

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

IN THE MATTER OF THE COMMISSION'S)	
REVIEW OF DELAWARE'S RETAIL)	
ELECTRICITY PRICING AND POTENTIAL)	DOCKET NO. 14-0283
LONG TERM APPROACHES TO SECURE)	
LOWER PRICED ENERGY)	
(OPENED AUGUST 19, 2014))	

**MOTION OF COMMISSION STAFF
SEEKING A REVIEW OF RETAIL ELECTRICITY SUPPLY PRICES
ON BEHALF OF DELMARVA POWER & LIGHT COMPANY CUSTOMERS
AND CONSIDERATION OF
LONG RANGE ALTERNATIVE SUPPLY OPTIONS**

COMES NOW, the Staff of the Delaware Public Service Commission by and through its counsel, Ashby & Geddes, to request this Commission to open a Docket to review on behalf of the customers of Delmarva Power & Light Company ("Delmarva" or the "Company") the current process used to supply retail electric energy, capacity and ancillary services to Delmarva's customers and the various potential options that could potentially offer lower retail energy costs. In support of its Motion, the Commission Staff respectfully represents as follows:

A. Preliminary Statement

1. The State of Delaware has long been concerned with the price of energy that must be paid by both wholesale and retail customers. The economic strength of the State is directly tied to the costs that residential, commercial and industrial customers must absorb in the pursuit of their daily efforts. The cost of electricity is one key factor having a major influence on the success or failure of those efforts. Over the years, there have been numerous actions taken by

the Delaware legislature in an attempt to secure lower electric and gas prices in Delaware and to improve the environment and related health of its citizens.

2. Legislative efforts to improve the energy climate in Delaware started, most recently, with the Electric Utility Restructuring Act of 1999. Driven by the potential for lower costs from competitive energy markets and the vertically integrated utility promises that deregulation would lead to much more competition in the industry, the 140th General Assembly passed House Bill 10, deregulating electric supply and providing an opportunity for all Delmarva Power ratepayers to secure energy from competitive energy markets.

3. Through a series of dockets, this Commission approved Delmarva's amended Restructuring Plan, approved a competitive RFP bid process to secure supply and obtained a rate decrease and a rate freeze through 2003. Upon application of Delmarva for merger with Potomac Electric Power Company, this Commission approved a revised rate and extended the rate freeze until May 2006.

4. As 2006 approached, it became clear that Delmarva customers would be experiencing a significant rate increase from competitive markets as the rate freeze ended. While the Commission was addressing the issue, the 143rd General Assembly drafted House Bill 6 which established several new regulatory requirements for Delmarva. The Bill addressed the rate increase issue by authorizing Delmarva to institute an optional rate structure plan whereby ratepayers could defer part of the increase into the next two years. However, the bill also specified Delmarva Power as the Standard Offer Service provider, required Integrated Resource Planning every two (2) years and set various limits around the supply options which included a mandatory 30% minimum from market based sources and a requirement to conduct a long-term solicitation for energy supply in Delaware.

5. As a result of House Bill 6, Delmarva negotiated a long-term supply contract with NRG's Bluewater Wind, which was recently terminated by Bluewater Wind due, in part, to financing issues and the uncertainty of the continuation of the renewable energy production tax credit. Delmarva has continued to provide Integrated Resource Plans which have been reviewed and acknowledged by this Commission. Unfortunately, nothing in those plans has produced any quantifiable long-term savings for customers.

6. In 2014, as part of House Bill 242 (Bond Bill), the Legislature created a Committee to look at the potential for aggregating residential load and securing lower energy prices for Delmarva's residential customers. This Committee has just started its review process and has the authority to implement such a program if beneficial to ratepayers.

7. A central conclusion that can be drawn from this legislative and regulatory background is that the several piecemeal efforts attempting to fix the various identified concerns, and secure lower prices for Delaware energy consumers, has not worked as intended. In 2001, the average Delaware residential ratepayer was paying 8.61 cents per kwhr on their retail bill, while the Delmarva residential ratepayer was paying 8.16 cents per kwhr under an agreed upon rate freeze. By 2013, the average Delaware residential ratepayer was paying 13.01 cents per kwhr on their retail bill, or 51.1% more. But the Delmarva residential customer was paying 14.7 cents per kwhr, or 80% more in 2013. In this same time frame, the national average energy price rose from 8.58 cents per kwhr to 12.12 cents per kwhr for a 41.3% increase. For perspective, the all-in consumer cost of living during that same time frame had only risen 31.5% based on the average U.S. urban city dweller Consumer Price Index.¹

¹ <http://www.bls.gov/cpi/cpid1401.pdf>

8. To secure a stable and lower cost energy environment for Delmarva ratepayers, it is essential that this Commission take a long range view and not be driven by the annual incremental or legislative changes that have been offered to date. This Commission has the tools and ability to put Delmarva's energy environment on a more secure and less volatile footing with a gradual pathway towards lower energy costs. Thus, it is critical that this Commission open a docket that provides an opportunity for Staff to review the current energy supply approach, outside of the forthcoming status quo IRP, and to develop and propose a long-range supply plan for this Commission's consideration.

