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HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 6

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE CONCERNING THE OVERSIGHT OF PUBLIC UTILITIES THAT DISTRIBUTED AND SUPPLY ELECTRICITY TO RETAIL ELECTRIC CUSTOMERS IN THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. This Act shall be known as the “Electric Utility Retail Customer Supply Act of 2006”.

2 Section 2. Amend §1001, Title 26 of the Delaware Code, by adding the following definitions in the appropriate
3 alphabetical sequence and renumbering the Section as necessary:

4 “Returning Customer Service” means the electric supply service offered to customers with a peak monthly load of 1000
5 kW or more, which have left Standard Offer Service as of April 30, 2007 and later decide to receive electric supply service from
6 their Electric Distribution Company. For purposes of determining customers eligible for Returning Customer Service, peak
7 monthly load shall be measured by the Electric Distribution Company’s separate customer account, not by facility or service
8 location or by customer, in aggregate or otherwise.

9 “Demand-side management” means cost effective energy efficiency programs that are designed to reduce customers’
10 electricity consumption, especially during peak periods.

11 “Integrated resource planning” means the planning process of an Electric Distribution Company that systematically
12 evaluates all available supply options, including but not limited to: generation, transmission and Demand-Side Management
13 programs, during the planning period to ensure that the Electric Distribution Company acquires sufficient and reliable resources
14 over time that meet their customers’ needs at a minimal cost.

15 Further Amend §1001 of Title 26 of the Delaware Code by changing the definition of “standard offer service supplier” by
16 striking all of the words after the word “means” and inserting in lieu thereof: “the electric distribution company serving within its
17 certificated service territory.”

18 Section 3. Amend §1002, Title 26 of the Delaware Code, by adding a new subsection as follows:

19 “(a)(4) On or after May 1, 2006, it is the policy of the State that Electric Distribution Companies subject to the oversight
20 of the Commission and as part of their obligation to be Standard Offer Service Suppliers shall engage in Integrated Resource
21 Planning for the purpose of evaluating and diversifying their electric supply options, efficiently and at the lowest cost to their
22 customers.”

23 Section 4. Amend §1003, Title 26 of the Delaware Code, by striking it in its entirety and replacing it with the following:

24 “§1003. Retail competition

25 General Rule. – Except as otherwise expressly provided for in this chapter, on and after May 1, 2006 the
26 generation, supply and sale of electricity, including all related facilities and assets, used to serve Standard Offer Service and
27 Returning Customer Service, shall be treated as a public utility service or function. Customers of Electric Distribution Companies
28 in this state shall continue to have the opportunity, but not the obligation, to purchase electricity from their choice of electric
29 suppliers as expressly provided for in this Chapter.”

30 Section 5. Amend §1006, Title 26 of the Delaware Code, by striking it in its entirety and replacing it with the following:

31 “§1006. Rates for customers

32 (a) Rates for customers within DP&L’s service territory.

33 (1) DP&L is required to offer both Standard Offer Service and Returning Customer Service, except that Returning
34 Customer Service shall only apply to customers meeting the definitional load characteristics for such service. Customers on
35 Returning Customer Service may return to Standard Offer Service after receiving Returning Customer Service for a minimum of 12
36 consecutive months.

37 (2) After May 1, 2006, rates for customers taking Standard Offer Service shall be adjusted in accordance with
38 Chapter 1, Subchapter 3 of this Title. This Act shall not have any effect on contractual arrangements between the Standard Offer
39 Service Supplier and successful bidders entered into as a result of the recently conducted bidding process for Standard Offer Service
40 in PSC Docket No. 04-391. Any rates derived from that process shall be determined by the Commission pursuant to that docket,
41 except as permitted in subsection (a)(3) of this Section.

