

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

**IN THE MATTER OF THE)
APPLICATION OF DELMARVA)
POWER AND LIGHT COMPANY)
FOR APPROVAL OF SOLAR)
RENEWABLE ENERGY CREDIT)
CONTRACTS AS SREC SUPPLY)
SOURCES FOR STANDARD OFFER)
SERVICE CUSTOMERS)**

PSC DOCKET NO. ____

DELMARVA POWER & LIGHT COMPANY'S APPLICATION FOR

I.

**APPROVAL OF A SOLAR RENEWABLE ENERGY CREDIT CONTRACT WITH
WHITE OAK SOLAR ENERGY, LLC AS AN SREC SOURCE FOR STANDARD
OFFER SERVICE CUSTOMERS, AND**

II.

**A SOLAR ENERGY CREDIT SALE/REPURCHASE CONTRACT
WITH THE DELAWARE SUSTAINABLE ENERGY UTILITY**

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May __, 2010

Delmarva Power & Light Company (“Delmarva Power” or “Delmarva”), through its undersigned counsel, hereby submits this application for approval by the Delaware Public Service Commission (the “Commission”) of the two attached Solar Renewable Energy Credit (“SREC”) contracts for the procurement of SRECs necessary to serve its standard offer service customers pursuant to 26 Del. C. §1007 and 26 Del. C. §351 *et seq.*

1. Delaware’s Electric Utility Retail Customer Supply Act (“EURCSA”) establishes the requirements for standard offer service (“SOS”) providers in Delaware. Among the requirements for such providers is that any long-term contracts for the procurement of power necessary to serve SOS customers must be approved by the Commission. *See, 26 Del. C. §1007.*
2. Delmarva Power is a SOS provider as identified in EURCSA. *See 26 Del. C. §1006(a). See also, PSC Docket 04-391.*
3. Delmarva Power currently obtains the majority of its SOS supply from the regional wholesale market through a reverse auction procurement process overseen by the Commission. While EURCSA requires that at least 30% of Delmarva Power’s resource mix for SOS supply be comprised of purchases made through the regional wholesale market, it provides that Delmarva Power may use a mix of resources to meet its SOS supply obligations.
4. In PSC Docket No. 06-241, the Commission issued Order No. 7199, which, *inter alia*, provided that Delmarva should utilize a portfolio approach to meet its SOS supply obligation.

5. In PSC Docket No. 04-391, the Commission issued Order No. 7432, which granted Delmarva's request to remove the obligation to provide the renewable energy credits and solar renewable energy credits from the SOS wholesale energy provider agreements. That Order served to transfer the responsibility to obtain RECs and SRECs from the SOS wholesale providers to Delmarva itself. Pursuant to both EURCSA, and Order Nos. 7199 and 7432, in the fall of 2009, Delmarva began receiving both renewable energy and renewable energy credits from the new Armenia Mountain wind farm, through a long-term power purchase agreement previously approved by the Commission.

6. Delaware's Renewable Energy Portfolio Standards Act ("REPSA") provides that the total retail sales of each Retail Electricity Product sold to Delaware end-use customers by a retail electricity supplier shall include a minimum percentage of electrical energy sales from eligible renewable energy resources. 26 Del C. §354 (a). The minimum percentage became effective in 2007 and increases each year until it reaches 20% in 2019. *Id.* Included within REPSA's minimum percentage of renewables is a carve-out for photovoltaics. *Id.*

7. This Commission has previously approved four long term contracts between Delmarva Power and various wind power providers for the purpose of complying with REPSA. Delmarva does not, however, have any long term contracts for the procurement of solar renewable energy credits needed to comply with the photovoltaic carve-out in REPSA. Instead, Delmarva Power has been fulfilling its SREC supply obligation through the annual SOS wholesale reverse auction procurement process.

8. As the attached prefiled testimony of Glenn Moore describes, Delmarva Power had begun the process of identifying properties, assessing needs, and developing a request for proposals (RFP) for the development of a utility-scale solar project in Delaware for the purpose of complying with the SREC obligations of REPSA. As Delmarva Power neared the point of drafting and publishing an RFP for the development of a Delaware-sited solar facility, Delmarva Power was approached by representatives of the City of Dover, Delaware concerning a proposed 10 MW photovoltaic project in Dover, now known as the “Dover Sun Park.”

