

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

IN THE MATTER OF THE APPLICATION)
OF DELMARVA POWER & LIGHT COMPANY,)
EXELON CORORPATION, PEPCO HOLDINGS) PSC DOCKET NO. 14-193
INC., PURPLE ACQUISITION CORPORATION,)
EXELON ENERGY DELIVERY COMPANY, LLC)
AND SPECIAL PURPOSE ENTITY, LLC)
FOR APPROVALS UNDER THE PROVISIONS)
OF 26 *Del. C.* §§ 215 AND 1016)
(FILED JUNE 18, 2014))

**Jeremy Firestone's Supplemental Pre-Hearing Submission in Support of Proposed
Allocation of MFN Benefits**

October 10, 2016

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Pro Se

1. Staff proposed dedicating the remaining \$4 million in Most Favored Nation (MFN) benefits to an endowment fund that would distribute money in the public interest.
2. I proposed dedicating \$3.5 million to Delaware state colleges to undertake academic research and training in the areas of wind and solar power (with caps on indirect costs and requirements to provide cost share)¹, and an additional \$0.5 million to stimulate the implementation and installation of electrical vehicle chargers throughout Delaware.

¹ A report that examines the economic feasibility of wind power in Sussex County, Delaware was issued last month, available at [www.ceoe.udel.edu/File Library/Research/Wind Power/Publication PDFs/Tall-Towers-Report-Sept-2016.pdf](http://www.ceoe.udel.edu/File%20Library/Research/Wind%20Power/Publication%20PDFs/Tall-Towers-Report-Sept-2016.pdf). The levelized cost of electricity (LCOE) of such development is promising—approximately \$70/MWh, with the wholesale price of energy likely substantially less given that federal tax credits and the value of the renewable energy credits are not accounted for in the LCOE calculation. This suggests that research on social and environmental factors as well as the collection of some site-specific lidar or meteorological tower wind data would be valuable (LCOE calculation the led to the figure quoted above was based on conservative assumptions on wind speeds, and thus LCOE may be substantially less than \$70/MWh).

3. I also proposed that \$10 million dollars be allocated to low-income ratepayers. Although the Commission did not accept that proposal, Commission Chair Winslow indicated at the September 20, 2016 hearing that he wished he had money to dedicate to low-income ratepayers².
4. The Public Advocate (DPA) argued that that Staff's proposal was unlawful and argued that the money instead should be dedicated to the Energy Efficiency Investment Fund (EEIF).
5. The Mid-Atlantic Renewable Energy Coalition (MAREC) indicated support for a \$4 million grant fund provided the grants went to support renewable energy.
6. At the September 20, 2016 hearing, the Commission was unable to come to a decision regarding how the \$4 million dollars should be allocated, expressing concern regarding the vagueness of Staff's proposal.
7. At the September 20, 2016 hearing, Commission Chair Winslow also spoke positively about my proposal and indicated that Staff should consider it in formulating a more definite proposal.
8. On September 29, 2016 Staff submitted a Memorandum detailing its revised proposal. Staff recommended that the \$4 million dollars be, in effect, given to Delmarva Power to hand out to Delaware social service nonprofit organizations or to government agencies. As it acknowledged, Staff did so **"without the benefit of other parties discussion or feedback."**
9. In pertinent part, Staff's approach is for
 - a. "the Commission to authorize Delmarva Power, an Exelon Company to conduct an RFP seeking proposals from Delaware governmental agencies or Delaware nonprofits to provide beneficial programs that would be in the public interest and provide benefits to the citizens of Delaware. ... [t]his authorization could be considered an extension of Delmarva's community involvement."
 - b. "Specific nonprofit examples might be the Sunday Breakfast Mission in Wilmington, Ronald McDonald House, Autism Delaware, Habitat for Humanity,

² Although the Commission did find \$8 million to subsidize large corporations and another \$6 million dollars to fund DEDO.

American Lung Association, Kent-Sussex Industries, Goodwill of Delaware, Delaware Clean Air Council, etc. Specific examples of government agencies might be the State Department of Health and Social Services, local publicly funded schools, Delaware State University, University of Delaware, Wilmington Parks and Recreation Dept., any city's economic development agency, etc."

