



STATE OF DELAWARE

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December 8, 2015

To: The Chair and Members of the Commission

From: Pamela Knotts, Regulatory Policy Administrator *PK*

Subject: IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY FOR APPROVAL OF THE 2016 PROGRAM FOR THE PROCUREMENT OF SOLAR RENEWABLE ENERGY CREDITS (FILED OCTOBER 8, 2015) – PSC Docket No. 15-1472

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 2016 compliance year (beginning June 1, 2016), retail electricity suppliers must purchase as least 14.5% of their retail load in Delaware from renewable resources, with solar accounting for 1.25%. 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, the 2014 SREC Procurement (“2014 Program”)⁵, and the 2015

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.

SREC Procurement (“2015 Program”)⁶(collectively the “SREC Programs”) as recommended by RETF.

The 2016 Program:

Delmarva Power filed an application with the Commission for approval of the 2016 Program for the Procurement of Solar Renewable Energy Credits (the “2016 Program”) on October 8, 2015. The 2016 Program is based on the recommendations of RETF, as well as the prior SREC Programs. The 2016 Program contains some changes from the prior SREC Programs.

On December 4, 2015, Delmarva submitted a letter requesting the Commission table the Application and cancel the evidentiary hearing scheduled for December 15, 2015. Delmarva stated that it would be prudent to delay consideration of the Application until after DNREC’s final regulations for the Implementation of the Renewable Energy Portfolio Standards Cost Cap Provisions (“Cost Cap Rules”) are in place and there has been an opportunity to determine the impact of the regulations on this Application.

DNREC published their third revision to the proposed Cost Cap Rules on October 1st and their fourth revision on November 1st to correct the version published on October 1st. Each revision has contained substantive changes on how the freeze would be calculated. The deadline for public comments to be filed in this regulation docket is not until December 8th and DNREC could be considering these comments in the next proposed revision or the final proposed Cost Cap Rules.

Staff Review of the Proposed 2016 SREC Procurement Program:

The period for written comment and intervention established by public notice, ended on November 30th; written comments were received from the DPA and members of the public. One hundred and thirty seven (137) comments were received. The majority of these comments were submitted as the result of a newsletter that was sent out by the Delaware State Senate Republican Caucus⁷. The newsletter encouraged a response of “NO” to adding more solar power costs to the electric bill. Staff received 63 emails that simply stated “Vote No to PSC Docket No. 15-1472”, and 52 emails that stated that costs were the reason they were recommending the Commission to vote “No” to Docket No. 15-1472. Eleven (11) emails referred to the 3% cost cap being exceeded and urged the Commission to vote “No”, and 8 emails recommended the Commission vote “No” for various other reasons. Staff received 2 “Yes” responses that encouraged the Commission to take into consideration the long term benefit to the planet from renewables.

⁶ The Commission approved the 2015 Program via Order Nos. 8717 and 8764 in PSC Docket No. 14-0560

⁷ “Delaware State Senate Republican Caucus, Dec. 1,2015, Delmarva Power Customers Should Act Today to Avoid Higher Electric Bills”

In the DPA's comments they stated that their consultant determined that after reviewing a residential customer's electric bills from July 2014 to June 2015, the "Renewable Compliance Charge" as a percentage of electricity costs was between 5% and 9%⁸.

PSC Staff is a member of the Renewable Energy Taskforce ("RETF"). In June 2015, Staff raised the question concerning the status of the proposed Cost Cap Rules⁹. Staff voiced their concern that until the Cost Cap Rules are final and the final cost calculation is complete they would not recommend approval of the 2016 SREC Procurement Program to the Commission. In the last meeting of the RETF (August 27, 2015), Staff along with the representative from the DPA voted "No" to the 2016 SREC Procurement Program because the proposed Cost Cap Rules and their respective calculations were not final. Without a final cost calculation, PSC Staff could not say definitely that the 2016 SREC Procurement Program is in the public interest. Delmarva can fulfill its RPS obligation in other ways besides a 20 year long-term contract program, such as the one proposed.

Recommendation:

Staff supports Delmarva's request to cancel the hearing scheduled for December 15, 2015 and to delay consideration of the Application for the 2016 Program until DNREC's Cost Cap Rules are final. Delmarva would still be required to meet its RPS compliance obligation. Delaying consideration of this Application until DNREC's Cost Cap Rules are final would ensure that the ratepayers are not saddled with these 20 year contracts in the event the cost caps are exceeded.

⁸ Comments of the Division of the Public Advocate on the 2016 Program for the Procurement of Solar Renewable Energy Credits, filed Nov. 30, 2015, Docket No. 15-1472, page 4

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. In the proposed rules, published Nov. 1, 2015, the 1% and 3% were based on the cumulative totals for a year and the QFCP costs were not included in the cost of compliance. The proposed 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.