

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

IN THE MATTER OF THE APPLICATION OF )  
DELMARVA POWER & LIGHT COMPANY FOR AN )  
UPDATE IN THE GAS ENVIRONMENTAL ) PSC DOCKET NO. 07-237  
SURCHARGE RIDER RATE )  
(FILED AUGUST 31, 2007) )

**ORDER NO. 7407**

**AND NOW**, to-wit, this 17<sup>th</sup> day of June, A.D., 2008;

**WHEREAS**, the Commission having received and considered the Findings and Recommendations of the Hearing Examiner ("Report") issued on June 9, 2008 in the above-captioned docket, which was submitted after a duly noticed public evidentiary hearing held on May 21, 2008; and

**WHEREAS**, the Commission has received and reviewed the Hearing Examiner's Report which notes that all parties find that the proposal of Delmarva Power & Light Company ("the Company") is reasonable and in the public interest to allow the surcharge for the environmental cost year ending May 31, 2007 to remain unchanged pursuant to the Company's Application filed on August 31, 2007; and

**WHEREAS**, the Commission finds that the proposal to allow the Environmental Surcharge Rider Rate to remain unchanged as provided in the applicable tariff sheets of Delmarva Power & Light Company is just and reasonable and that its adoption is in the public interest; now, therefore,

**IT IS ORDERED:**

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the June 9, 2008 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as "Attachment A."

2. That, accordingly, the Commission approves Delmarva Power & Light Company's proposed rates and tariff changes, which reflect the current levels in the environmental surcharge rider rate, as follows:

<u>Rate Schedules</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
RG and GG	\$0.00238/Ccf	\$0.00238/Ccf
MVG & LVG	\$0.02380/Mcf	\$0.02380/Mcf
GVTF	\$0.00238/Ccf	\$0.00238/Ccf
MVFT, LVFT	\$0.02380/Mcf	\$0.02380/Mcf

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/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

PSC Docket No. 07-237, Order No. 7407 Cont'd.

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

A T T A C H M E N T "A"

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF )  
DELMARVA POWER & LIGHT COMPANY FOR AN )  
UPDATE IN THE GAS ENVIRONMENTAL ) PSC DOCKET NO. 07-237  
SURCHARGE RIDER RATE )  
(FILED AUGUST 31, 2007) )

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: June 9, 2008

RUTH ANN PRICE  
SENIOR HEARING EXAMINER

TABLE OF CONTENTS

	PAGE
I. APPEARANCES.....	1
II. DELMARVA'S ANNUAL APPLICATION TO ADJUST THE ENVIRONMENTAL SURCHARGE RIDER RATE.....	1
III. SUMMARY OF THE EVIDENCE.....	3
A. Company's Direct Testimony.....	3
B. The DPA .....	8
C. Staff's Testimony.....	8
IV. DISCUSSION.....	9
V. RECOMMENDATION.....	11

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

IN THE MATTER OF THE APPLICATION OF )  
DELMARVA POWER & LIGHT COMPANY FOR AN )  
UPDATE IN THE GAS ENVIRONMENTAL ) PSC DOCKET NO. 07-237  
SURCHARGE RIDER RATE )  
(FILED AUGUST 31, 2007) )

**FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Ruth Ann Price, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. § 502 and 29 Del. C. ch. 101, by Commission Order No. 7281, dated September 18, 2007, reports to the Commission as follows:

**I. APPEARANCES**

On behalf of the Applicant, Delmarva Power & Light Company ("Delmarva" or "the Company"):

TODD L. GOODMAN, ESQUIRE.

On behalf of the Public Service Commission Staff ("Staff"):

ASHBY & GEDDES  
BY: BROOKE LEACH, ESQUIRE.

On behalf of the Division of the Public Advocate ("DPA" or "the Division"):

JOHN CITROLO, DEPUTY PUBLIC ADVOCATE.

