

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

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY)
FOR APPROVAL OF MODIFICATIONS) PSC DOCKET NO. 11-381F
TO ITS GAS COST RATES)
(FILED AUGUST 31, 2011))

ORDER NO. 8203

AND NOW, this 21st day of August, 2012:

WHEREAS, the Delaware Public Service Commission (the "Commission") has received and considered the Findings and Recommendations of the Hearing Examiner, which is attached hereto as "Attachment A," issued in the above-captioned docket, which was submitted after duly-noticed public evidentiary hearings; and

WHEREAS, the Hearing Examiner recommends that the Commission approve the Proposed Settlement (submitted into evidence as Exhibit 10 at the April 30, 2012 evidentiary hearing), which is endorsed by all the parties, and which is attached hereto as "Attachment B," and;

WHEREAS, the Commission finds that the proposed rates and tariff changes are just and reasonable and that adoption of the Proposed Settlement Agreement is in the public interest;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE
OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That the Commission hereby adopts the August 6, 2012 Findings and Recommendations of the Hearing Examiner, attached hereto as "Attachment A."

2. That the Commission approves the Proposed Settlement Agreement and the proposed rates therein, attached hereto as "Attachment B".

3. That the rates approved herein, which went into effect on November 1, 2011 subject to proration and refund, will become effective on a final basis with usage on or after the date of this Order.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

ATTACHMENT "A"

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FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: AUGUST 6, 2012

DR. VINCENT O. IKWUAGWU
HEARING EXAMINER

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ATTACHMENT "A"

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Dr. Vincent O. Ikwuagwu, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. §502 and 29 Del. C. ch. 101 and by Commission Order No. 8113 dated February 23, 2012, reports to the Commission as follows:

I. APPEARANCES

On behalf of the Applicant, Delmarva Power & Light Company ("Delmarva" or "the Company"):

By: TODD L. GOODMAN, ESQUIRE, Associate General Counsel
JAMES B. JACOBY, Senior Regulatory Affairs Analyst

On behalf of the Public Service Commission Staff ("Staff"):

By: JULIE DONOGHUE, ESQUIRE, Deputy Attorney General
MALIKA DAVIS, Public Utilities Analyst

On behalf of the Division of the Public Advocate ("DPA"):

By: REGINA A. IORII, ESQUIRE, Deputy Attorney General
MICHAEL D. SHEEHY, Public Advocate

II. BACKGROUND

A. DELMARVA'S 2011-2012 GSR APPLICATION

1. On August 31, 2011 Delmarva Power & Light Company ("Delmarva" or "the Company") filed with the Delaware Public Service Commission (the "Commission") an application (the "Application") seeking approval to modify its Gas Cost Rates ("GCR") effective on November 1, 2011, with proration, as follows: (1) revise the volumetrically applied GCR factors applicable to the RG, GG, GL, and non-electing MVG Service Classifications; (2) revise the demand charge for the non-electing MVG, electing MVG and LVG and Standby Service Classifications; and (3) reconcile and true-up actual versus estimated monthly Commodity Cost Rate assignments for sales under the LVG and so-called "electing" MVG Service Classifications, all as set forth below:

Rate Schedules	Current	Proposed	Change from Current
RG, GG, GL	94.042¢/ccf	88.804¢/ccf	(5.2380) ¢/ccf
LVG and MVG Demand	\$12.0266/Mcf of MDQ	\$11.0936/Mcf of MDQ	(\$0.9330)/Mcf
Non-Electing MVG Commodity	\$7.5811/Mcf	\$7.1740/Mcf	(\$0.4071)/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly	N/A

With its Application, Delmarva also submitted prefiled testimony from four witnesses: (1) Michael S. Poncia, Director of Gas Delivery; (2) Mario A. Giovanninni, Manager of Natural Gas Supply; (3) Robert W. Brielmaier, Manager of Gas Operations; and (4) James B. Jacoby, Senior Analyst in the Regulatory Affairs Department of PHI Service Company.

2. In the Company's prior GCR case (Docket No. 10-295F), the Commission authorized Delmarva to amortize a projected \$24.5 million underrecovery over two years to mitigate the impact on its customers of full recovery of that deficit in the 2010-2011 GCR year. As of the date of Delmarva's current Application, its underrecovered position was \$19,759,576, which included the \$12,430,976 unrecovered balance from the 2010-11 GCR year. Delmarva proposed to recover the full underrecovered balance in its 2011-12 GCR rates, stating that even with full recovery of the previously under-recovered balance, a typical residential customer using approximately 120 ccf of natural gas during a winter month would experience a decrease in his overall bill of 3.7%, or \$6.29.

3. In Order No. 8040 dated September 20, 2011, the Commission authorized the proposed GCR modifications and other revisions to the Company's tariffs to become effective for usage on and after November 1, 2011, with proration and subject to refund, pending further review and final decision. The Commission designated Senior Hearing Examiner Ruth Ann Price as Hearing Examiner and directed her to: (1) schedule and conduct all necessary and appropriate public evidentiary hearings to develop a full and complete record concerning the matter; (2) report her proposed findings and recommendations based on the evidence presented to the Commission; (3) grant or deny petitions to intervene; and (4) determine the content, form, and manner of any further required public notice. The Commission further directed Delmarva to publish notice of its Application with the proposed rate changes and the Commission's action in the News Journal newspaper on September 27

and 28, 2011, and to submit proof of such publication no later than the commencement of the evidentiary hearings concerning this matter. Finally, the Commission notified Delmarva that it would be charged the costs incurred in this proceeding pursuant to 26 Del. C. §114(b)(1).

