

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE
VOLUME 1

IN RE: IN THE MATTER OF :
THE INVESTIGATION INTO :
DELMARVA POWER & LIGHT :
COMPANY'S RATE REQUEST FOR : PSC DOCKET NO. 13-152
DISTRIBUTION INFRASTRUCTURE:
INVESTMENT (FILED APRIL 16, :
2013) :

Public Service Commission Hearing taken pursuant to notice before Gloria M. D'Amore, Registered Professional Reporter, in the offices of the Public Service Commission, 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware, on Tuesday, April 23, 2013 beginning at approximately 1:31 p.m., there being present:

APPEARANCES:

On behalf of the Public Service Commission:
J. DALLAS WINSLOW, CHAIR
JAY LESTER, COMMISSIONER
JOANN CONAWAY, COMMISSIONER

VERITEXT NATIONAL COURT REPORTING COMPANY
MID-ATLANTIC REGION
300 Delaware Avenue Suite 815
Wilmington, DE 19801
(302) 571-0510

1 APPEARANCES CONTINUED:

2 On behalf of the Public Service Commission Staff:
3 JULIE DONOGHUE, ESQUIRE

4 On behalf of the Public Service Commission Staff:
5 JAMES McC. GEDDES, ESQUIRE

6 On behalf of the Public Service Commission Staff:
7 LAWRENCE W. LEWIS, ESQUIRE

8 On behalf of the Public Service Commission Staff:
9 ROBERT HOWATT, EXECUTIVE DIRECTOR
10 JANIS L. DILLARD, DEPUTY DIRECTOR
ALISA BENTLEY, SECRETARY
OCTAVIA WOODARD, SECRETARY

11
12 On behalf of the Attorney General's Office:
13 REGINA IORII, ESQUIRE
JAMES ADAMS, STATE SOLICITOR

14
15 On behalf of Delmarva Power & Light Company:
TODD GOODMAN, ESQUIRE

1 CHAIR WINSLOW: Next on the agenda is
2 Item No. 5, in the matter of the investigation into
3 Delmarva Power and Light Company's rate request for
4 distribution infrastructure investment to consider
5 Staff's motion of proposed Order 8363 seeking relief on
6 behalf of Delmarva Power & Light's customers regarding
7 excessive investment distribution and reliability
8 infrastructure.

9 Mr. Geddes.

10 MR. GEDDES: Chair Winslow, Members of
11 the Commission. It's nice to be back.

12 CHAIR WINSLOW: Nice to see you. It's
13 additive to see you.

14 MR. GEDDES: I have great help here next
15 to me. So, hopefully, I won't stumble along too badly
16 this afternoon.

17 This is Staff's motion that was filed
18 last week, which asked the Commission to consider whether
19 a separate docket should be opened to consider the level
20 of investment in Delmarva's electric distribution system.

21 The motion is pretty straightforward,
22 and the reasons for it are set forth in the motion. And
23 I would also suggest to you that the response that the
24 company filed yesterday, unfortunately, is predictable in

1 supervise and regulate. It is great policy for the
2 company, and then, basically, the company is supposed to
3 meet those standards, those regulations, those
4 requirements.

5 And Reg 50 is a perfect example. Those
6 standards were set for reliability and the company has an
7 obligation to meet them.

8 So, to suggest somehow that we are
9 trying to tinker around with the day-to-day management of
10 the company, I believe it is a little disingenuous.

11 But the reason why this will not work in
12 this rate case is because first, as you know, rate cases
13 are on a seven-month trigger. And rate cases are pretty
14 much accounting cases, green eye shape, how much
15 investment, what's the return, what kind of revenues do
16 we have and what's the deficiencies that the company
17 should be entitled to collect.

18 Occasionally we get into some rate
19 design issues, but recently those have been somewhat few
20 and far between, although I would say AMI was an issue
21 that we spent some time on in the last case.

22 But pretty much it's accounting. It's
23 not policy. It's not determining whether there should be
24 additional standards or additional metrics to review

1 these investments.