**II. DELMARVA'S ANNUAL APPLICATION TO ADJUST THE ENVIRONMENTAL SURCHARGE RIDER RATE**

1. On August 31, 2007, Delmarva filed its annual application, as required by PSC Order No. 6372 (Feb. 24, 2004), to reset the surcharge effective on November 1 of each year. Delmarva requested to maintain

its Environmental Surcharge Rider Rate ("ESR" or "Environmental Surcharge Rate") of \$0.00238 per Ccf for all firm delivery service customers effective November 1, 2007 and with such revised factors to continue in effect until October 31, 2008, subject to refund.

2. In PSC Order No. 7281 (Sept. 18, 2007), the Commission allowed Delmarva's proposed ESR to become effective on a temporary basis, subject to refund. In addition, the Commission designated the undersigned hearing examiner to conduct public evidentiary hearings as needed and to report to the Commission her proposed findings and recommendations based on the evidence presented.

3. On September 26 and 27, 2007, the Company published notice of its application in the legal classified section of The News Journal newspaper. The notice included information on how to intervene in the proceeding and announced the date of October 26, 2007 by which all petitions to intervene must be filed.

4. The Company further announced in its newspaper publication that a public comment session would be held on November 15, 2007 at the Carvel State Office Building in Wilmington.

5. According to the Company's application, under the proposed rates, the average residential heating customer using 120 Ccf a month of natural gas during the winter heating season would experience no change from the last ESR filing.

6. A duly noticed<sup>1</sup> public comment hearing was conducted on the evening of November 15, 2007 in Wilmington, Delaware. The public comment session was held jointly for this docket and for Delmarva's

---

<sup>1</sup> Exhibits will be cited as "Ex.\_\_\_\_" and references to the public comment session transcript and the hearing transcript will be cited as "Tr.\_\_\_\_."

Gas Cost Rate ("GCR") case, PSC Docket No. 07-239F. No members of the public attended the public comment session for either case.

7. An evidentiary hearing was held on February 6, 2008, in Wilmington. No members of the public attended the evidentiary hearing. The record, as developed at the hearing, consists of a 57-page verbatim transcript and 3 exhibits. After the February 6, 2008 evidentiary hearing was held, it was determined that public notice of the hearing had not been properly given. In order to correct this defect, I scheduled another evidentiary hearing in this matter for May 21, 2008. Accordingly, the Company published notice of the May 21, 2008 hearing in The News Journal newspaper on May 1, 2008. Ex. 1A.

8. At the duly noticed evidentiary hearing held on May 21, 2008, counsel for the parties moved into the record the testimony, transcripts and exhibits in their entirety that were presented at the February 6, 2008 evidentiary hearing. No members of the public were present at the May 21, 2008 hearing.

9. I have considered all of the record evidence and, based thereon, I submit for the Commission's consideration these findings and recommendations.

### **III. SUMMARY OF THE EVIDENCE**

#### **A. Company's Direct Testimony.**

10. Delmarva submitted the pre-filed testimony of two witnesses, Leonard Joseph Beck, Senior Regulatory Affairs Analyst, and

Philip J. Phillips, Jr., Manager of Gas Engineering.<sup>2</sup> Mr. Beck provided the overview for Delmarva's case and summarized the proposals and rationale for those proposals. Ex. 2. Mr. Phillips is the Company liason with the Department of Natural Resources and Environmental Control ("DNREC") for remediation matters. Tr. 26.

11. Mr. Beck explained that by Order No. 7145 (Mar. 29, 2007), the Commission approved the environmental surcharge rate that placed into effect the current rate of \$0.00238 per Ccf for all firm delivery service customers. As stated by Mr. Beck, the purpose of the environmental surcharge rate is to allow the Company to recover certain expenses associated with remediation of its Manufactured Gas Plant sites. Ex. 2 at 3.