B. Background

9. On March 30, 1999, the General Assembly passed House Bill 10, restructuring the electric industry in Delaware ("Electric Utility Restructuring Act of 1999.") The policy underlying House Bill No. 10 was to encourage a competitive market for the supply of electricity and the availability of customer choice, as well as to deregulate the generation, supply and sale of electricity. Prior to restructuring, the generation, transmission and distribution of electric power by Delmarva was fully regulated by the PSC on the basis of standard regulatory cost recovery. With restructuring, the generation or supply of electric power became deregulated, subject only to the market conditions managed by PJM Interconnection, recognized by FERC as the first Independent System Operator (ISO) in 1997.

10. In response to House Bill 10, the Commission opened PSC Docket No. 99-163 for the purpose of reviewing Delmarva's plans for implementing retail competition. On September 29, 1999, this Commission approved an amended restructuring plan that provided for a 7.5% rate reduction, residential rate freeze through September 30, 2003, the approval to recover certain

stranded costs from non-residential customers, along with the right to dispose of the Company's generating assets.

11. In 2001, Delmarva filed an application to merge with Potomac Electric Power Company. As part of that settlement, and under PSC Order 5941, revised rates were established to take effect at the end of the deregulation transition period and to continue until May 2006. During this early restructuring time frame, and after approval of Delmarva's transition plan, this Commission resolved deferred restructuring issues and approved a market based approach to securing electric supply.

12. In 2004, this Commission required Delmarva's to secure electricity supply through a competitive RFP process that would result in multiple supplier contracts with wholesale suppliers. In December, 2005 and January, 2006, DP&L utilized this RFP process to procure supply for its post-May, 2006 fixed-price SOS services.

13. With known energy prices expiring in May of 2006 and with Delmarva customers about to experience market based residential increases well over 50%, the 143rd General Assembly passed House Bill 6 on April 6, 2006, which established several different requirements for Delmarva. It required an optional rate plan that offered rate payers the opportunity to defer a single large post freeze increase in favor of smaller increments of 15%, 25% and 19% on May 1, 2006, January 1, 2007 and June 1, 2007, respectively. Given the energy price volatility that had been experienced, this same legislation declared that Delmarva would become the Standard Offer Service provider, that it would file an Integrated Resource Plans every two (2) years and would conduct a long-term solicitation for energy supply in Delaware. It further set specific limits on the procurement of supply by mandating that at least 30% would come from the

competitive marketplace by bid or auction process. The legislation granted further authority to the SOS provider to:

- (1) enter into short- and long-term contracts for the procurement of power necessary to serve its customers;
- (2) own and operate facilities for the generation of electric power;
- (3) build generation and transmission facilities (subject to any other requirements in any other section of the Delaware Code regarding siting, etc.);
- (4) make investments in Demand-Side resources; and
- (5) take any other Commission-approved action to diversify their retail load.

As part of that initial IRP process, and to immediately attempt to stabilize the long-term outlook for SOS in the DP&L territory, Delmarva was required to file on or before August 1, 2006 a proposal to obtain long-term contracts in the form of a Request for Proposals for the construction of new generation resources in Delaware. As that process played out, a joint Delaware agency team approved Delmarva entering into a long-term contract with what was to become NRG's Bluewater Wind offshore generation project in an attempt to stabilize volatile energy prices.

14. In response to House Bill 6, on June 20, 2006, this Commission reopened Docket No. 04-193 to consider its approach to implementing the new legislation and determining the type of bid or auction process that Delmarva Power would follow. Commission Order No. 6943, dated June 20, 2006 summarizes the situation:

“In a series of earlier Orders in this docket [04-391], the Commission managed how Standard Offer Supply (“SOS”) services would be provided to retail consumers within the electric distribution service territory of Delmarva Power & Light Company (“DP&L”). The Commission chose DP&L as the SOS supplier² and endorsed a “market-based” regime as the means for DP&L to acquire the necessary wholesale supply to meet

²PSC Findings, Opinion, and Order No. 6598 (Mar. 22, 2205).

its SOS load.³ In particular, for “fixed price” retail SOS services, the procurement method was to be a competitive-bid, Request for Proposal (“RFP”) process that would result in multiple requirements’ contracts between DP&L and one or more wholesale suppliers.⁴ In December, 2005 and January, 2006, DP&L utilized this RFP process to procure supply for its post-May, 2006 fixed-price SOS services. The process culminated in supply contracts with six successful bidders.⁵ A significant number of those contracts are now due to expire on June 1, 2007.⁶ All of these prior Orders were premised on the dictates of the Electric Utility Restructuring Act of 1999, 26 Del. C. ch. 10 (prior to amendments effective April 6, 2006).”