42 (3) With respect to rate increases for Standard Offer Service to be effective on May 1, 2006, residential and small
43 commercial customers of DP&L, depending on rate classification, shall have the ability to opt out of the following rate deferral
44 plan:

45	Date	Rate % Increase
46	5/1/2006	15%
47	1/1/2007	25%

48 6/1/2007 19%

49 1/1/2008 True-up/Balance

50 a. A customer not opting out of the deferral plan will be placed on a non-by-passable tariff, under which the customer will
51 be responsible for all of his/her incurred deferral amounts including carrying costs of the plan.

52 b. Customers will have from April 1, 2006 to April 28, 2006 to affirmatively opt out of this plan.

53 c. Upon completion of the deferral plan, customers on the plan will be returned to their original rate classification, subject
54 to any past due amounts owed while on the plan. The "True-up/Balance" to be instituted on 1/1/2008 shall provide for equal
55 monthly installment amounts designed to recover all deferral amounts by each customer by not later than 6/1/2009, as well as the
56 full Standard Offer Service charges and all other tariff charges then in effect.

57 d. Except as otherwise provided for in this Act, customers enrolled in the deferral plan will be able to purchase electricity
58 from an electric supplier.

59 e. If determined to be in the public interest, the Commission shall have the authority after January 1, 2007 to adjust the
60 deferral plan to take advantage of any downward movement of Standard Offer Service rates.

61 (4) Rates for customers on Returning Customer Service shall be based on the regional spot market plus DP&L's
62 reasonable costs of procuring such supply for this group of customers.

63 (5) In addition to the Standard Offer Service price or the alternative electric supplier's supply price, each customer
64 shall pay the separate applicable rates for transmission, ancillary, distribution, nuclear decommissioning and other services. Such
65 rates shall not include any generation or electric supply costs.

66 (6) Customers who obtain transmission and/or ancillary services directly from the PJM independent system operator
67 or from their electric supplier shall receive a credit against DP&L's retail delivery rates equal to the then-applicable Federal Energy
68 Regulatory Commission equivalent retail transmission and/or ancillary services rates paid by that customer or its electric supplier.

69 (b) Rates for customers within the DEC service territory.

70 (1) DEC is required to offer both Standard Offer Service and Returning Customer Service, except that Returning
71 Customer Service shall only apply to customers meeting the definitional load characteristics for such service.

72 (2) After May 1, 2006, rates for customers taking Standard Offer Service shall be adjusted in accordance with
73 Chapter 1, Subchapter 3 of this Title.

74 (3) Rates for customers on Returning Customer Service shall be based on the regional spot market plus DEC's
75 reasonable costs of procuring such supply for this group of customers.

76 (4) In addition to the standard offer service price or the alternative electric supplier's supply price, each customer
77 shall pay the separate applicable rates for transmission, ancillary, distribution, nuclear decommissioning and other services. Such
78 rates shall not include any generation or electric supply costs.

79 (5) Customers who obtain transmission and/or ancillary services directly from the PJM independent system operator
80 or from their electric supplier shall receive a credit against DEC's retail delivery rates equal to the then-applicable Federal Energy
81 Regulatory Commission equivalent retail transmission and/or ancillary services rates paid by that customer or its electric supplier."

82 Section 6. Amend § 1007, Title 26 of the Delaware Code, by striking it in its entirety and replacing it with the following:

83 "§1007. Standard Offer Service and Returning Customer Service Supplier Obligation

84 (a) All Electric Distribution Companies subject to the jurisdiction of the Commission shall be the Standard Offer Service
85 Supplier and Returning Customer Service Supplier in their distribution service territories. Customers on Returning Customer
86 Service may return to Standard Offer Service after receiving Returning Customer Service for a minimum of 12 consecutive months.

87 (b) Subject to the approval of the Commission, the Standard Offer Service Provider to meet its electric supply
88 requirements shall have the ability to:

89 (1) enter into short- and long-term contracts for the procurement of power necessary to serve its customers;

90 (2) own and operate facilities for the generation of electric power;

91 (3) build generation and transmission facilities (subject to any other requirements in any other section of the
92 Delaware Code regarding siting, etc.)

93 (4) make investments in Demand-Side resources, and

94 (5) take any other Commission-approved action to diversify their retail load.