B. PUBLIC COMMENT SESSION

4. Hearing Examiner Price approved a procedural schedule. A duly noticed public comment session was conducted by Ms. Price at 7:00 p.m. on October 25, 2011 in the Auditorium of the Carvel State Office Building located at 820 North French Street in Wilmington, Delaware. Public notice of the hearing included a publication in the legal classified section of *The News Journal* newspaper on September 27 and 28, 2011, in accordance with PSC Order No. 8040. No members of the public attended.

5. On January 30, 2012, Ms. Price resigned her position as Senior Hearing Examiner to assume the position of Deputy Public Advocate. By Order No. 8113 dated February 23, 2012, the Commission designated Staff Analyst III Dr. Vincent O. Ikwuagwu to assume the duties of the Hearing Examiner.

6. The Public Advocate ("PA") exercised his statutory right of intervention on October 21, 2011.

7. On February 21, 2012, Delmarva submitted a letter requesting a waiver of the tariff provision requiring it to apply for a rate change in the event of a GCR underrecovery exceeding 6%. Delmarva stated that sales were almost 1.2 Bcf less than projected due to the unnaturally mild winter heating season. This resulted in a \$10.4 million decrease in the projected level of sales, which was partially

offset by reduced purchases and lower market prices for natural gas. Despite this shortfall, Delmarva's models using updated projections indicated that an interim rate change would produce only a minimal reduction in the underrecovery before the beginning of the next GCR period since the shortfall would have to be collected over a 12-month period rather than by the end of the existing GCR period. Because the heating season would be over before increased rates would become effective, the underrecovery would not be substantially reduced by the time of the next GCR filing. Delmarva further stated that based on current cost estimates, sales forecasts and forward markets, it was projecting significantly lower GCR rates in the 2012-13 GCR year without an interim increase. Given these circumstances, Delmarva concluded that an interim rate increase would produce only a very small benefit at best, compared to the potential confusion that such a rate increase would cause and the concomitant use of its, Staff's and the PA's limited time and resources. (Letter dated February 21, 2012 from Todd L. Goodman to Janis L. Dillard, Deputy Director). The Commission granted Delmarva's waiver request in Order No. 8116 dated March 6, 2012.

8. On February 28, 2012, Staff submitted prefiled testimony from Public Utilities Analyst Malika Davis, and the PA submitted prefiled testimony from Andrea C. Crane, President of The Columbia Group, Inc.

9. By e-mail correspondence dated April 11, 2012, Delmarva counsel notified me that the parties had reached a settlement and would be presenting it to me at the April 30, 2012 evidentiary

hearing. The proposed settlement obviated the need for Delmarva to submit rebuttal testimony.

C. THE EVIDENTIARY HEARING

10. A duly-noticed evidentiary hearing was conducted On April 30, 2012 in the Third Floor Conference Room in the Carvel State Office Building in Wilmington. At the April 30, 2012 hearing, the parties - Delmarva, Staff and the DPA jointly submitted a proposed settlement (the "Settlement") and each proffered a witness to testify regarding it. Each witness was subject to cross-examination. Delmarva, Staff and the DPA also stipulated to the admission of 10 exhibits into evidence. At the close of the hearing, the record was left open pending receipt of the affidavits of publication, which were received on May 1, 2012. The record was then closed which consists of 10 exhibits and 48 pages of transcript. At the evidentiary hearing, each signatory to the Settlement proffered a witness to testify about it and each witness was subject to cross-examination.

11. For Delmarva, Mr. Jacoby testified that Delmarva contacted Staff and the DPA after they had submitted their testimony to ascertain whether a settlement was possible since there were no contested issues. He testified that the Settlement enabled the parties to avoid the substantial costs associated with a fully-litigated case, and resulted in just and reasonable rates. (Tr. at 35-36).

12. For Staff, Ms. Davis also testified that the Settlement resulted in just and reasonable rates and was in the public interest. She observed that the Settlement primarily addressed Delmarva's sharing of information with the Staff and the DPA with respect to

important matters such as the hedging program, execution of an asset management agreement, and review of the Company's pipeline capacity needs. *Id.* at 40-41. She testified that the Settlement was in the public interest because these additional notification provisions enabled Staff and the PA to be informed prior to Delmarva entering into any agreements regarding hedging or asset management. *Id.* at 41.

13. Public Advocate Michael Damien Sheehy likewise testified that the Settlement resulted in just and reasonable rates and was in the public interest. First, he stated that there was sufficient record evidence to support it. Specifically, he noted that Delmarva's communications with his representatives had improved substantially, and that the Company's hedging program was now working well. *Id.* at 44. In this regard, he cited the Company's recent request to modify the hedging program to allow it to take advantage of record low prices for natural gas. *Id.* at 45. Second, he testified that it was unlikely that the Commission would reach a contrary decision regarding the Settlement because all parties had vetted the calculations and the forecasts and found them to be appropriate, and because the informational provisions would prevent any unpleasant surprises. *Id.* Last, he testified that the Settlement made sense based on the accuracy of the calculation of the proposed rates and the lack of any contested issues. *Id.* at 45-46.

14. Pursuant to the Commission's instructions, I hereby submit for consideration these proposed Findings and Recommendations.