2 Now, why is Staff concerned about this
3 all of a sudden. Well, if you look at the company's
4 filing, and some of those facts are in the motion, we
5 have a \$300 million dollar investment coming down the
6 line captioned as reliability.

7 Now, I've spent a few years in this
8 chair, and I know that in the '80's and in the '90's and
9 in the beginning of the 2000's, which I think they called
10 the odds, but in any event, I never heard of reliability
11 investment. It was just investment.

12 And now, in the company's case, we have
13 80 percent of their projected construction over the next
14 five years captioned as reliability investments.
15 \$300 million dollars. Not something to sneeze at.

16 And what do we have in the current case.
17 We have \$10 million dollars of reliability additions in
18 the current case.

19 Now, I'm not asking you to, obviously,
20 get involved in the facts of the current case, but this
21 is part of their filing, which clearly indicates that the
22 case is made up of an attempt to capture \$10 million
23 dollars in reliability investment. That still leaves
24 almost \$300 million dollars not in the case. And query,

1 where are we going to have an opportunity to look at
2 that? Are we supposed to look at it on a case-by-case
3 basis, or would it be better if we looked at it in the
4 context of creating some standards or some guidance for
5 customers as to why this additional investment is
6 necessary?

7 So, it's clear that this can't be done
8 in this particular case as the company suggest. And
9 we're not asking for public comment. We're asking for
10 public forums. There's a difference.

11 The comment is just where the public
12 come in and puts their comments on the record. We're
13 asking specifically that public forums be set up where
14 senior management comes and the public can come and the
15 public can get guidance on the need for these
16 investments, why they have to be done now, and most
17 interesting, what kind of cost containment, what kind of
18 programs is the company engaged in in trying to reduce
19 these costs, what impact does it have on O&M. I mean,
20 presumably, if we are putting all of this money into the
21 ground, there should be some return on reduced operation
22 and maintenance cost.

23 All of that needs to be looked at in the
24 context of \$300 million dollars of reliability

1 investment, not the \$10 million that sits in this current
2 case that the company is involved in.

3 So, that's the reason why on a
4 procedural basis, we think it is important so that we can
5 look at it globally and not just look at it individually.

6 Now, the third argument they make, there
7 are some days when you just love practicing law. And
8 being an administrative lawyer and having the opportunity
9 to share time with the three of you, sometimes four,
10 sometimes five. But Mr. Goodman, I love Mr. Goodman,
11 he's a great guy, but he takes us to task for allegedly
12 not being clear to the Commission about the company's
13 efforts with regard to creating metrics for reliability
14 investment.

15 And if you look at his footnote on Page
16 7, I just have to read it, it is so grand, Delmarva's
17 Counsel regrets having to attach informal E-mail
18 communications between Counsel to this response. It is
19 however, Staff that has made the flawed representation
20 that Delmarva has not moved forward with its settlement
21 obligation on reliability issues. Duty bound to both the
22 client and the Commission to make sure. And then he has
23 some other comments, as I recall, fulmination about this
24 alleged attempt by Staff to not be clear.

1 Now, the company attaches as Exhibit No.
2 1 an E-mail, and I agree with them. I do not believe the
3 E-mails should be attached to the motion. But he opened
4 the door. So, we'll just proceed ahead.

5 So, he has this E-mail, which is
6 addressed to Janis and myself, saying, you know, what are
7 doing about metrics. And I will tell you that when we
8 cancelled the hearings in the prior case in 11-528 in
9 August of last year, this was an issue. And I know it
10 because it was the issue I was most concerned about. And
11 we made sure that it was in the settlement agreement that
12 came before the Commission that you approved in December
13 that there was language in there that we would talk about
14 multiyear rate cases and we would talk about these other
15 matters.

16 So, in response to this motion, Mr.
17 Goodman says, Well, here is my letter. It says, you
18 know, Oh, I reached out to you. And the last part of
19 that letter says, Let us know your thoughts. Well, you
20 know, I did let Mr. Goodman know my thoughts. And, in
21 fact, I wrote to him on February 27th and said, Yes,
22 we're having a meeting March 14th. Why don't you develop
23 some metrics, and we'll talk about them. And we met on
24 the 14th about multiyear, and we met on April 11th about

1 multiyear.