95 In order to take such action, DP&L as a Standard Offer Service Supplier must file an application with the Commission or
96 have had such action approved as part of its Integrated Resource Plan pursuant to subsection (c). If DP&L as a Standard Offer
97 Service Supplier files an application under this subsection, then the Commission shall hold an evidentiary hearing on DP&L's
98 request and shall approve the request if the Commission finds that such action is in the public interest. If the Commission approves
99 such a request, the Commission shall review all reasonable incurred costs of the contracts, facilities or programs in accordance with
100 Chapter 1, Subchapter 3 of this Title. Costs from these projects which have been approved by the Commission shall be included in
101 Standard Offer Service rates.

102 (c)(1) DP&L is required to conduct Integrated Resource Planning. On December 1, 2006, and on the anniversary date of
103 the first filing date of every other year thereafter (i.e., 2008, 2010 et seq.), DP&L shall file with the Commission, the Controller
104 General, the Director of the Office of Management and Budget and the Energy Office an Integrated Resource Plan ("IRP"). In its

105 IRP, DP&L shall systematically evaluate all available supply options during a ten (10)-year planning period in order to acquire
106 sufficient, efficient and reliable resources over time to meet its customers' needs at a minimal cost. The IRP shall set forth DP&L's
107 supply and demand forecast for the next ten (10)-year period, and shall set forth the resource mix with which DP&L proposes to
108 meet its supply obligations for that ten-year period (i.e., Demand-Side Management Programs, long-term purchased power
109 contracts, short-term purchased power contracts, self generation, procurement through wholesale market by RFP, spot market
110 purchases, etc.).

111 1. As part of its IRP process, DP&L shall not rely exclusively on any particular resource or purchase procurement process.
112 In its IRP, DP&L shall explore in detail all reasonable short- and long-term procurement or Demand-Side Management strategies,
113 even if a particular strategy is ultimately not recommended by the Company. At least 30 percent of the resource mix of DP&L shall
114 be purchases made through the regional wholesale market via a bid procurement or auction process held by DP&L. Such process
115 shall be overseen by the Commission subject to the procurement process approved in PSC Docket #04-391 as may be modified by
116 future Commission action.

117 2. In developing the IRP, DP&L may consider the economic and environmental value of:

- 118 (i) resources that utilize new or innovative baseload technologies (such as coal gasification);
- 119 (ii) resources that provide short- or long-term environmental benefits to the citizens of this State (such as renewable
120 resources like wind and solar power);
- 121 (iii) facilities that have existing fuel and transmission infrastructure;
- 122 (iv) facilities that utilize existing brownfield or industrial sites;
- 123 (v) resources that promote fuel diversity;
- 124 (vi) resources or facilities that support or improve reliability; or
- 125 (vii) resources that encourage price stability.

126 The IRP must investigate all potential opportunities for a more diverse supply at the lowest reasonable cost.

127 3. The Commission shall have the authority to promulgate any rules and regulations it deems necessary to accomplish the
128 development of IRPs by DP&L. Commencing in 2009, DP&L shall submit a report to the Commission, the Governor and the
129 General Assembly detailing their progress in implementing their IRPs.

130 4. The costs that DP&L incurs in developing and submitting their IRPs shall be included and recovered in DP&L's
131 distribution rates.

132 (c)(2) The DEC shall annually prepare a 10-year plan detailing its energy supply requirements and planned procurement
133 strategies to meet forecasted demand. Said plan shall be submitted to the PSC, Controller General's Office and Office of
134 Management and Budget. Said plan shall be filed by January 31, 2007 and January 31st of each subsequent year thereafter.