III. SUMMARY OF EVIDENCE - THE PARTIES' TESTIMONY

A. Delmarva

15. **Michael S. Poncia.** Mr. Poncia provided an overview of the Application. He testified that as a result of the Commission's approval of the settlement of Delmarva's 2010-11 GCR application (Docket No. 10-295F), it amortized an estimated \$24,861,953 underrecovery over two years. Delmarva expected the underrecovery for the second amortization year to be \$12,430,976, but as of October 31, 2010 its actual underrecovery was \$26,987,660, or approximately \$2.1 million more than projected at that date. As a result, Delmarva carried a \$19,759,576 underrecovery into the 2011-12 GCR year (consisting of the planned \$12,430,976 underrecovery balance and an additional \$7,392,167 underrecovery). (Ex. 3 at 4-5).¹

16. Mr. Poncia testified that had Delmarva recovered the entire underrecovery in one year as permitted by its tariff, customers would have experienced an increase of 6.7% or \$11.34 in their monthly bills; therefore, spreading the underrecovery over two years allowed the GCR to be relatively flat through 2010-11 compared to 2009-10. *Id.* at 4-5. Delmarva will recover the total \$19,759,576 underrecovered balance in the 2011-12 GCR rates; which will reduce Delmarva's underrecovered balance but still result in a decrease in the GCR rate. *Id.* at 5.

17. Mr. Poncia stated that Delmarva had updated its annual natural gas communications plan and would share it with Staff and the PA prior to the heating season. He described the actions Delmarva

¹ Mr. Poncia testified that the additional \$7,392,167 underrecovery resulted from decreasing and understated volumes, overvalued hedges, customer migration and conservation efforts. (Ex. 3 at 5).

planned to take to inform customers about the GCR and educate them about energy efficiency, including messaging through Delmarva's website and customer newsletters, community speakers bureau meetings, on-line home energy audit tolls through "My Account," and employee education programs. Delmarva planned to continue to promote its Budget Billing program, and to meet with various interest groups serving the needs of customers who were most sensitive to energy costs. *Id.*

18. Mr. Poncia testified that as of the end of July 2011, approximately 12% of Delmarva's 123,117 gas customers were enrolled in Delmarva's Budget Billing program. *Id.* at 6. He described actions that Delmarva was taking to raise customers' awareness of the program, such as bill inserts, messages printed on the bill envelope, a prominent display on its internet home page, the customer newsletter, community meetings, speakers' bureau events, and its call center. *Id.* He noted that Delmarva also sponsors and supports programs such as the Good Neighbor Energy Fund and the Low Income Summit Meeting, and offers customers flexible payment arrangements to help them manage their payment requirements. *Id.* at 6-7.

19. Mr. Poncia discussed how Delmarva plans to meet the requirements of 26 *Del. C.* §1502 for reducing customers' natural gas usage. He noted that Delmarva has actively participated (and will continue to participate) in the Energy Efficiency Resource Standards ("EERS") workgroup, which was charged with studying the various energy efficiency issues identified in §1502 and making recommendations to the Secretary of the Department of Natural Resources and Environmental Control. He stated that the workgroup has submitted a report to the

Secretary detailing the various energy efficiency programs available to gas customers through the Sustainable Energy Utility ("SEU"). *Id.* at 7. Additionally, Delmarva continually provides customers with information about how to conserve natural gas and reduce consumption through tools such as My Account, and is exploring other options in conjunction with the SEU. Finally, Delmarva is pursuing decoupling workshops, which it hopes will lead to further discussions regarding natural gas conservation programs. *Id.* at 8.

20. **Mario A. Giovanninni.** Mr. Giovanninni presented Delmarva's development of the total estimated gas supply costs for the 2011-12 GCR period, consisting of all gas commodity costs, interstate pipeline transportation demand costs, storage demand and capacity costs, storage withdrawal and injection costs, and variable transportation commodity, fuel and capacity release and off-system sales revenue credits. He also discussed Delmarva's natural gas hedge plan. (Ex. 4 at 2). He testified that Delmarva will enter the 2011-12 GCR period with 193,331 Mcf of peak (design day) supply deliverability available to meet firm sales customer requirements. *Id.* at Sch. MG-1. Delmarva terminated two Transco firm transportation contracts on May 31, 2011, and its Transco LG-A storage service on October 31, 2011 to reduce the amount of firm deliverability versus its design day estimate and to reduce fixed pipeline and storage costs. These terminations and non-renewals produced design day supply deliverability of 190,775 Mcf available after April 30, 2012. *Id.* at 2-3 and Sch. MG-1.

21. Mr. Giovanninni identified several differences between the 2011-12 GCR period projected transportation and storage demand costs

versus the prior GCR year's projections. He noted that Delmarva expected its fixed costs to decrease by \$102,812 (0.4%) due to the Columbia Gulf base rate increase, higher estimated Transco firm transportation costs, and higher estimated Eastern Shore Natural Gas ("ESNG") pipeline costs, *offset* by cancellation of Transco full transportation and storage services, cancellation of National Fuels firm transportation and storage service, and lower Transco Washington and Eminence storage costs. *Id.* at 3-5. He testified that the Company expected refunds totaling \$330,631 from the Columbia Gulf and ESNG interstate pipelines for the 2011-12 GCR period. *Id.* at 5-6.

22. Mr. Giovanninni described Delmarva's development of its projected demand, supply and price forecasts. He explained that Delmarva structures its gas procurement process to acquire supply at the lowest possible cost, considering supply reliability, operational considerations and contract obligations. Delmarva used the NYMEX gas futures closing prices on August 4, 2011 as its spot wholesale natural gas price; Mr. Giovanninni testified that these closing prices were reasonable and that Delmarva did not believe a different methodology would produce more accurate forecasts. He noted that using the spot price was consistent with the Docket No. 05-213F settlement. *Id.* at 6.