10. Staff's proposal is a perversion of the meaning of the "public interest" in a number of respects.
 - a. First, it allows Delmarva Power to make decisions on how to allocate money to government agencies, including state government agencies, turning the notion of a regulated monopoly and Commission authority on its head. This has the potential to create a conflict of interest between Delmarva Power's fiduciary obligation to the Commission to discharge its duty to manage the \$4 million fairly and impartially with its fiduciary obligation to Exelon's shareholders to dispense the money in a manner that benefits its bottom-line. This could include dispensing money to those organizations and entities that are preferred by politically powerful actors.
 - b. Second, it was troubling that, accompanying their bill credits, Delmarva Power customers received notices extolling the virtues of the merger (and by extension Exelon and Delmarva Power), as if those credits were corporate assistance rather than legally-mandated payments as a condition of the merger. Now Staff would take that one step further and lend to an impression that Exelon and Delmarva Power are engaged in general charitable giving. This can be seen most clearly by Staff's own characterization of the transaction, where it states that the \$4 million largess would be an "extension of Delmarva's community involvement." Importantly, the \$4 million is not a donation by Exelon nor does it represent

community involvement; rather it is a lawfully required payment by Exelon that the Commission required of Exelon in order for the Commission to find the merger in the public interest.

c. Third, it converts a merger that is about the delivery of electricity and natural gas for heating into a giant slush fund, as if this Commission, Exelon and Delmarva Power together comprise the Ford Foundation. As I detail below, this action is unlawful.

11. Despite Chair Winslow's explicit direction to Staff that it consider my proposal³ prior to revising and fleshing out its own to provide more detail, process, procedure and substance, Staff consciously chose to make no attempt to consult me. Nor is there any evidence in its Memorandum that Staff even considered the merits of my proposal.

12. Despite the mission of the Department of Natural Resources and Environmental Control (DNREC) to "protect and manage the state's vital natural resources" (in part), and DNREC's Division of Energy and Climate's stated grounds for intervention and its testimony in this case, DNREC has chosen to throw its support behind \$4 million being dedicated to social welfare organizations rather than to support projects that are consistent with DNREC's mission, its grounds for intervention and testimony in this case: increasing wind and solar power, and electric vehicle propagation as I propose; renewable energy as MAREC proposes; or energy efficiency as DPA proposes. DNREC is clearly a stalking horse for someone else.

13. Both DNREC and Staff seek to advance a prerogative that is beyond Commission authority. The Delaware Supreme Court in Public Water Supply Co. v. DiPasquale, 735 A. 2d 378 (Del. Supreme Court 1999) declared that the public interest is determined by reference to the

³ For the reasons expressed in my earlier pre-hearing submission and Second Supplemental Testimony, my proposal is superior to Staff's and it finds support in the administrative record.

interests that this Commission is “designed to protect.” See also Eastern Shore Natural Gas Co. v. Delaware Public Service Commission, 637 A.2d 10, 15 (Del. Supreme Court 1994).

14. Those interests do not include general social welfare, but rather are focused on “lowest reasonable costs,” environmental benefits to the citizens of this State (such as renewable resources like wind and solar power), fuel diversity, price stability, green power, grid-integrated electric vehicles, energy efficiency, renewable energy prioritization, weatherization assistance, renewable portfolio standards (RPS), environmental benefits and external costs, including health externalities. See 26 Del. Code §§ 351-364, 1007(c)(1)b, 1012(b), 1014(g-h), 1020 and IRP Rules, Title 26, 3010. It does not mean that general social welfare is unworthy of societal support—they are—rather it only means that its consideration is beyond the competency of this Commission.

15. My proposal (and those of DPA and MAREC) are consistent with the interests the Commission was designed to protect: Staff’s (and DNREC’s) is not.

WHEREFORE, I, JEREMY FIRESTONE, INTERVENOR, RESPECTFULLY REQUEST THAT THIS HONORABLE COMMISSION:

1. Reject Staff’s proposed allocation as it is not within the public interest the Commission was designed to protect and would lead to un-curable conflicts of interest;
2. Adopt as its own the allocation of the remaining \$4M in contested MFN benefits that I propose and find such allocation to be in the public interest (or alternatively, allocate the money to a rebate for the lowest quintile of ratepayers, use it for

renewable energy as argued by MAREC or for energy efficiency as argued by
DPA).

3. Grant such other relief as is appropriate and just.

Respectfully submitted,



Jeremy Firestone
October 10, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2016, that on behalf of Jeremy Firestone, *Pro Se*, I filed **Jeremy Firestone's Supplemental Pre-Hearing Submission in Support of Proposed Allocation of MFN Benefits** with Delafile and served a copy of the same on all persons on the email service list by email attachment.

Respectfully submitted,



Jeremy Firestone
10 October 2016