135 (d) As part of the initial IRP process, to immediately attempt to stabilize the long-term outlook for Standard Offer
136 Supply in the DP&L service territory, DP&L shall file on or before August 1, 2006 a proposal to obtain long-term contracts. The
137 application shall contain a proposed form of request for proposals ("RFP") for the construction of new generation resources within
138 Delaware for the purpose of serving its customers taking Standard offer Service. Such proposed RFP shall include a proposed form
139 of output contract which shall include capacity and energy and may include ancillary electric products and environmental attributes
140 between the electric distribution company and developers of new generation facilities, which contract shall have a term of no more
141 than twenty-five (25) years. Such RFP shall also set forth proposed selection criteria based on the cost-effectiveness of the project
142 in producing energy price stability, reductions in environmental impact, benefits of adopting new and emerging technology, siting
143 feasibility and terms and conditions concerning the sale of energy output from such facilities.

144 (1) The Commission and Energy Office may approve or modify the elements of the RFP prior to its issuance. The
145 Commission and Energy Office shall ensure that each RFP elicits and recognizes the value of: a. proposals that utilize new or
146 innovative baseload technologies, b. proposals that provide long-term environmental benefits to the state, c. proposals that have
147 existing fuel and transmission infrastructure, d. proposals that promote fuel diversity, e. proposals that support or improve
148 reliability, and f. proposals that utilize existing brownfield or industrial sites. Such RFP shall be issued no later than November 1,
149 2006. Proposals will be due no later than December 22, 2006.

150 (2) DP&L shall publish such request for proposals in one or more newspapers or periodicals with general circulation,
151 as selected by the Commission, and shall post such request for proposals on its web site. The Commission the Director of the Office
152 of Management and Budget, the Controller General and the Energy Office shall retain the services of an independent third-party
153 entity with expertise in the area of energy procurement at the expense of DP&L to oversee the development of the request for
154 proposals and to assist them in their review of proposals pursuant to subpart (d)(3) of this section. Public service companies shall
155 be eligible to participate in such RFP process through unregulated affiliated companies that meet the Commission's criteria to
156 ensure that such affiliates are sufficiently financially and functionally separate from the regulated utility operations to prevent
157 subsidization of the generation project by the regulated operations and to eliminate any other advantages from the affiliation with
158 regulated operations.

159 (3) The Commission, the Director of the Office of Management and Budget, the Controller General and the Energy
160 Office shall, on or before February 28, 2007 evaluate such proposals and may determine to approve one or more of such proposals

161 that result in the greatest long-term system benefits, including those identified in subpart (1), in the most cost-effective manner.
162 Once one or more of the contracts have been finalized and approved by the Commission, the Director of the Office of Management
163 and Budget, the Controller General and the Energy Office, then DP&L shall enter into such contract(s).”.

164 (e) Electric Distribution Companies are required to provide Returning Customer Service to qualifying returning
165 customers.

166 Section 7. Amend §1008, Title 26 of the Delaware Code, to re-designate the first paragraph as subsection (a) and to add a
167 second subsection ‘(b)’ to provide as follows:

168 “(b)(1) The Commission is hereby granted the authority to require DP&L subject to its jurisdiction to develop and
169 implement Demand-Side Management programs designed to reduce overall electricity consumption by its customers and/or to
170 reduce usage by customers during peak periods, such as time of use rates, advanced metering infrastructure, central air-conditioning
171 and hot water heating cycling off and on programs, interruptible rates, etc. However, in no such instance shall electric distribution
172 companies subject to the Commission’s jurisdiction be authorized to implement peak time billing. Upon development of such
173 Demand-Side Management program(s), DP&L shall file such program(s) with the Commission for the Commission’s review and
174 approval.

175 a. The costs that DP&L incurs in developing and implementing their Demand-Side Management programs, as well
176 as the costs incurred by DP&L in administering all Demand-Side Management programs approved for implementation by the
177 Commission, shall be included and recovered in DP&L's distribution rates.

178 b. Within sixty days of enactment of this Act, the Commission shall open a docket to evaluate the desirability,
179 feasibility and cost effectiveness of requiring advanced metering technology, including time of use metering to be utilized
180 throughout or selectively in the service territories of DP&L. The Commission may require that such a technology be deployed in a
181 cost effective manner after such evaluation has been made and hearings have been held. As part of the evaluation, the Commission
182 shall review all customer pricing implications of any particular metering technology investigated. The Commission shall not
183 authorize such technology to be deployed in a manner that permits 30-day peak demand billing except as approved by the General
184 Assembly.