23. Mr. Giovanninni identified the major components of Delmarva's \$73,359,350 projected natural gas commodity costs for the 2011-12 GCR period as: (1) natural gas expected to be withdrawn from storage; (2) gas currently hedged for the 2011-12 GCR period; and (3) "spot" gas purchases. He testified that Delmarva intends to hedge a portion of the "spot" gas according to the hedging program approved in

Docket No. 08-266F and as discussed with Staff and the Public Advocate during quarterly hedge meetings. *Id.* at 7. Delmarva projects its 2011-12 GCR period wholesale gas commodity costs to be \$18,042,952 less than 2010-11 GCR period costs, due to lower projected natural gas prices during injection months and year-over-year, as well as the expiration of hedges entered into prior to the new hedging program. *Id.* at 8-9. Delmarva determined projected storage withdrawal costs by taking actual inventory cost at July 31, 2011 and projecting the volume and total cost of gas expected to be injected between August 1 and October 31, 2011. The total cost of injected gas includes all transportation commodity and storage charges and the cost of the natural gas at the time of injection. *Id.* at 9.

24. Mr. Giovanninni described the hedging program approved by the Commission in Docket No. 08-266F. That program requires Delmarva to hedge 50% of its projected monthly gas requirements on a non-discriminatory basis. Delmarva defines its projected monthly gas requirements as "projected city gate requirements plus storage injections minus storage withdrawals." *Id.* at 10. The time horizon is 12 months; thus, Delmarva enters into hedges on a pro-rata basis (1/12 each month) over the 12 months preceding the month in which it delivers the physical gas to customers. Delmarva created a method to track hedges by month to comply with the new hedging guidelines, and shares and discusses this mechanism with Staff and the Public Advocate quarterly. The new hedging program is being implemented over time due to the existence of hedging positions that may be outside the new hedging parameters in some months. The hedging program has not been

modified since its approval in Docket No. 08-266F, and if Delmarva seeks to change the program, it will discuss its proposed changes with Staff and the Public Advocate before taking any action. *Id.*

25. Mr. Giovanninni next discussed Delmarva's efforts to reduce fixed pipeline and storage costs. He stated that Delmarva enters into off-system sales and capacity release transactions to obtain at least market value for contracted long-term pipeline capacity it does not need to serve firm sales customers. Off-system sales typically occur monthly or daily, whereas capacity releases are usually done for a seasonal or a one-year term. Delmarva estimates it will earn approximately \$6.4 million from off-system sales and capacity releases in the 2011-12 GCR period. Additionally, Delmarva terminated several firm transportation and storage service agreements, which reduced 2011-12 GCR period fixed costs by \$437,851. Finally, Delmarva actively participates in FERC interstate pipeline rate cases to mitigate the financial effect of such cases. *Id.* at 11 and Sch. MG-2.

26. Delmarva projected firm supply deliverability for winter 2011-12 of 192,775 Mcf. Mr. Giovanninni observed that its design-day reserve is decreasing over the next five years because of the steps it has taken to reduce its firm supply under contract. *Id.* at 12-13. Delmarva regularly evaluates its pipeline and storage services to determine whether it should make any changes. It presented its pipeline and storage portfolio, prospective supply plans and procedure for reducing its design day surplus to Staff and the PA in May 2011, and will provide regular portfolio updates to Staff and the PA during their quarterly hedging calls. *Id.* at 13-14.

27. **Robert W. Brielmaier.** Mr. Brielmaier testified about the development of Delmarva's gas sales, transportation and sendout volume forecasts, and the lost and unaccounted-for gas ("LUFG") percentages used to calculate the proposed GCR. Ex. 5 at 2. He stated that Delmarva forecasted firm sales of 12,946,388 Mcf and transportation sales of 6,640,926 Mcf, for total firm throughput of 19,587,314 Mcf. *Id.* Firm sales projections decreased by 3.8%, firm transportation sales projections increased by 17.6% and projected total firm throughput increased by 2.6% compared to the prior GCR period forecast. Delmarva also projected increased sales for all customer classes except Residential Space Heating ("RSH"); the projected RSH sales decrease was primarily because Delmarva had forecasted higher sales for this class in the prior GCR year. The Company used the same forecasting methods used in prior GCR years for each of the customer classes. *Id.* at 3-4. Consistent with the order in Docket No. 03-127F, Delmarva used the 30-year average of monthly Heating Degree Days² on a 65°F base. Firm sendout was based on a monthly forecast of firm billed sales adjusted for Company use, a 2% LUFG factor,³ and a cycle billing effect. It assumed zero non-firm sendout based on its recent flexibly-priced citygate sales service experience. *Id.* at 5 and Sch. MG-3.

28. Mr. Brielmaier testified that the Company did not incur any pipeline penalties in the August 2010-July 2011 period. *Id.* at 5.

² The Heating Degree Day history was based on NOAA weather data collected at the Wilmington site located at New Castle County Airport. Ex. 5 at 4.

³ For the one-, two- and three-year periods ending June 30, 2010, Delmarva's average LUFG was 2.2%, 2.0%, and 2.3% respectively. Ex. 5 at 5.

29. Last, Mr. Brielmaier discussed the Company's compliance with the Docket No. 10-295F settlement provision regarding LNG capacity. He stated that the Company had determined that manifolding the existing ethylene glycol heaters was feasible at a reasonable cost, and that the project's expected completion by October 31, 2011 would enhance its vaporization capability for the 2011-12 heating season. *Id.* at 6. He testified that the Company intended to award a contract for assessing the feasibility and cost of upgrades to the LNG plant's instruments and controls by September 15, 2011, and expected a report by the end of 2011. He stated that Delmarva would continue to update Staff and the PA regarding these assessments and related implementation during the quarterly hedging calls. *Id.* at 6-7.

