



STATE OF DELAWARE

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To: The Chair and Members of the Commission

From: Shona Marshall, Public Utilities Analyst 

Subject: IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY FOR APPROVAL OF THE 2015 PROGRAM FOR THE PROCUREMENT OF SOLAR RENEWABLE ENERGY CREDITS (Filed December 9, 2014) – PSC Docket No. 14-0560

Background:

In 2007, the Governor approved and signed into law the Renewable Energy Portfolio Standards Act, 26 *Del. C.* §§ 351-364, (“REPSA”), the purpose of which was to “establish a market for electricity from [renewable energy resources] in Delaware, and lower the cost to consumers of electricity from these resources.” 26 *Del. C.* §351(c). REPSA requires retail electricity suppliers¹, such as Delmarva Power, to purchase energy from Eligible Energy Resources (as that term is defined in REPSA) to meet a portion of their annual retail load. For the 2015 compliance year (beginning June 1, 2015), retail electricity suppliers must purchase as least 13% of their retail load in Delaware from renewable resources, with solar accounting for 1.00%. REPSA also required the formation of the Renewable Energy Taskforce (“RETF”) for the purpose of “making recommendations about the establishment of trading mechanisms and other structures to support the growth of renewable energy markets in Delaware.” 26 *Del. C.* §360(d). This procurement is subsequent to the Commission’s approval of the 2012 Pilot Program (“Pilot Program”)², the 2013 Solar Renewable Energy Credit³ (“SREC”) Procurement Program (“2013 Program”)⁴, and the 2014 SREC Procurement (“2014 Program”)⁵ (collectively the “SREC Programs”) as recommended by RETF.

¹ This was changed to require only commission-regulated electric companies be responsible for the RPS obligation beginning in compliance year 2012 and thereafter by SB No. 124 signed on July 7, 2011.

² The Commission approved the Pilot Program via Order Nos. 8075 and 8093 in PSC Docket No. 11-399.

³ “Solar Renewable Energy Credit” as defined in 26 *Del. C.* §352 (25)

⁴ The Commission approved the 2013 Program via Order 8281 and 8450 in PSC Docket No. 12-526.

⁵ The Commission approved the 2014 Program via Order Nos. 8551 and 8629 in PSC Docket No. 14-41.

The 2015 Program:

Delmarva Power filed an application with the Commission for approval of the 2015 Program for the Procurement of Solar Renewable Energy Credits (the “2015 Program”) on December 9, 2014. The 2015 Program is based on the recommendations of RETF, as well as the prior SREC Programs. The 2015 Program contains key changes from the prior SREC Programs.

Bid Deposit

In the event that an owner represents a system as having the Delaware workforce bonus and/or Delaware equipment bonus eligibility⁶, and the system has not been certified by the Delaware Public Service Commission to include those bonuses, the Sustainable Energy Utility (“SEU”) has the option to declare the bid deposit forfeited and the SREC transfer agreement terminated.

Tier Structure and SREC Procurement

For the 2015 compliance year, a total of 9,000 SRECs will be acquired through the SREC solicitation and up to 3,000 SRECs can be purchased on the spot market. The number of required SRECs increased from the 2014 Procurement Program under REPSA. The 2014 Program permitted Delmarva Power to acquire 7,000 SRECs through the procurement process and an additional 1,000 SRECs to be purchased through the spot market. The 2014 Program combined three of the five tiers, N-1, E-1, and E-2 and allocated a total of 3,800 SRECs to be acquired. N-2 and N-3 required 1,600 SRECs each. The 2015 Program differs from the 2014 Program by increasing the amount of SRECs required for the combined tiers N1, E-1, and E-2 from 3,800 to 4,400. The remaining tiers, N-2 and N-3 are allocated 2,300 SRECs each. The 2015 Program allows Delmarva Power to accept lower priced bids from other tiers in the event that a tier is undersubscribed⁷. This change gives Delmarva Power flexibility in the event a tier is undersubscribed and provides cost benefits for Delmarva Power’s ratepayers. Delmarva Power also has the option of acquiring up to 3,000 additional SRECs from less expensive bids in either category of New Systems and/or Existing Systems as an alternative to acquiring 3,000 SRECS through the spot market, adding an additional layer of cost protection for ratepayers.

