

**A REGULAR MEETING  
OF  
THE PUBLIC SERVICE COMMISSION**

1. A Regular Meeting was called to order by Chair Winslow in the Hearing Room, 861 Silver Lake Boulevard, Dover, Delaware, on Tuesday, February 23, 2016, at 1:00 p.m. with the following Commissioners in attendance: Joann Conaway, Kim Drexler and Harold Gray. Commissioner Karia arrived approximately 1:46 P.M.

The following Staff members were in attendance: Brenda Mayrack, Deputy Attorney General, Julie “Jo” Donoghue, Deputy Attorney General, James McC. Geddes, Esquire, Robert Howatt, Matthew Hartigan, Donna Nickerson, Natalie White, Joshua Bowman, Jerry Platt, Toni Loper, Jason Smith, and Ronnette Brown.

2. Commissioner Conaway moved to approve both Public and Executive meeting minutes from the February 4, 2016 meeting as presented; seconded by Commissioner Gray; motion carried 3-0. Chair Winslow abstained; Commissioner Karia was not present at time of vote.
3. CONSENT AGENDA ITEMS:

A motion was made by Commissioner Conaway to adopt the following Consent Agenda items:

IN THE MATTER OF THE PROVISION OF STANDARD OFFER SUPPLY TO RETAIL CONSUMERS IN THE SERVICE TERRITORY OF DELMARVA POWER & LIGHT COMPANY (FILED APRIL 1, 2015) – PSC DOCKET NO. 15-0889

Commission to consider proposed Order No. 8850.

IN THE MATTER OF THE PETITION OF THE RETAIL ENERGY SUPPLY ASSOCIATION (RESA) TO IMPLEMENT A PURCHASE OF RECEIVABLES PROGRAM IN DELAWARE. (FILED JANUARY 21, 2016) – PSC DOCKET NO. 16-0112

Commission to consider proposed Order No. 8851.

IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY FOR APPROVAL OF QUALIFIED FUEL CELL PROVIDER PROJECT TARIFFS (FILED JANUARY 27, 2016) – PSC DOCKET NO. 16-0120

Commission to consider Staff Memorandum and proposed Order No. 8853.

The motion was seconded by Commissioner Drexler; the motion carried 4-0. Commissioner Karia was not present for vote.

4. REGULAR AGENDA ITEMS:

IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORPORATION FOR APPROVAL OF NEW RATE SCHEDULE “TLFF” CALLED TOWN OF LAUREL FRANCHISE FEE RIDER (FILED JANUARY 29, 2016) – PSC DOCKET NO. 16-0123

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Julie “Jo” Donoghue, Esquire, and Joshua Bowman appeared on behalf of Staff.

William Denman, Esquire, appeared on behalf of Chesapeake Utilities Corporation.

A motion was made by Commissioner Gray and seconded by Commissioner Drexler to adopt Order No. 8852 as submitted; motion carried 4-0. Commissioner Karia was not present for vote.

A verbatim transcript was made of this proceeding.

IN THE MATTER OF THE NOTICE OF POTENTIAL VIOLATION OF 26 *DEL. ADMIN. C.* §8001 AND ASSOCIATED CIVIL PENALTIES ASSESSED TO CHESAPEAKE UTILITIES CORPORATION (OPENED NOVEMBER 6, 2015) - PSC DOCKET NO. 15-1539

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Julie “Jo” Donoghue, Esquire, and Jerry Platt appeared on behalf of Staff.

William O’Brien, Esquire, appeared on behalf of Chesapeake Utilities Corporation.

A motion was made by Commissioner Conaway and seconded by Commissioner Gray to adopt Order No. 8849; motion carried 4-0. Commissioner Karia was not present for vote.

A verbatim transcript was made of this proceeding.