30. **James B. Jacoby.** Mr. Jacoby testified about: (1) the development of the GCR based on the Gas Sales Tariff; (2) reconciling the actual versus estimated system weighted average commodity cost of gas ("WACCOG") assigned to LVG and electing MVG customers;⁴ (3) the interest calculation adjustment; (4) the impact of the gas IMU adjustment on customers and its resolution; (5) the GCR audit for calendar year 2010; and (6) the revised balancing charge rate applicable to gas transportation customers. Ex. 6 at 2.

31. Mr. Jacoby described how the components of the proposed 2011-12 GCR rates compared to the GCR rates currently in effect. *Id.* at 3-4. The methodology used to calculate the proposed rates did not change. *Id.* at 4.

⁴There were no electing MVG customers during the 2010-11 GCR year. Ex. 6 at 2 n.1.

32. Mr. Jacoby explained how Delmarva derived projected firm gas expenses for the 2011-12 GCR period. First, it credited estimated costs of Company-use gas against total estimated gas commodity costs. Next, it credited against estimated gas demand charges the revenue from transition charges from customers who switched from firm sales to a transportation service and balancing charges. Then, it credited the GCR with 80% of the margins from interruptible transportation customers. Last, it credited the GCR with 100% of margins from off-system sales and capacity releases until reaching \$3 million, after which it credited the GCR with 80% of those margins. *Id.* at 4-5.

33. Mr. Jacoby described how Delmarva calculated the projected underrecovery balance (based on three months' actual results and nine months of projected results) of \$19,759,576. *Id.* at 5.

34. Mr. Jacoby testified that the Company calculated interest on the underrecovered balance based on the average monthly gas deferred fuel balances at the rate of 1/12 of the applicable FERC Natural Gas Interest Rate Factor (3.25%). *Id.* at 6 and Sch. JBJ-7. He noted Delmarva's agreement in Docket No. 10-295F to waive \$342,000 of interest for the 2009-10 GCR period in \$171,000 increments for each of the 2011-12 and 2012-13 GCR periods. *Id.* at 6. Including the \$1,800 interest adjustment resulting from the IMU adjustments, Delmarva's adjusted 2010-11 interest expense was \$396,896. *Id.* at 7.

35. Mr. Jacoby next explained how Delmarva derived the proposed commodity cost rate ("CCR") and demand cost rate ("DCR") factors for the 2011-12 GCR period. For the CCR, Delmarva first allocated total estimated firm commodity costs between Annual CCR (RG, GG, GL and non-

electing MVG) customers and Monthly CCR (LVG and electing MVG) customers. It established the commodity portion for each month at the system WACCOG projected for that month as adjusted for LUF⁵. Any over- or under-recovery balance and associated interest remaining from the prior GCR period (net of the demand cost true-up discussed *infra*) is assigned to Annual CCR customers. Furthermore, as a result of customer migration, a \$196,686 underrecovered balance remained for the 2010-11 GCR year; thus, LVG customers will receive a WACCOG true-up surcharge of \$0.4560/Mcf. *Id.* at 7-8 and Schs. JBJ-1, 8.

36. Mr. Jacoby testified that Delmarva allocates and recovers demand-related costs through two separate mechanisms. First, it allocates firm gas demand charges, which involves calculating average and excess daily loads. It calculates average daily loads by dividing projected sales over the entire GCR period, by class, by the number of days in the period. Then, it multiplies these average daily loads by the Average Pipeline Rate to obtain firm demand expenses attributable to serving average loads. All remaining firm expenses are allocated based on excess loads. It calculates excess loads by subtracting the average daily loads by class from the design day loads. It then multiplies the ratio of each class's excess load to the system total by the demand costs remaining unallocated after developing average load expense. Summing the two load allocations results in the firm demand costs to be collected from volumetric (RG, GG, GL) and demand-metered (MVG, LVG) classes. *Id.* at 8. Delmarva calculates the gas DCR

⁵ Commodity revenues and expenses for LVG and electing MVG are trued-up if over- or under-recovery exceeds 5% of total gas commodity costs of \$250,000 for the 12 months ended June 30, 2011. The actual WACCOG variance for this period was an underrecovery of \$40,646 (5.83%). *Id.* at 7 and Sch. JBJ-8.

for MVG and LVG customers by dividing their share of firm demand charges by their total contract Maximum Daily Quantity ("MDQ").⁶ Firm gas demand expense not allocated to the MVG and LVG customers is the basis of the volumetric DCR factor. *Id.* at 8-9 and Schs. JBJ-1, 3.

37. Delmarva calculated the true-up of demand-related cost differences to all sales customers by comparing the estimated and actual monthly demand costs from August 2010-July 2011. For the period August 2011-October 2011, Delmarva compared estimates from its prior GCR filing to this filing's estimates. It then multiplied the cumulative monthly variance by 1/12 of the then-effective FERC gas refund rate, and allocated the total trued-up amount (variance plus interest) among volumetric and non-volumetric customers to develop the volumetric and non-volumetric DCR factors. *Id.* at 9 and Sch. JBJ-4.

38. Mr. Jacoby next discussed the gas IMU adjustment. He testified that Delmarva remedied the IMU problem in July 2011 and made two adjustments: a \$530,090 credit to the GCR to adjust the expenses from estimated revenue loss from October 2010-July 2011, and the previously-mentioned interest adjustment. Delmarva calculated this adjustment by applying the total estimated revenue losses against total GCR expenses, which reduced the underrecovery and neutralized the impact on GCR customers. *Id.* at 10.

