

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

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY FOR)
AN INCREASE IN ELECTRIC RATES AND) PSC DOCKET NO. 13-115
MISCELLANEOUS TARIFF CHANGES)
(FILED MARCH 22, 2013))

**MOTION OF DELMARVA POWER & LIGHT COMPANY
TO STAY EVIDENTIARY HEARINGS**

Delmarva Power & Light Company (“Delmarva”), by and through its undersigned counsel, hereby moves the Commission for a stay of the procedural schedule in this docket in order to provide an opportunity for the parties to fully analyze and consider the recently filed proposed Forward Looking Rate Plan as a mechanism for resolving both this base rate case and the pending Reliability Capital Investigation. Commission Staff has agreed that it will not oppose the requested stay as long as the Commission accepts the provisions outlined herein. In support of its Motion, Delmarva provides the following:

A. Procedural Status of This Base Rate Case Docket

1. On March 22, 2013, Delmarva filed an application, docketed as Docket No. 13-115, which seeks an increase in annual operating revenues of \$42,044,000 over existing distribution base rates. (the “Base Rate Case”).

2. The Division of the Public Advocate (the Public Advocate), Delaware Energy User’s Group (DEUG), the Department of Natural Resources and Environmental Control (DNREC), and the Caesar Rodney Institute (CRI) were all granted intervener status in the Base Rate Case.

3. On June 1, 2013, in accordance with Order No. 8337 in this docket and 26 *Del.C.* § 306 (c), Delmarva put \$2.5 million of temporary new rates into effect under bond and subject to refund.

4. On October 8, 2013, through Order No. 8466, the Commission granted Delmarva's request to put an additional amount of approximately \$25.2 million in temporary rates into effect, under bond and subject to refund, pursuant to 26 *Del.C.* § 306 (b).¹ The additional \$25.2 million in temporary rates will take effect with bills beginning on October 22, 2013, resulting in a total of temporary rates in effect subject to refund of \$27,655,265.²

5. The parties and interveners in this Base Rate Case docket have completed all direct and rebuttal testimony with the service and filing of Delmarva's prefiled rebuttal testimony on September 20, 2013. The parties and interveners have engaged in extensive discovery in this docket, which concluded on October 14, 2013 with the service of Delmarva's responses to the parties' data requests related to Delmarva's rebuttal testimony.

6. The next significant event on the Procedural Schedule for the Base Rate Case is the evidentiary hearings, which are scheduled to occur on November 13, 14 and 18, 2013.

B. The Reliability Capital Investigation

7. In its prefiled testimony in the Base Rate Case, Delmarva stated that it planned to invest approximately \$397 million from 2013 through 2017 in capital for the purpose of maintaining and enhancing system reliability. It is important to note that Delmarva is not seeking approval or recovery of that planned \$397 million investment in the current Base Rate Case; rather, the testimony regarding that investment related only to future plans for the period of 2013-2017.

¹ The specific amount is \$25,155,265.

² \$27,655,265 is cumulative of the \$2,500,000 put into effect on June 1, 2013 in accordance with Order No. 8337 and the \$25,155,265 approved on October 8, 2013 in Order No. 8466.

8. On April 17, 2013, Staff filed a petition seeking to open an investigation into Delmarva's planned future \$397 million investment in distribution reliability. In response to Staff's petition, the Commission opened Docket No. 13-152 to investigate Delmarva's planned capital investments over the next five years (the "Reliability Investigation"). The Reliability Investigation requires three public forums for the purpose of allowing customers to discuss with Delmarva why these levels of distribution infrastructure and reliability investment are necessary and how those investments may impact the level of Delmarva's electric service reliability and rates. All three forums have been conducted – one each in Dover, Georgetown and Wilmington, Delaware.