12. In the instant application, filed on August 31, 2007, the Company seeks to maintain the ESR at \$0.00238 per Ccf based upon its need to recover the amount of \$54,679.30 in expenses incurred during the Environmental Cost Year ("ECY") of June 1, 2006 through May 31, 2007. Ex. 2 at 6. The Company has not requested any rate design changes in this case. However, at the evidentiary hearing the Company noted that for this year there would be a small under-collection in the amount of \$3,402.00 which it proposes to carry forward into next year. Tr. 12. The Company would absorb the interest and carrying costs. *Id.* Further, the methodology used to calculate the current rate is the methodology approved by the Commission in Order No. 6401

---

<sup>2</sup>The Company pre-filed the testimony of one witness, Leonard Joseph Beck. Mr. Beck also attended the evidentiary hearing and was cross-examined. Further, at the evidentiary hearing, the Company proffered the testimony of Philip J. Phillips to address any questions regarding the Company's negotiations with DNREC and to answer questions relating to the remediation process. Mr. Phillips testified without objection by the other parties.

(Apr. 20, 2004) regarding PSC Docket No. 04-53 for implementation of the initial ESR.

13. Mr. Beck testified that recovery is designed to be borne by the shareholders and the customers. Ex. 2 at 10. Mr. Beck asserted that the shareholders and customers share the recovery by amortizing the expenses in the ECY over a five-year period with the customers bearing the responsibility for the annual amortization costs and the shareholders assuming responsibility for the carrying costs on the unamortized cost balances. *Id.* Mr. Beck contends that this arrangement benefits customers by deferring taxes associated with unamortized remediation costs and having no interest accrue or interest expense on unamortized balances. *Id.*

14. Mr. Beck presented a schedule of the environmental expenses for this ECY for \$54,679.30 amortized over a five-year period. Ex. 2 at Schedule LJB-2. Mr. Beck noted that with the offset for deferred taxes the recovery amount is \$49,779.84 over the amortization period. *Id.*

15. Remediation Sites. Mr. Beck testified there was one manufactured gas plant site in Wilmington that DNREC divided into three designations - Wilmington Coal Gas Site - North, Wilmington Coal Gas Site - South, and the Wilmington Public Works Yard. There is also a site located in New Castle.<sup>3</sup> Ex. 2 at 6. The Company's application

---

<sup>3</sup>The applicable tariff, Delmarva Power & Light, P.S.C. Del. No. 5-Gas, Tariff Leaf No. 79, Section A, Sixth Revision, Revised August 10, 2004, effective on and after April 20, 2004, provides for recovery of expenses associated with the Wilmington site alone. Therefore, assuming that the Company had incurred remediation expenses for the New Castle site (which it has not claimed in this application) there is no tariff currently approved that permits the Company to recover those expenses through a surcharge.

for recovery of \$54,679.30 in remediation costs in its instant application is related to the collective Wilmington site. Ex. 2 at Schedule LJB-1.

16. The Wilmington Coal Gas Site-North incurred \$360.00 in expenses for consulting services for project management review and responding to DNREC inquiries. Ex. 2 at 13. The Public Works Yard had a negative balance of \$9,520.00 because of the reversal of a \$10,000.00 expenditure relating to paving costs that was found to be unnecessary at this time. *Id.* However, this site reflected actual costs of \$480.00 for engineering consulting expenditures.<sup>4</sup> Mr. Beck testified that remediation at the Public Works Yard is essentially complete. Tr. 22. Expenses of \$63,839.30 are attributable to the Wilmington Coal Gas Site - South for environmental consulting work for supplemental field investigations, preparation of technical reports, meetings with DNREC, and responding to DNREC questions. *Id.* at 13 and Schedule LJB-1. Mr. Beck testified that the Company estimates that the cost remaining for remediation at the collective Wilmington site is \$1.45 million depending on DNREC's requirements. Tr. 24.