39. Mr. Jacoby then discussed the 2010 calendar year audit. He stated that in Docket No. 96-218F, the parties agreed that Delmarva's internal audit department should expand the scope of its annual GCR

⁶ The MDQ measures the individual customer's contribution to peak demand. Ex.6 at 9.

audit in light of various design changes and margin sharing mechanisms approved in Docket No. 95-44F. A primary concern was assuring that customer billing and margin sharing were being done in accordance with the Commission's order and Delmarva's tariff. Delmarva was currently completing the 2010 audit, which included a review of a sampling of customer bills and regulatory accounting records for gas sales, costs and revenues. Upon completion of the audit, Delmarva's external auditor PriceWaterhouseCoopers LLC would review the audit procedures and results and render an opinion on the basic financial statements. The Company expected the final audit report to be completed and filed with the Commission prior to the end of October 2011. *Id.*

40. Finally, Mr. Jacoby addressed Delmarva's proposed revised gas transportation balancing charge. He testified that the proposed increase was due to an increase in estimated upstream costs and a projected increase in total gas deliveries. *Id.* at 11.

B. STAFF'S TESTIMONY.

41. Malika Davis, a Staff Public Utilities Analyst, testified for Staff. She stated that Staff had retained Richard W. LeLash to review the Company's filing and Supply Plan and to evaluate its procurement against established regulatory standards. Mr. LeLash focused on Delmarva's gas costs, purchasing practices, hedging program and gas supply management, and reported that he found no cause for concern regarding any of the subjects of his review. Ex. 8 at 5-6.

42. Ms. Davis testified that she reviewed the monthly "Comparison of Gas Expense Recovery" reports Delmarva files with the Commission, as well as filed reports regarding its development of

annual commodity and demand costs, sales and gas cost rate revenues, pipeline purchases, storage injections and withdrawals, and hedge program financial settlements. She also examined the backup for these reports consisting of modified MVG and LVG contract MDQs; spreadsheets detailing all line item charges to form and non-firm transportation customers; accounting reports for gas system purchases, injections and withdrawals, flexibly-priced sales costs, and revenues from off-system capacity sales; and monthly sales totals for the RG, MVG and LVG classes and special contracts. *Id.* at 6.

43. Ms. Davis concluded that the proposed GCR rates should be approved as final subject to true-up in the next GCR docket. *Id.* at 3, 15. She also found that the Company appeared to be complying with the settlement agreement in Docket No. 10-295F. *Id.* at 7-9. She recommended that Delmarva continue to try to mitigate the fixed costs associated with its pipeline contracts, storage service contracts and peaking services. *Id.* at 9-13. Last, she requested that Delmarva continue to update Staff and the PA regarding its plans to comply with the legislatively-mandated reduction in natural gas use. *Id.* at 3.

C. TESTIMONY OF THE PUBLIC ADVOCATE

44. The PA's witness Andrea C. Crane reviewed Delmarva's application and supporting documentation and made several recommendations. First, she testified that the Company should continue to use NOAA's 30-year weather normal for forecasting purposes unless NOAA adopts a different methodology. Ex. 7 at 5, 12-13. Second, Delmarva should continue to follow the revised hedging program approved in Docket No. 08-266F, subject to any modifications to which

the Company, Staff and the PA may agree. *Id.* at 5, 16-19. Third, Delmarva should continue to monitor its pipeline capacity agreements and storage contracts and terminate any contracts that are expiring to reduce its capacity reserve margin. *Id.* at 5, 20-23. Fourth, she recommended that the Commission continue to review the reasonableness of Delmarva's LUG factor. *Id.* at 6, 23. Last, she testified that Delmarva's proposed GCR rates should be approved subject to true-up in its next GCR case. *Id.* at 6, 24.

IV. PROPOSED SETTLEMENT AGREEMENT

45. On April 30, 2012, Delmarva, Staff and the PA presented me with the fully-executed Settlement (Ex. 10) resolving the issues in this docket. The signatories agreed to the following:

- The proposed GCR rates should be approved;
- Delmarva will continue to execute its gas hedging program in accordance with the settlement reached in Docket No. 08-266F, and would continue to hold quarterly hedge meetings to review and discuss the hedging program and, upon agreement of all parties, modify it as necessary or appropriate;
- The parties will discuss any contemplated natural gas asset management agreements during their quarterly hedge calls, and Delmarva will notify the parties prior to entering into any asset management agreement that would transfer 25% or more of its total natural gas supply portfolio;
- Delmarva will regularly evaluate its portfolio of pipeline capacity and storage assets, its design day reserve and asset revenue opportunities, taking into consideration overall system reliability, fixed costs, supply diversity and future customer needs;
- The \$531,890 of unrecognized revenue and interest associated with the malfunctioning gas IMUs was not and will not be absorbed by Delmarva's customers, and this amount represents an appropriate computation of the gas IMU loss adjustment; and

- Delmarva will include in its next GCR filing a discussion of how it plans to comply with the statutory mandate to reduce natural gas usage.

(Ex. 10 at 4-5).

V. DISCUSSION AND RECOMMENDATIONS

46. After having reviewed the entire record, I conclude that the Settlement is in the public interest, results in just and reasonable rates, and should be approved.

47. First, 26 *Del. C.* §512(a) provides that “[i]nsofar as practicable, the Commission shall encourage the resolution of matters brought before it through stipulations and settlements.” Clearly, this reflects a legislative intent that the Commission welcome settlements of part or all of a case.

48. Second, I note that each of the Settlement’s signatories represents a different constituency and comes to the case with different interests. Delmarva interest is in recovering all of its actual gas costs (as 26 *Del. C.* §303(b) permits). Staff is required to balance the utility’s and ratepayers’ interests. And 29 *Del. C.* §8716(d)(2) charges the DPA with advocating the lowest reasonable rates for consumers consistent with maintaining adequate utility service and an equitable distribution of rates among all the utility’s customer classes. Despite these disparate interests and responsibilities, the parties have reached agreement. This, in my view, is a significant factor weighing in favor of approving the Settlement.

