

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE REVIEW OF A)
RETAIL COMPETITION RESTRUCTURING)
PLAN FILED BY DELMARVA POWER &)
LIGHT COMPANY AND THE DETERMINA-) PSC DOCKET NO. 99-163
TION OF TRANSITION PERIOD RATES)
PURSUANT TO 26 DEL. C. 1005(a))
AND 1006(a)(1))
(FILED APRIL 15, 1999))

ORDER NO. 5066

AND NOW, this 27th day of April, 1999, the Commission determines and Orders the following:

1. On March 31, 1999, the "Electric Utility Restructuring Act of 1999" (72 Del. Laws ch. 10) became law. The goal of the Act is to expeditiously transform the generation, supply, and retail sale of electricity from an integrated, regulated regime to a competitive enterprise where retail customers will have the opportunity to choose a supplier of electricity. The Act, and, in particular, the new Chapter 10 added to Title 26 of the Delaware Code, charts a course for the transition to this new era of a competitive market for retail electric supply services.

2. Under section 1005(a)(1) of this new Chapter 10, Delmarva Power & Light Company ("DP&L" or "the Company") must file with the Commission a detailed restructuring plan for implementing retail competition in its service area. That plan (and accompanying revised tariffs and schedules) must include: (1) separate prices or rates for electric supply, transmission, distribution, and other services; (2) proposed procedures for allowing retail customers direct access to electric suppliers; (3) a new optional time-of-use rate for electing residential customers; and (4) standards to measure and ensure service reliability after the implementation of retail competition. The Commission must review the plan, conduct an evidentiary hearing, and issue a final Order, either adopting or modifying the plan, by August 31, 1999. 26 Del. C. 1005(a)(2).

3. In addition, under new section 1006(a)(1), the Commission must also, as part of its decision on DP&L's restructuring plan, set several rates to be in effect during the statutorily-defined transition period. Under this section, the Commission must: (1) determine the "retail market price" for electric supply service for each customer rate class; (2) recalculate base and fuel rates based on a September 30, 1999 benchmark; (3) approve the separation of these recalculated rates and the "retail market prices" into rates for electric supply, transmission, ancillary services, distribution, nuclear decommissioning costs, and other services; and (4) calculate an additional surcharge or credit for accrued, but previously deferred, fuel costs. The Commission must also complete these rate approval responsibilities by August 31, 1999.

4. Finally, in recognition of the Act's short time frames for Commission action, section 1015(a) of the new Chapter 10 empowers the Commission to waive application of the procedural requirements of the Administrative Procedures Act for the above proceedings. However, the Act commands that the Commission provide notice of its intended action

in a manner to allow all interested persons to comment upon and participate in the proposed action and also conduct the necessary proceedings in accord with general principles of due process and fundamental fairness.

5. On April 15, 1999, DP&L filed its restructuring plan.

The Commission therefore opens this docket to undertake the review proceedings required by section 1005(a) and the corresponding rate proceedings required by section 1006(a)(1). The Commission chooses to appoint two Hearing Examiners to conduct the proceedings in this matter and to delegate to those Examiners wide discretion concerning notice, discovery, and the conduct of hearings. Of course, the Examiners must exercise that discretion in accord with the requirements set forth in 26 Del. C. 1015(a). The Commission expects that the Hearing Examiners will submit their final report with recommended findings and conclusions by August 2, 1999. That date will allow the Commission to thereafter review the plan, the proposed rates, and examiners' recommendations and enter a final Order by the statutory deadline of August 31, 1999.

Now, therefore, IT IS ORDERED:

1. That this docket is opened to undertake the review of the restructuring plan filed by Delmarva Power & Light Company on April 15, 1999 and to determine the rates applicable to the transition period as required by 26 Del. C. 1005(a) and 1006(a)(1), respectively.

2. That the Secretary shall give public notice of the filing of the restructuring plan by Delmarva Power & Light Company and the Commission's proposed actions under 26 Del. C. 1005(a) and 1006(a)(1) by publishing notice in the form attached as Exhibit "A" in the legal classified sections of The News Journal and the Delaware State News newspapers in two column format, outlined in black on the following dates:

Wednesday, April 28, 1999 (The News Journal)

Thursday, April 29, 1999 (Delaware State News).