Transfer Agreement Payment Structure

The 2015 Program proposes a change to the structuring of the payment schedule for long-term 20 year contracts. Under the 2014 Program, the contract term specified that for the first seven years, the system owner would receive a payment of the accepted bid price per SREC. The remaining 13 years would be a fixed price of \$35 per SREC. The 2015 Program proposes that the system owner receive the accepted bid price per SREC for the first 10 years, and a fixed price payment of \$35 per SREC for the remaining 10 years.

⁶ 26 Del. C. § 356 (d) (e)

⁷ Due to insufficient bids or rejected bids.

Upset Prices, Bid Rejection and Default

Under the 2015 Program, the SEU will reserve the right to reject any and all bids above the Alternative Compliance Payment⁸ of \$400. Delmarva Power will also have the option of rejecting bids that exceed a price to be determined by Delmarva Power. Staff noted an error on page 19 of the 2015 Program granting authority to the SEU to reject bids above a determined price set by the SEU. Staff contacted the company and they filed a correction on February 25, 2015. Only Delmarva Power reserves the right to reject any or all bids above a threshold price per SREC. The 2015 Program also rectifies the issue of default bids. If the owner of an existing system defaults on their bid by not signing the contract, the owner will be prohibited from bidding in subsequent long-term auctions.

Recommendation:

Staff would like to make the Commission aware of a pending issue that the Commission may wish to consider in their deliberation on this application. On December 1, 2014, the Department of Natural Resources and Environmental Control's ("DNREC") Division of Energy and Climate published proposed rules for Implementation of Renewable Energy Portfolio Standards Cost Cap Provisions ("Cost Cap Rules"). Under the proposed rules, DNREC presented a method for calculating the cost of compliance and noted that the proposed Cost Cap Rules would take effect beginning with the compliance year of 2013⁹. In section 5.0 *Determination by the Director*, DNREC noted in subsection 5.2¹⁰ that if the Renewable Energy Cost of Compliance increased 3 percent over the previous compliance year, and subsection 5.3¹¹ noted that if the Solar Renewable Energy Cost of Compliance increased 1 percent over the previous compliance year, the Director would determine whether a freeze should be implemented. Staff performed rough calculations based on the method proposed in the Cost Cap Rules. Please note that Staff's calculations do not include factors that could be considered in DNREC's calculations such as energy market conditions, avoided cost benefits from the RPS, externality benefits of changes in the energy markets, and the economic impacts of the deployment of renewable energy in Delaware. According to Staff's non-netted calculations, for the 2012 and 2013 Compliance year, the cost caps have been reached. Therefore, the 2015 Program has the potential to exceed the proposed cost caps. However there is uncertainty in the revisions to the proposed rules.

⁸ As defined in 26 Del. C. § 352 (1)

⁹ DNREC's rules were first published on Dec. 1, 2013 in the Register of Regulations. Those proposed rules noted that the calculations for the 1% and 3% were based on the cumulative totals for a year. In the proposed rules published on Dec. 1, 2014, the calculation for the 1% and 3% totals are based on an incremental change from year to year. The proposed language in the Dec. 1, 2014 rules concerning the method of calculation as well as the definition of Total Retail Costs of Electricity have been the subject of extensive stakeholder comments. Several significant stakeholders do not agree with the method of calculation proposed or the definition of Total Retail Costs of Electricity, among other issues.

¹⁰ "If the Division calculations show that the increase in the Renewable Energy Cost of Compliance over previous compliance year is equal to or greater than 3 percent of the Total Retail Cost of Electricity, the Director shall determine whether a freeze should be implemented."

¹¹ "If the Division calculations show that the increase in the Solar Renewable Energy Cost of Compliance over the previous compliance year is equal to or greater than 1 percent of the Total Retail Cost of Electricity, the Director shall determine whether a freeze should be implemented."

Staff performed a review of the 2015 Program application to ensure compliance with the recommendations made by the RETF, the Delaware Code, the Commission's regulations, and prior orders. Staff supports the changes to the procurement process as outlined in the application and respectfully recommends that the Commission approve the application with the correction as submitted.