9. Staff has retained Silverpoint Consulting to support Staff's investigation into Delmarva's capital investments over the next five years. As of the filing of this Motion, Silverpoint and Delmarva had engaged in at least two all day sessions in which Silverpoint conducted interviews of various Delmarva personnel involved in the reliability initiatives of the Company and reviewed documentation related to reliability issues.³

C. Delmarva's Forward Looking Rate Plan Policy Filing

10. In the Commission-approved Settlement in Delmarva's 2011 electric base rate case (Docket No. 11-528), the parties agreed to meet and discuss (a) alternative regulatory methodologies, including a multi-year rate plan and (b) the establishment of metrics related to reliability investments so that customers are aware of how investment in Delmarva's plant in service benefits them in a quantifiable manner. The Company, Staff, and Public Advocate began meeting informally and discussing the general design concepts of a multi-year plan. Those discussions spanned several months. During that time, Delmarva spent a substantial amount of

³ Additional sessions with Silverpoint were in the process of being scheduled while this motion was being prepared.

time and effort in developing the proposed Forward Looking Rate Plan as a proposed mechanism to address the settlement obligations above.

11. On October 2, 2013, Delmarva submitted a policy filing entitled the “Proposed Forward Looking Rate Plan of Delmarva Power & Light Company” (the “FLRP”). The FLRP is a multi-year mechanism that would establish delivery rates for a period of four years into the future and establish new metrics for measuring Delmarva’s reliability performance. The FLRP sets forth the amount that Delmarva will invest in its system for each year of the four year FLRP period. The investments include both (a) the future reliability capital investment and (b) all operation and maintenance expenditures for the years 2013 through 2017.

12. The rates for each of the four years would be tied to specific levels of system investment and costs to be incurred by Delmarva in providing service to its customers. Rate increases would be phased in gradually over the four year period such that customers would experience four annual increases over the four year FLRP period. The average effect of each annual increase would result in approximately \$2.40 per month on the typical 1,000 kWh residential customer bill.

13. As the FLRP filing provides in greater detail, the level of rate impact for customers under the FLRP is achieved by calculating rates in the first two years of the rate plan to provide an earned return on equity (ROE) to Delmarva that is over 200 basis points lower in year one (7.4%), and 100 basis points lower in year two (8.8%) than the currently authorized ROE of 9.75%. The plan adjusts revenue in years three and four to provide Delmarva with an opportunity to earn its authorized rate of return by years 3 and 4 of the FLRP period. In addition, in the event the proposed FLRP is accepted, it would resolve the currently pending Base Rate Case and avoid the filing of another electric base rate proceeding until at least 2017. The

incremental cost of conducting an electric rate case proceeding is approximately \$650,000 – a cost that is included in customer rates. By avoiding, the cost of rates cases over the four year FLRP period, an additional savings of approximately \$2.6 million that would normally be included in rates is also avoided. That savings is also reflected in the proposed FLRP rates.

14. In addition, Delmarva proposes that as part of the FLRP, the current Docket 50 minimum electric reliability standards should be made more stringent to provide a higher minimum required degree of reliability for Delmarva’s customers. Each year of the FLRP, the minimum SAIDI reliability standard would be made more stringent, culminating in year four, when the current SAIDI 295 minimum standard would be fully reduced to 179 minutes. Delmarva further proposes to refund an aggregate of \$500,000 to customers each year of the FLRP if it fails to meet those proposed stricter minimum reliability standards.

15. As Delmarva emphasized in the FLRP filing on October 2, 2013: although Delmarva, Staff and the Public Advocate had discussed principles of the proposed FLRP and the enhancement of minimum reliability standards, neither Staff nor the Public Advocate have had the opportunity to review the details of the proposed FLRP until it was filed earlier this month. Delmarva’s filing further emphasized the importance of providing Staff and the Public Advocate with the opportunity to fully analyze the FLRP as a potential settlement of the Base Rate Case and the Reliability Investigation dockets.

D. Staying the Base Rate Case Hearings to Allow for a Full FLRP Analysis and Potential Settlement of the Base Rate Case and Reliability Investigation

16. Delaware Law provides that “[i]nsofar as practicable, the Commission shall encourage the resolution of matters brought before it through the use of stipulations and

settlements.”⁴ Staying the Base Rate Case to allow the parties to analyze and consider the FLRP as a settlement of both the Base Rate Case and the Reliability Investigation is consistent with established Delaware law.