9. Delmarva representatives engaged in numerous meetings with consultants from the City of Dover and representatives of the proposed developer. After meetings and thorough consideration, Delmarva determined that it would be in the best interests of both its customers and the State if Delmarva were to join in the efforts of the City of Dover to develop the proposed Dover Sun Park project.

10. Negotiations between Delmarva Power and the proposed developer chosen through the selection process utilized by the City of Dover began in June of 2009. After approximately 8 months of negotiations, Delmarva Power executed a contract with White Oak Solar Energy, LLC (“White Oak”), an affiliate of LS Power Development, LLC. (“LS” or “LS Power”) in April 2010.

11. The proposed Dover Sun Park will be located within the limits of Dover, Delaware. As the attached testimony of William R. Swink explains, the Sun Park will be interconnected with the City of Dover’s distribution system. Dover will retain the energy generated by the Sun Park. Delmarva Power will purchase the SRECs associated with up to 16,500 MWh generated by the Sun Park per year. The expected output is 14,000

MWh in the first full year of the Contract. Delmarva's SREC purchase obligation amounts to approximately 70% of the annual anticipated output of the Sun Park.

12. As the attached testimony of Glenn Moore explains, in addition to the Contract with White Oak, Delmarva negotiated and executed a second contract with the Delaware Sustainable Energy Utility ("SEU"). The purpose of the Delmarva/SEU Contract is to maintain an SREC market in Delaware and to preserve excess SRECs purchased by Delmarva for its customers during the first 4 years of the Delmarva/White Oak Contract. *See, 26 Del. C. §360 (b)*. In the early years of the Delmarva/White Oak Contract, the increasing REPSA obligation to buy SRECs is not yet large enough to require all of the SRECs Delmarva will be purchasing under the Contract. As such, the proposed Delmarva/White Oak Contract would eliminate the need for Delmarva to be in the SREC market for several years and presents a risk that the SRECs Delmarva purchases in the early years of the Contract could expire. Delmarva strongly believes that for the Delaware solar market to be viable, Delmarva must procure SRECs on an ongoing basis. It is also clear that expiration of the life of SRECs that have been purchased on behalf of SOS customers is not an efficient use of funds. The SEU has been given very flexible SREC banking privileges by State legislation. Thus, ownership of SRECs by the SEU would serve to stay the normal three year life of SRECs. Therefore, the Delmarva/SEU Contract provides that the SEU will purchase up to 5,500 MWh of the up to 16,500 MWh per year to be purchased by Delmarva Power. Beginning after the fourth year of commercial operation of the Dover Sun Park, Delmarva Power will begin to "buy back" the SRECs purchased, preserved and held by the SEU. The

purchase of the preserved SRECs from the SEU will be concluded within 90 days after the fifth year of commercial operation of the Dover Sun Park.

13. Delmarva Power is requesting the approval of both the White Oak and SEU contracts as they meet the objectives of EURCSA, including, but not limited to providing energy supply through a diverse renewable portfolio at the lowest reasonable cost. The contracts further serve to enable Delmarva Power to comply with its SREC obligations under REPSA. Finally, as explained in the attached testimonies, the contracts are in the public interest.

14. Delmarva Power executed, and this Commission approved, the first offshore wind power purchase agreement in the country. Shortly thereafter, this Commission approved three more land-based wind power purchase agreements executed by Delmarva Power. The proposed Dover Sun Park will have a capacity of 10 MW and will constitute one of the largest photovoltaic projects in the Mid-Atlantic region. As a major contributor to this project, approval of the Delmarva Power/White Oak Contract is critical for the development of the Dover Sun Park. Approval of the proposed contract by this Commission will preserve this Commission's leadership role in the development of reasonably-priced renewable energy and will result in the construction of the first utility-scale solar energy project in the State of Delaware.

15. Contemporaneous with this application, the testimony and exhibits of four witnesses are being submitted to the Commission to support Delmarva Power's request for approval of its proposed contracts with White Oak and the SEU. The following testimony from each of the identified witnesses is attached:

a. Glenn Moore, Regional Vice President of Delmarva Power: Mr. Moore has led Delmarva Power's efforts to explore and develop a means for meeting Delmarva's requirements under the SREC carve-out of REPSA. He is the overall policy witness for this application and his testimony will provide an overview of the process Delmarva was going through when it was contacted by the City of Dover concerning Delmarva's potential involvement in the Dover Sun Park. He will describe Delmarva's decision to participate in the Dover Sun Park project and will provide an overview of the negotiations process with White Oak. Mr. Moore will further discuss Delmarva's Proposed Contract with the SEU and the reasons therefore. Mr. Moore's testimony is attached as Exhibit A. The Delmarva/White Oak Contract is attachment 1 to Mr. Moore's testimony and the Delmarva/SEU Contract is attachment 2.