In addition, the Secretary shall forward a copy of such notice to the Delaware Registrar of Regulations requesting that it be published in the May, 1999 edition of the Delaware Register of Regulations. The Secretary shall promptly file proof of such newspaper publication in the record of this proceeding.

3. That G. Arthur Padmore and Robert P. Haynes are designated as Hearing Examiners for this docket pursuant to the terms and provisions of 26 Del. C. 502. The Hearing Examiners shall schedule and, upon due public notice, conduct such evidentiary hearings as may be necessary to develop a full and complete record concerning this matter and report to the Commission their proposed findings and recommendations based on the evidence presented. Pursuant to Rule 21(c) of the Commission's Rules of Practice and Procedure, Hearing Examiners Padmore and Haynes are specifically authorized to grant or deny petitions seeking leave to intervene. In addition, Hearing Examiners Padmore and Haynes are specifically delegated the authority to determine, under 26 Del. C.

102A, the form and manner of any public notice to be given for such further evidentiary hearings or proceedings. Senior Hearing Examiner Padmore is granted the authority to consolidate or separate particular issues for consideration and to assign a single or both Hearing Examiners to conduct proceedings pertaining to specific issues.

4. That, for the purposes of reviewing the restructuring plan filed by Delmarva Power & Light Company under 26 Del. C. 1005(a) and for determining the rates required by 26 Del. C. 1006(a)(1), the Commission, pursuant to 26 Del. C. 1015(a), waives the procedural requirements of 29 Del. C. 10111-10128. The Commission authorizes the Hearing Examiners to provide notice and to conduct proceedings, including evidentiary hearings, on a schedule, and in a manner prescribed by them.

Any such notice or process must comply with the requirements set forth in 26 Del. C. 1015(a).

5. That, pursuant to Rule 18(b) of the Commission's Rules of Practice and Procedure, the Division of the Public Advocate may undertake discovery in this matter after it files its statutory notice of intervention. All other parties may undertake discovery on a schedule to be set by the Hearing Examiners.

6. That the Hearing Examiners shall file their report and recommendations by August 2, 1999. The Commission Staff, Delaware Power & Light Company, the Division of Public Advocate, and all other parties shall have fourteen (14) days after the filing of the report to file exceptions to such report. The Executive Director is authorized, for good cause, to change the above time for submission of exceptions and is further authorized, in his discretion, to authorize the filing of responses to exceptions on a schedule to be set by him.

7. That, in the event that a stipulation or settlement is offered to resolve any matter in this proceeding (as authorized by 26 Del. C. 1015(b)), the Hearing Examiners shall entertain such settlement and conduct such proceedings to review such settlement in accord with the requirements of 26 Del. C. 512(c) and shall include their recommendations about the stipulation or settlement in their report and recommendations.

8. That James McC. Geddes, Esquire, is designated Rate Counsel for this matter. Delmarva Power & Light Company is hereby put on notice that it will be charged the costs incurred in connection with this proceeding under the provisions of 26 Del. C. 114(b)(1) and 26 Del. C. 1012(c)(2).

9. 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/ Robert J. McMahon
Chairman

/s/ Joshua M. Twilley
Vice Chairman

/s/ Arnetta McRae
Commissioner

/s/ John R. McClelland
Commissioner

Commissioner

ATTEST:

/s/ Karen J. Nickerson

E X H I B I T "A"

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 (FILED APRIL 15, 1999))

PUBLIC NOTICE OF FILING OF RESTRUCTURING PLAN
 AND REVIEW BY THE PUBLIC SERVICE COMMISSION PURSUANT TO THE ELECTRIC
 UTILITY RESTRUCTURING ACT OF 1999 (72 DEL. LAWS ch. 10)

In March, 1999, the General Assembly passed, and the Governor enacted into law, the "Electric Utility Restructuring Act of 1999," 72 Del. Laws ch. 10 (March 31, 1999). The goal of the Act is to expeditiously transform the generation, supply, and retail sale of electricity from an integrated, regulated regime to a competitive enterprise where retail customers will have the opportunity to choose a supplier of electricity. The Act, and, in particular, the new Chapter 10 added to Title 26 of the Delaware Code, charts a course for the transition to this new era of a competitive market for retail electric supply service.