17. As stated above, the next significant event on the Procedural Schedule for the Base Rate Case is the evidentiary hearings, which are scheduled to occur on November 13, 14 & 18, 2013. In addition to significant time and expense in preparing for three days of evidentiary hearings, the parties will conduct extensive post hearing briefs to the Hearing Examiner; the Hearing Examiner will need to prepare a lengthy Report and Recommendation based upon a transcribed record; the parties will engage in lengthy briefing on exceptions to the Hearing Examiner’s Report and Recommendations for the Commission’s consideration; the Commission will consider all filings, hear oral arguments, and issue a comprehensive final order. Preparing for and conducting evidentiary hearings in the Base Rate Case would be both time-consuming and expensive for all parties involved, as well as the Hearing Examiner and the Commissioners.

18. If the parties must move forward to prepare for the Base Rate Case evidentiary hearings, there will not be sufficient time and resources to investigate the recently filed FLRP as a potential resolution of both the Base Rate Case and the Reliability Investigation.

19. In addition to the significant time and expense involved in preparing for and conducting the evidentiary hearings, if the Base Rate Case were to proceed to evidentiary hearings, briefing and final Commission order, it is anticipated that the final Commission order in the Base Rate Case would not be issued for approximately another four months (approximately February 22, 2014). Delmarva submits that it would be far more efficient and beneficial to its customers and all parties to continue the November hearing dates in the Base

⁴ 26 Del.C. §512(a).

Rate Case in order to allow the parties to immediately begin analyzing the FLRP and its potential to serve as a resolution to both the Base Rate Case and the Reliability Spending Investigation.

20. Delmarva, Staff and the Public Advocate have worked extensively since the October 2 filing of the FLRP in an effort to reach consensus on the appropriate path for moving forward to analyze the proposed FLRP as a potential mechanism for resolving the Base Rate Case and the Reliability Investigation. Staff has made it clear that it would oppose a stay of the Base Rate Case evidentiary hearings unless significant concessions were made by Delmarva to ensure that customers would not be adversely affected by a stay. Staff's primary concern involved continuing to collect, subject to refund with interest, the entire Commission-approved \$27.5 million in temporary rates while a stay is in place.⁵

21. After lengthy negotiations with Staff, Delmarva has agreed to reduce the previously approved amount of temporary rates scheduled to go into effect on October 22, 2013 by approximately \$8.5 million. Accordingly, in exchange for Staff's agreement not to oppose Commission approval of a stay of the evidentiary hearings for the purpose of analyzing the FLRP, Delmarva must seek and achieve permission from the Commission to reduce previously approved temporary rates from \$27,655,265 to \$19,000,000 beginning with consumption on October 22, 2013. Additional requirements of Staff are addressed below.

E. Future Steps Under The Requested Stay Of Evidentiary Hearings

22. In consideration of Staff's agreement not to oppose this request for stay, the following requirements must be incorporated into any stay: (1) that currently approved temporary rates of \$27.5 million be reduced by \$8.5 million to \$19 million, (2) that on February 24, 2014, Delmarva will provide the Commission with an update on the status of the parties' progress in discussions related to the FLRP, (3) that if on February 25, 2014 or any time

⁵ The right to place rates into effect, subject to refund, with interest, is provided for in 26 *Del. C.* § 306 (b).

thereafter, it appears that there is no reasonable prospect of reaching a proposed settlement, a petition will be submitted, in writing, to lift the Stay in order to move forward with the evidentiary hearings in the Base Rate Case, and (4) the analysis stage of the Reliability Investigation should be completed.

(1) Reducing Temporary
Rates by \$8.5 million

23. As described above, Delmarva requests that the Commission permit Delmarva to reduce the \$27.5 million of temporary rates approved by the Commission by \$8.5 million - to \$19 million.⁶

24. In the event it is determined that the FLRP cannot be resolved and the stay must be lifted in order to move forward with evidentiary hearings in the Base Rate Case, Delmarva will retain the ability to petition the Commission to increase temporary rates back to the previously approved amount. Likewise, at any point during the stay period, Staff would maintain the right to petition the Commission to adjust temporary rates for any appropriate reason.

25. Customers will continue to earn interest at the prescribed rate of 3.25% on any amount of temporary rates determined to have been over collected after a final Commission order.

(2) Providing The Commission With
Updates On Status Of Discussions

26. On February 24, 2014, Delmarva will provide the Commission with a written update on the status of the parties' progress in discussions related to the FLRP. Delmarva will

⁶ This reduction would be from the statutorily permitted temporary rates in the amount of \$27.5 million that were approved by the Commission on October 8, 2013, pursuant to Order No. 8466. 26 *Del.C.* § 306 (b).

provide further updates to the Commission every thirty (30) days following the February 24, 2014 update.