b. William R. Swink, Manager of Energy Transactions for Pepco Holdings, Inc.: Mr. Swink will address the criteria used by Delmarva Power to evaluate various components of the Contracts, including the amount of SRECs to be purchased from White Oak, the amount of SRECs to preserve through the SEU Contract, and pricing in both contracts. Mr. Swink will further address how the SRECs received from the Dover Sun Park will be fit into Delmarva's SOS portfolio towards meeting Delmarva's REPSA obligations. Mr. Swink's testimony is attached as Exhibit B.

c. Francis Hodsoll, Vice President Asset Management for Pace Global Energy Services, LLC. (“PACE”): Mr. Hodsoll will describe the role of PACE in the process of developing the Dover Sun Park. He will address the request for proposal process (RFP) conducted by the City of Dover (which was conducted before Delmarva was involved). Mr. Hodsoll will describe how the various RFP participants were analyzed and will explain why White Oak was ultimately selected as the developer of the project. Mr. Hodsoll provides testimony concerning why Dover reached out to Delmarva Power and why the participation of Delmarva Power is needed to bring this important renewable energy project to the State of Delaware. Mr. Hodsoll’s testimony is attached as Exhibit C.

d. Joseph Gorberg, Senior Vice President, Renewable Energy Projects, LS Power/White Oak: Mr. Gorberg will explain that LS Power is an energy developer and through its affiliate, White Oak, was selected through Dover’s RFP process. LS/White Oak negotiated several agreements with Dover, Delmarva, the SEU, and DEMEC to construct and operate the Dover Sun Park. Mr. Gorberg will provide testimony on the energy development experience of LS/White Oak, and a description of the Dover Sun Park. Mr. Gorberg will also provide a brief overview of the schedule for developing the Dover Sun Park and will explain the necessity of achieving an expedited decision from the Commission on this application so that White Oak can finalize its financing and begin

construction of the project. Mr. Gorberg's testimony is attached as Exhibit D.

16. If approved, the Contracts will impact the SOS procurement process in that under the current reverse auction process, winning bidders are required to supply the SRECs needed to meet the obligations of Delmarva's customers under REPSA. If the White Oak and SEU Contracts with Delmarva are approved, they will be incorporated into Delmarva's SOS supply portfolio and will serve to satisfy the SREC obligations of Delmarva's customers for several years into the future. Accordingly, Delmarva Power recommends that the plan for incorporating the proposed Contracts into Delmarva's portfolio be addressed as part of the annual SOS procurement productivity improvement process (PIP), which is expected to proceed in July, 2010.

17. If approved, the Contracts will also affect the 2010 Integrated Resource Plan (IRP), which is in the process of being developed and is due to be filed with the Commission by October 2010.

18. Because of the importance of the proposed Contracts to the October 2010 IRP and need for Commission approval before White Oak can finalize the financing needed to move forward with the construction of the project, Delmarva Power respectfully requests that the Commission appoint a hearing examiner with instructions to establish an expedited schedule so that a hearing examiner's report can be developed and the Contracts, along with the hearing examiner's report, can be submitted to the Commission for its review at the earliest practicable time.

19. For the reasons stated herein and in the testimony of the witnesses, Delmarva Power submits that the Contracts are in the public interest. Accordingly,

Delmarva respectfully requests that the Contracts be approved by the Commission as provided in 10 *Del. C.* § 1007.

Respectfully submitted,

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Dated: May ____, 2010

unofficial copy

VERIFICATION

STATE OF DELAWARE :
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 :
COUNTY OF NEW CASTLE :

SS.

J. Mack Wathen, Vice President, Regulatory Affairs of Delmarva Power & Light Company, being duly sworn, deposes and says that the facts and statements in the application of DELMARVA POWER AND LIGHT COMPANY FOR APPROVAL OF SOLAR RENEWABLE ENERGY CREDIT CONTRACTS AS SREC SUPPLY SOURCES FOR STANDARD OFFER SERVICE CUSTOMERS, dated May 28, 2010, are true and correct to the best of his knowledge, information and belief, but are in part based upon knowledge and information supplied by others.

J. Mack Wathen

SWORN TO AND SUBSCRIBED
before me, this ____ day of May, 2010.

Notary Public

My commission expires: _____