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 AN AGREEMENT TO PURCHASE SOLAR RENEWABLE ENERGY CREDITS	))))))	PSC DOCKET NO. 13-99

COMMENTS OF THOMAS NOYES, PRINCIPAL PLANNER FOR ENERGY POLICY FOR THE DNREC DIVISION OF ENERGY & CLIMATE, ON THE APPLICATION OF DELMARVA POWER AND LIGHT COMPANY FOR APPROVAL OF AN AGREEMENT TO PURCHASE SOLAR RENEWABLE ENERGY CREDITS FROM WASHINGTON GAS ENERGY SERVICES

The Department of Natural Resources and Environmental Control (DNREC) recognizes that Washington Gas Energy Services (WGES) was uniquely affected by the 2011 amendments to the Renewable Energy Portfolio Standards Act (REPSA) and believes that it is appropriate to consider unique relief through a purchase of its stranded Solar Renewable Energy Credits (SRECs), as is proposed in this docket. While DNREC is supportive of an agreement for Delmarva Power (Delmarva or DPL) to buy SRECs from WGES, there are questions of effects on SREC supply and price determination using market data that should be addressed in the process of considering this application. Indeed DNREC believes these are questions should be addressed in considering any proposal involving a significant purchase of SRECs.

IMPACT ON WGES OF 2011 REPSA AMENDMENTS

DNREC acknowledges that WGES was uniquely impacted by the 2011 REPSA amendments, as described in the application, and is deserving of unique relief as a matter of equity. Instead of buying SRECs from other facilities, WGES invested capital in solar facilities for the purpose of complying with Renewable Portfolio Standards (RPS) requirements. When

REPSA was amended to transfer RPS compliance from third party suppliers to Delmarva, WGES was uniquely and unintentionally affected, and deserves the opportunity to find a useful purpose for these SRECs as a matter of equity.

IMPACT ON DELAWARE'S SREC MARKET

One question that should be considered by the Commission is the impact of the proposal on Delaware's SREC market. DNREC has an interest in developing and supporting a fair, stable and sustainable SREC market. Promoting a balanced and sustainable SREC market is important to support ongoing investment in solar power and to create and sustain a market for the oversupply of SRECs generated by existing systems, which DNREC sees as a matter of equity for system owners that were either excluded from or unsuccessful in DPL's Pilot Program for the Procurement of SRECs of 2012.

The proposed agreement would contribute to reducing the long term oversupply of SRECs. DNREC estimates that there is an annual supply of 18,500 SRECs being generated by more than 700 existing systems that do not currently have long-term SREC contracts, including those owned by WGES. DPL plans to buy 3,000 SRECs from existing systems in the auction now underway as part of a total auction of 8,000, including 4,000 SRECs from new systems and 1,000 SRECs from the spot market. A contract to buy the 2,440 SRECs from WGES would further reduce the supply to roughly 13,000 generated annually. These would be significant steps forward to reducing the volume of stranded SRECS.

On the demand side, DNREC is mindful of the effect this proposal could have on DPL's SREC requirements over the next several years. The current auction structure developed and approved by the Renewable Energy Taskforce includes the expectation that DPL's proposed procurement would be 8,000 SRECs per year for the next three to four years. DNREC, in its

comments in Docket No. 12-526, which approved the current auction, voiced its hope that creating a predictable auction structure would benefit the market:

> While the 2013 Program is for a single auction, DNREC believes that it can and should provide a template for subsequent auctions, providing predictability and market stability for the next several years. DPL plans to set overall procurement at 8,000 SRECs annually for the next several years, based on anticipated demand, which will fluctuate somewhat from year to year.

Given these recent efforts to create a more stable market, the question of how this agreement will affect Delmarva's demand needs to be discussed. The testimony filed in this docket by William R. Swink of DPL does not specifically speak to how this proposal could affect DPL's future procurement plans.

PRICE DETERMINATION

Another question requiring consideration is whether the proposed SREC prices are appropriate and fair to ratepayers. The WGES application, which requests expedited consideration by the Commission, proposes to use auction results from last year's Pilot Program as a benchmark. The compressed timetable limits price discovery, in that it would lead to a decision by the Commission before the current auction is completed.

As noted above, the auction now underway includes the purchase of 3,000 SRECs from existing systems—a category in which WGES is eligible to bid. Given the current oversupply of SRECs from existing systems, there is a possibility that the prices in the current auction could come in significantly lower than the year-old results used as a benchmark in this proposal.

DNREC does not dispute that WGES's capital investment was adversely impacted by an unanticipated change in law, and thus supports this proposal. However, WGES did incur market risk in investing in these facilities, even before REPSA was amended to transfer RPS compliance from WGES to Delmarva. Since WGES would continue to be be subject to competitive pressures if it were still responsible for RPS compliance, the agreement to provide relief from the change

in law needs to be crafted so as to not unduly insulate WGES from changes in SREC prices not related to the transfer of RPS compliance from third party suppliers to Delmarva.

SUMMARY AND CONCLUSION

In summary, DNREC supports an agreement between DPL and WGES to buy its SRECs at a fair market price, pending consideration of the questions of supply and demand in the SREC market and price determination noted above. DNREC asks that the Commission consider these questions as it moves to provide equitable relief to WGES.

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Respectfully submitted,
/s/ Thomas Noyes

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CERTIFICATE OF SERVICE

Ralph K. Durstein, III, Deputy Attorney General, certifies that he caused true and correct copies of the Petition for Leave to Intervene of the Department of Natural Resources and Environmental Control to be served by Electronic Mail this 1st day of April, 2013, to the attached service list.

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