IN THE MATTER OF THE PETITION OF THE RETAIL ENERGY SUPPLY ASSOCIATION (RESA) TO IMPLEMENT A PURCHASE OF RECEIVABLES PROGRAM IN DELAWARE. (FILED JANUARY 21, 2016) – PSC DOCKET NO. 16-0112

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Pamela Scott, Esquire, and Todd Goodman, Esquire, appeared on behalf of Delmarva Power & Light Company.

Brian Greene, Esquire, Gellert Scali Busenkell & Brown, LLC, appeared on behalf of Retail Energy Supply Association (“RESA”).

Brenda Mayrack, Esquire, and Toni Loper appeared on behalf of Staff.

Regina Iorii, Esquire, and Dave Bonar appeared on behalf of the Division of the Public Advocate.

A motion was made by Commissioner Drexler to permit Delmarva Power & Light Company to Intervene into this docket and seconded by Commissioner Conaway; motion carried 4-0. Commissioner Karia was not present for vote.

A motion was made by Commissioner Conaway and seconded by Commissioner Gray to adopt Order No. 8856 with an amendment to include Delmarva Power & Light Company's Intervention and a correction in the first line of paragraph three correcting the date from 2106 to 2016; motion carried 4-0. Commissioner Karia was not present for vote.

A verbatim transcript was made of this proceeding.

IN THE MATTER OF THE OBJECTIONS OF SUEZ WATER DELAWARE (FORMERLY UNITED WATER DELAWARE), TIDEWATER UTILITIES, INC., AND COMMISSION COUNSEL TO THE PRODUCTION OF CERTAIN DOCUMENTS IN RESPONSE TO FREEDOM OF INFORMATION ACT REQUESTS OF ARTESIAN WATER COMPANY, INC. (FILED DECEMBER 17, 2015; WITHDRAWN JANUARY 5, 2016; REFILED JANUARY 6, 2016) AND TIDEWATER UTILITIES, INC. (FILED DECEMBER 30, 2015; AMENDED JANUARY 5, 2016)

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Brenda Mayrack, Esquire appeared on behalf of Staff.

Ms. Mayrack informed in the Commission both Artesian Water Company, Inc. and Tidewater Utilities, Inc. have both withdrawn their Freedom of Information Act ("FOIA") request for this information which renders the objection to the disclosure of request mute; therefore there is nothing for the Commission to consider in this docket.

Chair Winslow acknowledged this docket to be closed.

**THE DISCUSSIONS FOR THE FOLLOWING MATTERS STARTED APPROXIMATELY 1:46 P.M. AND COMMISSIONER KARIA JOINED THE DISCUSSIONS APPROXIMATELY AT 1:50 P.M.**

IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY, EXELON CORPORATION, PEPCO HOLDINGS, INC., PURPLE ACQUISITION CORPORATION, EXELON ENERGY DELIVERY COMPANY, LLC AND NEW SPECIAL PURPOSE ENTITY FOR APPROVALS UNDER THE PROVISIONS OF 26 *DEL. C.* §§ 215 AND 1016 (FILED JUNE 18, 2014) – PSC DOCKET 14-193

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Todd Goodman, Esquire, Delmarva Power & Light Company and Joseph Schoell, Esquire, Drinker Biddle & Reath LLP, appeared on behalf of Joint Applicants.

Jeremy Firestone, Ph.D., J.D., appeared on behalf of Jeremy Firestone, Ph.D., J.D.

James McC. Geddes, Esquire appeared on behalf of Staff.

Brenda Mayrack, Esquire appeared on behalf of the Commission.

Regina Iorii, Esquire, and Dave Bonar appeared on behalf of the Division of the Public Advocate.

A motion was made by Chair Winslow and seconded by Commissioner Drexler to deny the Cease and Desist request made by Dr. Firestone; motion carried unanimously.

Brenda Mayrack, Esquire made a friendly amendment to the motion that the Commission include granting the motion to Quash and granting the Interlocutory Review. Chair Winslow acknowledged acceptance of amendment to the motion.

A verbatim transcript was made of this proceeding.