185 c. The Commission shall have the authority to promulgate any rules and regulations it deems necessary to
186 accomplish the development and implementation of Demand-Side Management Programs by DP&L.

187 (b)(2) DEC shall, at a minimum, maintain its current efforts in providing Demand-Side management programs. DEC
188 shall report on its Demand-Side Management efforts to the PSC, Controller General and Director of the Office of Management and
189 Budget by January 31, 2007 and January 31st of each subsequent year thereafter.”.

190 Section 8. Amend §1010, Title 26 of the Delaware Code, by striking said section in its entirety and inserting in lieu
191 thereof the following:

192 “§1010 Electric distribution companies’ obligation to serve customers.

193 (a) The Standard Offer Service Supplier shall provide Standard Offer Service which is safe, efficient, adequate and
194 reliable. The Commission may take appropriate actions to ensure that the standard offer service supplier provides such safe,
195 adequate, efficient and reliable standard offer service.

196 (b) The Commission shall promulgate rules and regulations governing the amount of notice that a customer who
197 desires to return to the Standard Offer Service Supplier must provide, the minimum amount of time that a customer must take
198 service from a Standard Offer Service Supplier, and the amount of charges that may be assessed against a customer who leaves the
199 standard offer service supplier and later returns to the Standard Offer Service Supplier, including the appropriate retail market price,
200 which may be higher than the standard offer service price.

201 (c) After hearing and a determination that it is in the public interest, the Commission is authorized to restrict retail
202 competition and/or add a non-by-passable charge to protect the customers of the Electric Distribution Company receiving Standard
203 Offer Service. The General Assembly recognizes that Electric Distribution Companies are now required to provide Standard Offer
204 Service to many customers who may not have the opportunity to choose their own Electric Supplier. Consequently, it is necessary
205 to protect these customers from substantial migration away from Standard Offer Service, whereupon they may be forced to share
206 too great a share of the cost of the fixed assets that are necessary to serve them as required by this Act.”

207 Section 9. Amend §1012, Title 26 of the Delaware Code, to delete the last sentence in subsection (b) which begins “All
208 electric suppliers” and ends “telemarketing to solicit customers,” and insert in lieu thereof the following: “Electric suppliers shall
209 not solicit customers by means of telemarketing where such telemarketing is prohibited by applicable laws and regulations.”

210 Section 10. This Act shall become effective upon its enactment into law.

211 Section 11. The provisions of this Act are severable. If any provision of this Act or its application to any person or
212 circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which shall be given effect
213 without the invalid provision or application.

214

SYNOPSIS

This Act comprehensively amends the Electric Restructuring Act of 1999 by including a number of provisions designed to stabilize electricity pricing and utilization for Delaware consumers for both the short term and for the long term. This Act allows electric distribution companies, subject to the Public Service Commission’s approval, to own and operate facilities enabling them to generate their own electricity for supply to customers and authorize those electric distribution companies to obtain supply in ways that are not necessarily reflective of short-term regional market prices (such as long-term contracts and self-generation). The

amendments also direct electric distribution companies subject to Commission jurisdiction to prepare and submit programs designed to reduce or shift electric consumption by customers, whether such reduction occurs at times of peak usage or at other times. The Act also requires integrated resource planning to demonstrate how the electric distribution company intends to supply the demand for electricity in its service territory for customers not taking service from an alternative electric supplier.

To stabilize long-term pricing in the DP&L service territory, the Act provides for a request for proposals through a competitive process to build cost-effective merchant generation in the State, to be utilized to serve some of the load requirements of DP&L.

In addition, these amendments defer certain rate increases for residential and small commercial customers of DP&L beginning May 1, 2006. The Act continues to allow customers to choose alternative competitive suppliers.