17. Mr. Phillips explained the process that DNREC uses for remediation sites. Mr. Phillips testified that DNREC required the Company to perform a comprehensive data summary of all investigations at the Wilmington Coal Gas Site-South. Tr. 27. The data summary is a

---

<sup>4</sup>During 2007, the Wilmington Coal Gas Site-North was sold to the Delaware Department of Transportation for relocation of roadways in the area during 2007. Previously, the Company testified concerning the disposition of the proceeds of the sale in *In the Matter of the Application of Delmarva Power & Light Company For A Change in Natural Gas Base Rates*, PSC Docket No. 06-284.

compilation of all the prior tests and studies that the Company has performed at the site. Tr. 28. As requested, the Company completed the comprehensive data summary, which accounts for the costs of \$63,839.30 for that site. *Id.* After DNREC approves the data summary, which they had not done as of the evidentiary hearing, Delmarva must provide a new remedial investigation report to DNREC. *Id.* The data summary then must be turned into a feasibility study for the site. At the time the feasibility study is completed, a public hearing will be scheduled concerning how the remediation would be completed. *Id.* The Company will not be able to continue remediation work at the Wilmington Coal Gas Site-South until the final feasibility study is approved.

18. Mr. Phillips further stated that in discussions with DNREC, the Company has learned that the preferred method of remediation for the Wilmington Coal Gas South site is in-situ stabilization which below-ground contaminants are disabled from moving off-site. *Id.* Mr. Phillips observed that under DNREC's Hazardous Substance Clean Up Act regulations, the level of remediation (based upon the contaminants present) is proportional to the site's intended use. Tr. 29. Mr. Phillips noted that DNREC has levels of remediation consistent with whether the site will be used for commercial, residential, or industrial purposes and that there are subcategories for each of these broad categories. *Id.*

19. Mr. Phillips stated that although there is no time-table in place for approval of the feasibility study, it is the Company's understanding and expectation that all the necessary approvals will be

obtained in order to complete construction by the end of 2009. Mr. Phillips noted that DNREC wants assurance that it thoroughly understands the intended use of the property before it will approve remediation plans. *Id.*

**B. The DPA.**

20. Recognizing that the Company was not requesting an adjustment in the ESR for this application, the DPA did not formally intervene in or file testimony in this case. However, Deputy DPA John Citrolo represented the Division at the evidentiary hearing. Mr. Citrolo represented that the DPA was in agreement with the Company and Staff that no change in the ESR was appropriate at this time. Further, the DPA agreed that this course of action was reasonable and in the public interest.

**C. Staff's Testimony.**

21. The Delaware Public Service Commission's Staff submitted the testimony of one witness, Courtney A. Stewart, a Public Utilities Analyst, to provide Staff's position regarding the ESR. Ex. 3.

22. Ms. Stewart reported that she conducted a thorough audit of the Company's application and schedules filed in this matter with other supporting documents that were made available to Staff. Ex. 3. Ms. Stewart also conducted an audit of the Company's books relating to remediation of the collective Wilmington Coal Gas Sites. *Id.* Ms. Stewart testified that she verified that the amount of \$10,000, which had been accrued for paving at the Wilmington Coal Gas Site-South, had been credited in this year's filing. Tr. 41-42.

23. Ms. Stewart noted that there were three significant invoices for services during this ECY. Ex. 3 at 5-6. ESNR, an environmental consulting firm, submitted an invoice totaling \$62,672.65. ESNR performed environmental investigations and developed technical reports for the Wilmington Coal Gas Site South. Ex. 3 at 6. In addition, ESNR developed the remedial design for the site. *Id.* The firm of Veolia Environmental Services performed hauling of solid waste to approved disposal sites for which it charged the amount of \$315.15. Further, DNREC submitted an invoice in the amount of \$1,691.50 for overseeing investigation and remediation to ensure proper remediation at the collective Wilmington site. *Id.*

24. Further, Ms. Stewart testified that she reviewed the schedules attached to Mr. Beck's pre-filed testimony (Ex. 3 at Schedules LJB-1 through LJB-6) and conducted an audit of the Company's books at its offices in Wilmington. *Id.*

25. Ms. Stewart stated that she reviewed all of the documents for the remediation of the Wilmington Coal Gas Sites (North, South, and the Public Works Yard) for the environmental cost year ending May 31, 2007. Ex. 4 at 4. Ms. Stewart reported that she found no discrepancies in amounts from the schedules the Company had provided.