5. HEARINGS:

IN THE MATTER OF THE ADOPTION OF RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF 26 DEL. C. CH. 10 RELATING TO THE CREATION OF A COMPETITIVE MARKET FOR RETAIL ELECTRIC SUPPLY SERVICE (OPENED APRIL 27, 1999; RE-OPENED JANUARY 7, 2003; RE-OPENED SEPTEMBER 22, 2009; RE-OPENED SEPTEMBER 7, 2010; RE-OPENED JULY 17, 2012) – PSC REGULATION DOCKET NO. 49

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Todd Goodman, Esquire appeared on behalf of Delmarva Power & Light Company.

Brian Greene, Gellert Scali Busenkell & Brown, LLC, appeared on behalf of Retail Energy Supply Association (“RESA”).

Regina Iorii, Esquire, and Dave Bonar appeared on behalf of the Division of the Public Advocate.

James McC. Geddes, Esquire appeared on behalf of Staff.

Mr. Geddes requested the hearing be adjourned to a later date to allow the parties to narrow controversial issues regarding comments before bringing back to the Commission for consideration.

The Commission had no objection to the matter being adjourned.

A verbatim transcript was made of this proceeding.

IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORPORATION FOR APPROVAL OF A CHANGE IN ITS ENVIRONMENTAL RIDER RATE "ER" TO BE EFFECTIVE DECEMBER 1, 2015 – PSC DOCKET NO. 15-1516

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Brenda Mayrack, Esquire and Jason Smith appeared on behalf of Staff.

William Denman, Esquire, Parkowski, Guerke & Swayze, P.A., and Sarah Hardy, Senior Marketing Analyst, appeared on behalf of Chesapeake Utilities Corporation.

Regina Iorii, Esquire and Andrea Maucher, Public Utility Analyst, appeared on behalf of the Division of the Public Advocate.

The Commission allowed exhibits from both the Company and the Staff be entered as evidence.

A motion was made by Commissioner Conaway and seconded by Commissioner Karia to adopt Order No. 8855; motion carried unanimously.

A verbatim transcript was made of this proceeding.

6. PUBLIC COMMENTS:

David Stevenson, Caesar Rodney Institute (“CRI”), presented to the Commission comments on DNREC’s Cost Cap Calculation.

7. DIRECTOR’S COMMENTS:

Mr. Howatt alerted the Commission that Staff received 42 emails and of which 41 of those emails criticized the volatility of what DNREC will be sharing with the Commission. Mr. Howatt also wanted to alert the Commission that Staff does not feel that any action of the Commission is required in response to DNREC’s calculation review unless DNREC adds something that Staff is not aware of at this time.

Mr. Howatt introduced Phil Cherry, Devera Scott, Esquire, and Thomas Noyes of DNREC who gave the Commission a presentation on Cost Cap Calculations. The Commission took no action in this matter.

Before going to the last item under Director’s Comments, Mr. Howatt announced the next Commission would be March 8, 2016.

Mr. Howatt introduced the last item under Director’s Comments as relating to Staff looking to obtain Commission’s guidance on the Bonar vs Delaware Department of Natural Resources and Environmental Control pending litigation. Mr. Howatt stated Brenda Mayrack would like the opportunity to discuss the circumstances with the Commission for which the Commission may want to go into Executive Session.

Brenda Mayrack, Esquire, and Pamela Knotts appeared on behalf of Staff.

A motion was made by Chair Winslow and seconded by Commissioner Gray to enter into Executive Session to discuss pending litigation and legal advice; the motion carried unanimously.

A motion was made by Commissioner Conaway and seconded by Commissioner Drexler to reconvene to Public Session; the motion carried unanimously.

Upon returning from Executive Session a motion was made by Commissioner Conaway and seconded by Commissioner Karia that the Public Service Commission file an Amicus brief on the jurisdiction issue.

A verbatim transcript was made of this proceeding.

There was no further business and the meeting adjourned at 3:40 p.m.

Respectfully submitted,

/s/ Donna Nickerson

Secretary