Delmarva shall provide the settling parties with an update as to the progress made regarding the above systems. Each report is to be followed by a quarterly meeting held to discuss issues raised by the interim reports, the progress made on systems development, progress made on development of rules for service by third-party suppliers, or any other related matters.

E. Additional Provisions.

The undersigned parties agree:

1. The provisions of this settlement are not severable.
2. This settlement represents a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future case. No party to this settlement necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this settlement other than as specified herein, except that the parties agree that the resolution of the issues herein taken as a whole results in just and reasonable rates.

IN WITNESS WHEREOF, intending to bind themselves and their successors and assigns, the undersigned parties have caused this Proposed Settlement to be signed by their duly-authorized representatives.

/s/ Randall V. Griffin
Delmarva Power & Light
Company

/s/ Connie S. McDowell
Delaware Public Service
Commission Staff

/s/ Patricia A. Stowell
Division of the Public Advocate

/s/ Michael S. Poncia
Conectiv Energy Supply, Inc.

/s/ Glenn C. Kenton

Burns & McBride, Inc.

/s/ M. Anthony Lopez-Lopez

SmartEnergy.Com, Inc.

^[1] The Proposed Settlement is hereby admitted into the record as it was not available at the hearing.