## **V. DISCUSSION**

26. The Commission has jurisdiction over this matter (26 Del. C. §201(a)). The evidentiary record supports the conclusion that the Company's proposal to keep the ESR at the current level for all firm delivery customers is just and reasonable and should be approved by the Commission. For the reasons discussed below, I concur and

recommend to the Commission its approval and adoption of the Company's application.

27. As noted above, the evidentiary hearing was conducted on February 6, 2008, in which the Company and Commission Staff presented witnesses who testified regarding their reasons for leaving the ESR unchanged at \$0.02380 for this ECY.

28. Pursuant to the Company's application in the instant case, the Company, DPA, and Staff agree that the ESR should remain at the rate of \$0.00238 per Ccf for the RG, GG and GVFT rate classes and at \$0.02380 per Mcf for the MVG and LVG rate classes and the MVFT and LVFT rate classes.

29. With the Commission's approval of the Company's request to recover \$54,679.30 in this filing, the Company will have requested (and received) permission to recover the total amount of \$2,389,139.72<sup>5</sup> for expenses associated with clean-up of the Wilmington site since the Company made its initial request in PSC Docket No. 04-52.

30. The Company and the Commission Staff have reviewed the expenses in the accounts related to the Wilmington Coal Gas Site - North, Wilmington Coal Gas Site - South, and the Public Works Yard and the parties agree that the expenses are reasonable and appropriate

---

<sup>5</sup>Since the ESR was established, the Commission has approved (or may approve with this filing) for recovery by Delmarva the following amounts for remediation expenses at the Wilmington subdivided sites:

Docket 04-53	-	\$522,988	for ECY 1997	to 5/31/03
Docket 04-484	-	\$ 55,751	for ECY 6/1/03	to 5/31/04
Docket 05-356	-	\$957,588.96	for ECY 6/1/04	to 5/31/05
Docket 06-283	-	\$798,811.76	for ECY 6/1/05	to 5/31/06
Docket 07-237	-	\$ 54,679.30	for ECY 6/1/06	to 5/31/07
Total	-	\$2,389,139.72	amount for remediation expenses.	

costs associated with the remediation of the Manufactured Gas Plant site in Wilmington.

31. Moreover, I find that the average residential heating customer using 120 ccf a month of natural gas during the winter heating season will not experience a change in their natural gas bill due to this application.

32. Accordingly, I recommend that the Commission approve the Company's application to leave the Environmental Surcharge Rider Rate the same as stated in its Application and the accompanying proposed tariffs.

#### **VI. RECOMMENDATION**

33. In summary, and for the reasons discussed above, I find that Delmarva Power & Light, the DPA, and Staff have presented sufficient evidence to support the justness and reasonableness of the Company's application, and accordingly, I recommend that the Commission adopt this report and recommendation.

34. As stated in the Company's application, I recommend to the Commission that it approve as just and reasonable to maintain the Company's Environmental Surcharge Rider Rates as follows:

- a. For the RG and GG classifications \$0.00238 per Ccf;
- b. For the MVG and LVG classifications \$0.02380 per Mcf;
- c. For the GVFT classification \$0.00238 per Ccf; and
- d. For the MVFT and LVFT classifications to \$0.02380 per Mcf.

35. A form of Order implementing the foregoing recommendations is attached as Attachment "A" for the Commission's consideration.

Respectfully submitted,

/s/ Ruth Ann Price  
Ruth Ann Price  
Hearing Examiner

Dated: June 9, 2008