(3) Evidentiary Hearings Will Be
Rescheduled If It Appears At Any Time
That There is No Reasonable Prospect Of Reaching Resolution

27. If at any time after February 24, 2014, it appears that there is no reasonable prospect of reaching a proposed settlement, Delmarva will petition the Commission, in writing, to lift the Stay in order to move forward with the evidentiary hearings in the Base Rate Case. In the event the proposed stay is lifted, the evidentiary hearings will take place without additional discovery, additional prefiled testimony, or the addition of further witnesses. Accordingly, in the event the stay is lifted, the parties should be able to schedule and conduct the Base Rate Case evidentiary hearings in an expeditious manner.

(4) The Ongoing Analysis In the
Reliability Investigation Should Continue

28. The Reliability Investigation remains relevant to the analysis of the FLRP. In recognition of Staff's concern regarding the amount of capital investment Delmarva has stated that it plans to spend through 2017 (\$397 million), the FLRP reduces Delmarva's planned capital spend through 2017 by \$20 million. The FLRP establishes the amount of reliability capital investment that Delmarva will make in each year of the four year FLRP period. Accordingly, it is important that Staff, DPA and the Commission have adequate information regarding: (a) whether Delmarva's recommended reliability capital spend set forth in the FLRP is appropriate and (b) whether Delmarva's proposed stricter minimum reliability standards under the FLRP are appropriate.

29. During a stay, Silverpoint would continue its analysis of Delmarva's planned reliability investments to provide Staff with the support it needs in analyzing the reliability issues in the FLRP. If the FLRP is successful and serves as a settlement of both the Base Rate Case and the Reliability Investigation, then the Reliability Investigation would be resolved as part of that settlement. If, on the other hand, no agreement is reached on the FLRP and the stay is lifted, then Silverpoint would have concluded its analysis and would, therefore, be able to expeditiously move forward with the Reliability Investigation.

CONCLUSION

The proposed FLRP has the potential to provide many benefits to customers. Staff, the Public Advocate and other parties must be provided with an adequate opportunity to fully analyze the FLRP before it can be determined whether it can serve as a resolution to the Base Rate Case and the Reliability Investigation.

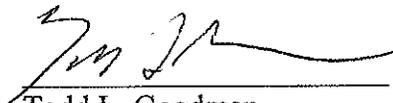
Granting the requested stay would enable the parties to pursue a potential settlement of two pending dockets in an efficient manner, while providing protections to Delmarva's customers. For the reasons set forth above, Delmarva respectfully requests that the Commission issue an order that:

- a. Stays the evidentiary hearing dates in the Base Rate Case (Docket No. 11-115) to provide Staff, the Public Advocate and interveners the opportunity to analyze the FLRP as a potential mechanism for resolving the Base Rate Case and the Reliability Investigation,
- b. Directs Delmarva to reduce the currently approved temporary rates by \$8.5 million from \$27,655,265 to \$19,000,000, beginning with consumption on October 22, 2013,
- c. Directs Delmarva to provide the Commission with a written update on the status of the parties' progress in discussions related to the FLRP on February 24, 2014,

and if no agreement has yet been reached, to provide the Commission with written updates on the status every 30 days thereafter,

- d. Directs the Parties, beginning the week of October 28, 2013, to begin conducting discovery workshops during which Delmarva will respond to questions concerning the FLRP and provide the Parties with documents and other data responsive to requests for information by the Parties,
- e. If on February 24, 2014 or any time thereafter, it appears that there is no reasonable prospect of reaching a proposed settlement, Delmarva will petition the Commission, in writing, to lift the Stay in order to move forward with evidentiary hearings in the Base Rate Case,

Respectfully Submitted:



Todd L. Goodman
Pamela J. Scott
Attorneys for Delmarva
Power & Light Company

Dated:

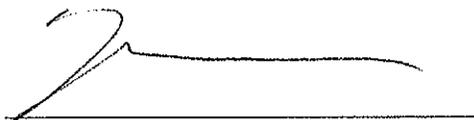
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Certificate of Service

The undersigned hereby certifies that copies of the forgoing were served electronically upon members of the Service List in this docket.



Todd L. Goodman