15. In furtherance of House Bill 6, on August 2006, this Commission opened Docket 06-241 to review Delmarva Power’s proposal to obtain long-term supply contracts as required by House Bill 6. On October 31, 2006 this Commission, along with three other State agencies, approved an Independent Consultant’s Report on Delmarva’s proposal for entering into a long term supply contract. Under Commission Order No. 7199, the Agencies authorized Delmarva to enter into negotiations with Bluewater Wind for a long-term supply contract.

16. As a result of the proposal for new generation in Delaware, the Bluewater Wind project was selected to provide approximately 200 megawatts of offshore generation. After lengthy negotiation, Delmarva submitted a contract to the Commission that was approved on September 2, 2008. Subsequent to that approval, Bluewater Wind was acquired by NRG

³PSC Findings, Opinion, and Order No. 6746 (Oct. 11, 2005) (“Order 6746”). In that Order, the Commission also adopted a formula to set retail SOS rates based on the sum of the multi-element “reasonable allowance for retail margin” plus the incurred wholesale energy and capacity costs.

⁴Id.

⁵PSC Order No. 6881 (Mar. 28, 2006) (reviewing initial RFP process).

⁶All the contracts to provide supply for non-residential SOS load will lapse in June, 2007. On the residential SOS side, the contracts for supply have staggered lengths. Some (for one-third of that load) run until June, 2007. Others (for a second one-third of load) continue to June, 2008. The final ones (for the last one-third of load) last until June, 2009.

Bluewater, which later withdrew from the contract citing concerns with the precarious status of federal production tax credits for offshore facilities.

17. In 2014, the 147th General Assembly added a Paragraph 66 to the 2014 Bond Bill requiring the Secretary of State to chair a committee to review the potential for aggregation to save on residential customer energy bills. The Committee has met once and is continuing its efforts to look at possible aggregation methodologies.

18. As evidenced by energy supply prices over the past 14 years, many of these efforts have not provided Delmarva Power customers with lower energy bills and, in the worse case, may have cost ratepayers money for failed attempts to secure addition supply options. In simple terms, the all-in Consumer price index has increased 31.5%, while national electricity rates have increased 41.3%. But Delaware's electricity rates have increased 51.1% and Delmarva electricity rates have increased 80% between 2001 and 2013. Thus, the incremental solutions offered by the Legislature and the regulatory process do not appear to be working for Delmarva customers. Conversely, the development of a long-term diversified portfolio for the Delaware Electric Cooperative seems to have had a much better outcome for its ratepayers.

B. Need For Relief

19. Despite repeated attempts over the past 14 years to reduce Delaware's energy costs, first through deregulation, then through supply diversification and more recently through aggregation, Delaware's electricity bills have continued to escalate beyond comparable national averages. Staff believes that it is time to review the approaches that have taken place over the past 14 years and to determine a long-term solution that will ultimately provide lower energy costs to Delmarva's consumers. Since 2006 the competitive energy market place, integrated resource planning, energy efficiency and demand response have been mainstays, but electricity

prices have continued to escalate. It is time to look for longer term solutions that will meet Delaware's energy needs.

20. Accordingly, Staff requests that the Commission open a docket for the purpose of:

(1) examining potential alternative long-term approaches in an attempt to secure a more cost effective Delmarva energy supply;

(2) reviewing current legislative requirements and providing recommendations to eliminate unnecessary and costly statutory requirements; and

(3) providing specific recommendations to the Commission for its consideration and potential adoption on reducing energy costs for Delmarva customers.

C. Additional Relief

21. To the extent the Commission concludes that a Staff review is timely and in the best interest of Delmarva's rate payers, Staff requests the Commission require Delmarva participation in the process, that the proceeding be publicly noticed by Delmarva; that Mr. Ron Teixeira be appointed Case Manager with authority to rule on interventions and conduct discussions, and that the Company be responsible for all costs related to the review and determinations.

D. Conclusion

22. For the reasons set forth above, Staff requests that the Commission enter an order in the form attached hereto and for such other relief as the Commission deems just and proper.

Respectfully submitted,

/s/ James McC. Geddes

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