2 Well, I'm just going off your motion,
3 Todd. There are lots of correspondence running around.

4 But in any event, I asked the company
5 whether they would develop some metrics. I copied Janis.
6 I copied Amy. I copied the people who were working on
7 this.

8 And so, I find it somewhat curious after
9 31 pages of multiyear material, the last page is the
10 best. Begin the deeper dive. I thought I was going to
11 be certified for SCUBA diving registration.

12 In any event, we have 31 pages of
13 multiyear Powerpoint presentations, analysis. But on the
14 metric side, we don't have anything. We have zero.
15 Notta. Nothing.

16 Now, I'm not saying that the company
17 isn't willing to do that. I was only making the position
18 of Staff in our motion to say it has been eight months
19 and he don't have any metrics. We now know that we have
20 300 -- let me try this again -- \$397 million dollars
21 worth of investment coming of which \$309 million is
22 reliability. We need to understand how we are going to
23 convince ratepayers that the improved service that the
24 company continues to talk about is measurable and

1 quantifiable.

2 If you saw the letter to the editor
3 yesterday by Mr. "Petrocelli," he was suggesting in his
4 comments about the excessive compensation to the
5 executives that he didn't see, in his world, any
6 improvement in service and was wondering why he should
7 pay more in rates.

8 So, the Commission clearly has the right
9 and the opportunity to set up a separate docket, if it
10 feels, in its administration of the supervision and
11 regulations of this company, to investigate whether this
12 amount of investment is appropriate and whether
13 additional standards to measure it should be implemented.

14 This is not accounting. This is
15 something that's a lot bigger, and it's going to require
16 a lot of effort. It cannot be done in a single case.
17 And it clearly stretches out until 2017.

18 So, for those reasons, that's why Staff
19 believes this is appropriate. And I do find it curious
20 that the company, again, won't take this opportunity and
21 say, yes, okay, we understand these things, and maybe it
22 would be helpful to everybody to have a focused
23 proceeding on these numbers and some metrics. And it
24 would help them ultimately, I think.

1 us to do, and now this comes. So, none of this is making
2 sense.

3 CHAIR WINSLOW: To you?

4 MR. GOODMAN: Right.

5 CHAIR WINSLOW: Mr. Goodman, with
6 respect to the argument made by Mr. Geddes that there are
7 issues in this particular request by Staff that are
8 beyond the scope of the rate base case, I didn't really
9 hear you make any substantive argument against that
10 argument.

11 Is there something that you forgot to
12 say, or is there something you would like to say?

13 MR. GOODMAN: Let me try to do a better
14 job.

15 The settlement itself, which is now an
16 order approved by you, you will accept the settlement of
17 the case under the terms set forth in the settlement is
18 for Staff, the Public Advocate, to work together outside
19 of the confines of the case to do certain things.

20 Two of those, the two main things are
21 work on this reliability concern. How can we show
22 customers that they get a benefit in some quantifiable
23 way from this reliability spent. You ordered us to do
24 that.

1 We have had people working on it since
2 the day, actually before you, way before you approved the
3 settlement, and that's what we are doing. So, this
4 absolutely came out of the blue. And it is cutting it
5 off. I don't think it is appropriate. That's the
6 substantive thing. It's stopping us from doing us what
7 we've been ordered to do.

8 CHAIR WINSLOW: My perception of the
9 situation is, there has been a settlement. There has
10 been some discussion. But the Staff wants to know about
11 the future. There are a lot of the discussions,
12 obviously, some of the discussions are about the future.
13 But that is what they are really looking at.

14 MR. GOODMAN: Absolutely.

15 CHAIR WINSLOW: And it appears to me
16 from my hearing of the discussion that Ms. Iorii agrees
17 with Mr. Geddes that there will be items outside of the
18 relevant inquiry at the rate base case that they would,
19 or that you could successfully object to if it were in
20 the rate base case, not that you would necessarily for
21 some certain reasons. There seems to be a different
22 element here. And I haven't really heard anything that
23 indicates to the opposite.

24 MR. GOODMAN: You're correct. There is