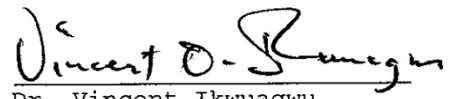
49. Finally, substantial record evidence supports the Settlement. The witnesses for both Staff and the DPA testified that they had reviewed the Company's forecast methodologies, sales and revenue forecasts, and calculations of the proposed GCR rates, and found the methodologies and forecasts to be reasonable and the calculations to be accurate. Indeed, neither challenged the proposed rates in their prefiled testimony.

50. As for the informational provisions of the Settlement, I find that the additional information that Delmarva will provide to Staff and the DPA will keep those entities abreast of what is happening with respect to hedging, the consideration of Delmarva's retaining an asset manager, Delmarva's capacity and storage purchases and design day requirements, and other matters of import to those parties.

51. Finally, the Settlement is in the public interest because it obviated the need to expend scarce resources of the Company, Staff and the PA on unnecessary rebuttal testimony and an unnecessary litigated evidentiary hearing. While this docket may not have taken much of those parties' time, it is nonetheless time that they were all able to devote to other matters.

52. For the foregoing reasons, I conclude that the Settlement Agreement, attached hereto as Exhibit "A", results in just and reasonable rates and is in the public interest, and recommend that the Commission approve it. I attach a form of order implementing my recommendations hereto as Exhibit "B".

Respectfully submitted,

A handwritten signature in black ink, reading "Vincent O. Ikwuagwu". The signature is written in a cursive style with a horizontal line underneath the name.

Dr. Vincent Ikwuagwu
Hearing Examiner

A T T A C H M E N T “B”

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

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY)
FOR APPROVAL OF MODIFICATIONS TO ITS) PSC DOCKET NO. 11-381F
GAS COST RATES (FILED AUGUST 31, 2011))

PROPOSED SETTLEMENT

Delmarva Power & Light Company (“Delmarva”), the Delaware Public Service Commission Staff (“Staff”), and the Delaware Public Advocate (“DPA”), individually each a “Party,” and collectively, the “Parties,” hereby propose a complete settlement of all issues in this proceeding as follows.

I. INTRODUCTION AND PROCEDURAL BACKGROUND

1. On August 31, 2011, Delmarva filed an application (the “Application”) with the Delaware Public Service Commission (the “Commission”) to modify its Gas Cost Rate (“GCR”) factors, effective on and after November 1, 2011, with proration, and with such revised factors to continue in effect until October 31, 2012. The Application also requested approval of the Company’s proposal to reconcile and true-up actual versus estimated weighted average commodity cost of gas assignments for sales under the Large Volume Gas service classification and for so-called “electing” customers taking service under the Medium Volume Gas service classification, and a revision of the balancing charge rate applicable to Gas Transportation customers.

2. In its Application, Delmarva proposed rate decreases as follows:

	<u>Prior Demand Charge</u>	<u>Prior Commodity Charge</u>	<u>Proposed Demand Charge</u>	<u>Proposed Commodity Charge</u>
RG,GG, and GL	N/A	\$0.94042/Ccf	NA	\$0.88804/Ccf
Non-electing MVG	\$12.0266/Mcf Billing MDQ	\$7.5811/Mcf	\$11.0936/MCF Billing MDQ	\$7.1740/Mcf
Electing MVG and LVG	\$12.0266/Mcf Billing MDQ	Varies	\$11.0936/MCF Billing MDQ	Varies
Standby Service	\$12.0266/Mcf Billing MDQ	N/A	\$11.0936/Mcf Billing MDQ	NA

3. The rates proposed in the Application, if approved, would result in a GCR decrease of 5.6% for RG, RSH, and GL customers. Residential space heating customers using 120 Ccfs in a winter month would experience decreases of \$6.29 or 3.7% in their total bill. Customers served on Service Classifications GG would experience decreases of 2.1% to 4.3% on their winter bills. Non-electing MVG customers would experience decreases in their winter bills of 4.3% to 4.9%, depending on usage characteristics.

4. On September 20, 2011, the Commission issued Order No. 8040, allowing the GCR factors to become effective with usage on and after November 1, 2011, with proration, on a provisional basis subject to refund, pending evidentiary hearings and a final decision by the Commission.

5. During the course of this proceeding, the Parties conducted substantial written discovery in the form of both informal and formal data requests.

6. Additionally, throughout the year, as well as during the proceeding, the parties met on several occasions to discuss various issues, including hedging, natural gas markets,

capacity, and other issues related to the acquisition of natural gas supply for Delmarva's natural gas customers. The Parties intend to continue these meetings on a regular basis .

7. On February 21, 2012, Delmarva filed a request with the Commission seeking a waiver of Section XX D of the Company's tariff, which requires Delmarva to apply for an interim GCR increase if, during a GCR year, an underrecovery in the GCR should exceed a 6% threshold. In that request, Delmarva explained that as a result of significantly above-normal temperatures experienced throughout this heating season, natural gas sales from November 2011 through January 2012 were almost 1.2 Bcf less than forecast in the Application. Delmarva's request stated that underrecoveries had exceeded the threshold contained in tariff Section XX D.

8. Delmarva's request explained that for reasons set forth in the request, a waiver of an interim GCR increase would be in the best interest of customers. Staff and DPA agreed, and by PSC Order No. 8116, the Commission granted the waiver.

9. DPA and Staff submitted testimony on February 27 and 28, 2012, respectively. Staff and DPA both testified that Delmarva's Application should be approved, as filed, by the Commission.