Under section 1005(a)(1) of this new Chapter 10, the Delaware Power & Light Company ("DP&L" or "the Company") must file with the Public Service Commission ("the Commission") a detailed restructuring plan for implementing retail competition in its service area. That plan (and accompanying revised tariffs and schedules) must include: (1) separate prices for electric supply, transmission, distribution, and other services; (2) proposed procedures for allowing retail customers direct access to electric suppliers; (3) a new optional time-of-use rate for electing residential customers; and (4) standards to measure and ensure service reliability after the implementation of retail competition. In addition, new section 1006(a)(1) requires the Commission, as part of its decision on DP&L's restructuring plan, to set several rates to be in effect during the statutorily-defined transition period. Under that section, the Commission must: (1) determine the "retail market price" for electric supply service for each customer rate class; (2) recalculate base and fuel rates based upon a September 30, 1999 benchmark; (3) approve the separation of these recalculated rates and "retail market prices" into rates for electric supply, transmission, ancillary services, distribution, nuclear decommissioning costs, and other services; and (4) calculate an additional surcharge or credit for accrued, but previously deferred, fuel costs. The Commission must approve or modify the plan and determine the transition rates by August 2, 1999. By PSC Order No. 5066 (April 27, 1999), the Commission opened this docket to conduct the proceedings required by 26 Del. C. 1005(a) and 1006(a)(1). The Commission designated two Hearing Examiners to conduct proceedings in this matter on schedules to be set by them and to make a report and recommendations by August 3, 1999. The Commission expects to enter a final Order on or before August 31, 1999.

If you wish to formally participate in these proceedings as a party hereto, with the right to submit evidence and to be represented by counsel, you must, in accordance with Rule 21 of the Commission Rules of Practice and Procedure, petition for, and be granted, leave to intervene in this docket. To be timely filed, all such petitions must be filed on or before Wednesday, May 14, 1999. In addition, if you wish to intervene, you must accompany your petition with a statement identifying your views of what will be the major issues to be considered in this proceeding and a short statement of your position on each such issue.

These comments will be utilized by the Hearing Examiners to determine a procedural schedule in this proceeding. You should file an original and ten (10) copies of your petition to intervene and accompanying comments with the Commission at the address given below. In addition, two (2) copies of such petition and statement should be served upon DP&L.

Only persons granted leave to intervene will be provided notice of further proceedings in this matter. You should review PSC Order No. 5066 (April 27, 1999) to understand what procedural actions the Commission has taken with regard to this proceeding.

In addition, the designated Hearing Examiners will conduct a mandatory procedural conference under Rule 22 of the Commission's Rules of Practice and Procedure beginning at 10:00 AM on May 19, 1999 in the Commission's Dover office. All persons entitled, granted, or seeking leave to intervene must attend such conference.

For purposes of filing, the Commission's address is:

Public Service Commission
Attn: PSC Docket No. 99-163
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

Service upon DP&L should be made at the following address:

Peter F. Clark, Esquire
Randall V. Griffin, Esquire
Counsel
Delmarva Power & Light Company
800 King Street
P.O. Box 231
Wilmington, DE 19899-0231

You may inspect copies of DP&L's proposed restructuring plan, the accompanying schedules and tariffs, and the supporting materials at the Commission's Dover office during normal business hours. Copies of such documents may also be reviewed by contacting the Division of Public Advocate, Fourth Floor, Carvel State Office Building, 820 French Street, Wilmington, DE. Please call for an appointment at (302) 577-5077. The Commission has also posted an electronic version of the plan and supporting documents to its Internet website at

<http://www.state.de.us/govern/agencies/pubservc/major/major1.htm>.

If you have a disability and wish to participate in these proceedings or to review the filings you should contact the Commission to discuss any auxiliary aids or services needed to facilitate your review or participation. You may contact the Commission in person, by writing, by voice telephone, or by use of the Telecommunications Relay Service ((302) 739-4333). The Commission Staff is available to answer any questions concerning this proceeding. The Commission's toll-free telephone number in Delaware is (800) 282-8574. You may also make inquiries by voice telephone at (302) 739-2107 or by Internet e-mail to rbarua@state.de.us.