10. The Parties have conferred and have agreed to enter into this Proposed Settlement on the terms and conditions contained herein, because they believe that resolving the matter by stipulation will serve the interest of the public and Delmarva, while meeting the statutory requirement that rates be both just and reasonable. Subject to the recommendation of the Hearing Examiner, the Parties agree that the terms and conditions of this Proposed Settlement will be presented to the Commission for the Commission's approval forthwith.

II. SETTLEMENT PROVISIONS

11. **GCR Rates**: The Parties agree that the proposed GCR rates filed by Delmarva should be approved.

12. **Natural Gas Hedging Program**: The Parties agree that Delmarva will continue to execute its Gas Hedging Program in accordance with the Settlement approved in Docket No. 08-266F, and further agree to continue to hold quarterly hedge meetings to review and discuss the hedging program, and upon consensus, make any potential modification to the hedging program mechanics.

13. **Asset Management**: The parties agree to continue to discuss, during quarterly hedge meetings, any natural gas asset management agreements that Delmarva may contemplate or that it has executed. Delmarva further agrees to notify the parties prior to entering into any natural gas asset management agreement that involves the assignment or transfer of more than 25% of its total natural gas supply portfolio to one single manager.

14. **Capacity**: Delmarva agrees to continue to regularly evaluate its portfolio of pipeline capacity and storage assets, its design day reserve, and asset revenue opportunities, taking into consideration overall system reliability, fixed costs, supply diversity and future customer needs.

15. **Interface Management Units**: Delmarva credited the GCR with \$530,090 during the period of October 2010 through July 2011 to reflect unrecorded usage due to non-recording interface management units (“IMU”) on a small percentage of meters. Delmarva also made a corresponding \$1,800 credit to the interest expense calculation. In other words, \$531,890 in expenses was not and will not be absorbed by Delmarva’s customers. The Parties agree that the adjustment made by Delmarva for unrecorded usage represents an appropriate computation to

derive the gas loss adjustment and thus prevents customers from experiencing any expense for IMU-related unrecorded usage during the period.

16. **Inclusions In The Next GCR Filing:** Delmarva will include in its testimony in its next GCR filing a discussion concerning its plans to comply with the requirements of 26 *Del. C.* §1502 for reducing natural gas usage.

III. ADDITIONAL PROVISIONS

17. The provisions of this settlement are not severable.

18. This Proposed Settlement represents a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future case. No Party to this settlement necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this settlement other than as specified herein, except that the Parties agree that the resolution of the issues herein taken as a whole results in just and reasonable rates.

19. To the extent opinions or views were expressed or issues were raised in the pre-filed testimony that are not specifically addressed in this Proposed Settlement, no findings, recommendations, or positions with respect to such opinions, views or issues should be implied or inferred.

20. The Parties agree that this Proposed Settlement may be submitted to the Commission for a determination that it is in the public interest and that no Party will oppose such a determination. Except as expressly set forth herein, none of the Parties waives any rights it may have to take any position in future proceedings regarding the issues in this proceeding, including positions contrary to positions taken herein or in previous cases.

21. This Proposed Settlement will become effective upon the Commission's issuance of a final order approving it and all of its terms and conditions without modification. After the issuance of such final order, the terms of this Proposed Settlement shall be implemented and enforceable notwithstanding the pendency of a legal challenge to the Commission's approval of this Proposed Settlement or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

22. The obligations under this Proposed Settlement, if any, that apply for a specific term set forth herein shall expire automatically in accordance with the term specified, and shall require no further action for their expiration.

23. The Parties may enforce this Proposed Settlement through any appropriate action before the Commission or through any other available remedy. Any final Commission order related to the enforcement or interpretation of this Proposed Settlement shall be appealable to the Superior Court of the State of Delaware, in addition to any other available remedy at law or in equity.

24. If a Court grants a legal challenge to the Commission's approval of this Proposed Settlement and issues a final non-appealable order that prevents or precludes implementation of any material term of this Proposed Settlement, or if some other legal bar has the same effect, then this Proposed Settlement is voidable upon written notice by any Party.

25. This Proposed Settlement resolves all of the issues specifically addressed herein and precludes the Parties from asserting contrary positions during subsequent litigation in this proceeding or related appeals; provided, however, that this Proposed Settlement is made without

admission against or prejudice to any factual or legal positions which any of the Parties may assert (a) in the event that the Commission does not issue a final order approving this Proposed Settlement without modifications; or (b) in other proceedings before the Commission or other governmental body so long as such positions do not attempt to abrogate this Proposed Settlement. This Proposed Settlement is determinative and conclusive of all of the issues addressed herein and, upon approval by the Commission, shall constitute a final adjudication as to the Parties of all of the issues in this proceeding.

26. This Proposed Settlement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission fails to grant such approval, or modifies any of the terms and conditions herein, this Proposed Settlement will terminate and be of no force and effect, unless the Parties agree in writing to waive the application of this provision. The Parties will make their best efforts to support this Proposed Settlement and to secure its approval by the Commission.

27. It is expressly understood and agreed that this Proposed Settlement constitutes a negotiated resolution of the issues in this proceeding.

28. This Proposed Settlement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the entity executing it (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

IN WITNESS WHEREOF, intending to bind themselves and their successors and assigns, the undersigned Parties have caused this Proposed Settlement to be signed by their duly-authorized representatives.

DELAWARE PUBLIC SERVICE COMMISSION STAFF

By: /s/ William O'Brien

Date: 4/12/12

DELMARVA POWER & LIGHT COMPANY

By: /s/ Todd L. Goodman

Date: 4/14/12

THE PUBLIC ADVOCATE

By: /s/ Michael Sheehy

Date: 4/11/12