

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE

COMPLIANCE FILING IN THE MATTER OF THE )  
APPLICATION OF DELMARVA POWER & LIGHT )  
COMPANY FOR APPROVAL OF QUALIFIED FUEL ) PSC DOCKET NO. 13-76-04  
CELL PROVIDER PROJECT TARIFF )  
(FILED April 26, 2013) )

ORDER NO. 8366

AND NOW, this 21st day of May, 2013, the Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, on July 7, 2011, the Governor of the State of Delaware signed into law certain amendments (78 Del. Laws ch. 99) (July 7, 2001) (the "Amendments") to the Renewable Energy Portfolio Standards Act, 26 Del. C. §§351 - 364 (the "REPSA") that added Delaware-manufactured fuel cells to the REPSA and allowed energy output from such fuel cells to be considered a resource eligible to fulfill a portion of a Commission-regulated electric company's renewable energy credit requirements under REPSA; and

WHEREAS, the Amendments were part of a comprehensive State economic development and renewable energy program in which a new form of base load generation was added in Delaware; and

WHEREAS, the Amendments created a regulatory framework whereby a Commission-regulated electric company and a Qualified Fuel Cell Provider ("QFCP")<sup>1</sup> will jointly submit tariffs<sup>2</sup> that enable and obligate a Commission-regulated electric company, as the agent for collection and disbursement, to collect from its customers non-

<sup>1</sup> A "Qualified Fuel Cell Provider" is defined in 26 Del. C. §352(16).

<sup>2</sup> The requirements for the tariffs are set forth in a previous Commission's Order in PSC Docket 11-362, PSC Order No. 8025, dated September 6, 2011. See also 26 Del. C. §§364(b) and (d).

bypassable charges for costs incurred for incremental site preparation, filing, administrative, and other costs incurred by the QFCP, reduced by compensation for any revenues received from PJM<sup>3</sup> or its successors at law from the output of the Qualified Fuel Cell Provider Project ("QFCPP");<sup>4</sup> and

**WHEREAS**, in accordance with the Amendments, the Commission was directed to either approve or reject all tariff filings as proposed, without alteration or the imposition of any condition or conditions; and

**WHEREAS**, on August 19, 2011, Delmarva Power & Light Company ("Delmarva") filed an application in PSC Docket No. 11-362 for approval of a new electric tariff for Service Classification QFCP-RC and a new gas tariff for Service Classification LVG-QFCP-RC pursuant to the Amendments; and

**WHEREAS**, on October 18, 2011, the Commission issued PSC Order No. 8062, which approved Delmarva's tariff filing and ordered that the Commission would enter a formal Findings and Opinion in support of PSC Order 8062 at a later date; and

**WHEREAS**, on December 1, 2011, the Commission issued PSC Order No. 8079, which, among other things, adopted Order No. 8062, set forth the Commission's formal Findings and Opinion approving Delmarva's application for a new electric tariff and new gas tariff, and adopted

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<sup>3</sup> "PJM" means the regional transmission organization that coordinates the movement of wholesale electricity in the PJM region, or its successors at law. See 26 Del. C. §352(14).

<sup>4</sup> Under 26 Del. C. §352(17), a "qualified fuel cell provider project" means a fuel cell power generation project located in Delaware owned and/or operated by a qualified fuel cell provider under a tariff approved by the Commission pursuant to 26 Del. C. §364(d).

the allowance adjustments made by the Secretary of the Delaware Department of Natural Resources and Environmental Control ("DNREC") to the Renewable Energy Credit ("REC")<sup>5</sup> and Solar Renewable Energy Credit ("SREC");<sup>6</sup> and

**WHEREAS**, pursuant to the Commission-approved Tariff for Service Classification QFCP-RC, Delmarva will file on a monthly basis with the Commission a copy of the computation of the Service Classification QFCP-RC Charge ("QFCP-RC Charge") with current factors and reconciliation factors at least thirty days prior to applying such QFCP-RC Charge on customers' bills. See P.S.C. Del. No. 8 - Electric, Original Leaf No. 74d, Section F; and

**WHEREAS**, on April 26, 2013, Delmarva submitted its fourteenth monthly filing (the "Compliance Filing") to account for the varying QFCP-RC Charge for June 2013, including the typical charges and calculations. In addition, the reconciliation factors (true-ups) of the March billing revenues, March PJM energy revenues, and March operational costs were included in the QFCP-RC Charge; and

**WHEREAS**, the June 2013 QFCP-RC Charge, which is set forth on the attached Exhibit "A", will be effective for bills issued between May 30, 2013, and June 27, 2013, absent a determination of manifest error by the Commission; and

**WHEREAS**, the Commission Staff ("Staff") reviewed the Compliance

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<sup>5</sup> Under 26 Del. C. §352(18), a "Renewable Energy Credit" or "REC" means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from eligible energy resources and that is used to track and verify compliance with the provisions of the RPS.

<sup>6</sup> Under 26 Del. C. §352(25), a "Solar Renewable Energy Credit" or "SREC" means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from solar photovoltaic energy resources and that is used to track and verify compliance with the provisions of RPS.

Filing, the calculations supporting the June 2013 QFCP-RC Charge, and the source documents supporting the calculation of the June 2013 QFCP-RC Charge and was not able to find any manifest errors in the Compliance Filing or the calculations contained therein. Because Staff requested more detail concerning claimed outages than was supplied on the March Monthly Operating Report ("MOR") outage event log, Staff and Delmarva jointly developed a format to use for the outage event log. Delmarva provided the new format document to the QFCP Generator,<sup>7</sup> Diamond State Generating Partners, LLC ("DSGP"), with instruction that outage information be provided in the new format. Staff also requested that Delmarva file an amended March outage event log from DSGP that complies with the new format and asked that the amended March outage log be filed by Friday, May 10, 2013. On May 10, 2013, Delmarva did send an amended outage event log for March 2013; however, the amended outage event log failed to include details on the duration of the outage events and failed to identify all of the root causes of the outage events in the proper format; and

**WHEREAS**, Staff notes that its receipt of the March 2013 outage event log does not mean that Staff agrees with the outage information provided to it or that Staff accepts this information as complete or sufficient. In addition, Staff notes that its receipt of this outage event log does not preclude Staff from refusing to accept any future filings of the monthly report and outage event log which are missing

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<sup>7</sup> "QFCP Generator" means the owner of a Qualified Fuel Cell Provider Project as defined in 26 Del. C. §352 that qualifies for service under the Service Classification QFCP-RC and which has filed an [sic] [Service] Application with the Company. See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74q, Section Q.

the requested details as set out in the format requested by Staff; and

**WHEREAS**, in the March MOR, DSGP stated as follows: "DSGP is not seeking any FM<sup>8</sup> or FOE<sup>9</sup> Payment for this or past FOE/FM events. The outage information and calculation of potential Section K(5) payments has been supplied to provide full disclosure;" and

**WHEREAS**, before the Commission will approve any future collection for a claimed Tariff K payment,<sup>10</sup> the outage event log must include, but not be limited to, detailed information on the outage events, with all of the information set forth in the outage event log, before a Tariff K payment will be considered; and

**WHEREAS**, Staff concludes that any issues related to the lack of information on the forced outage and force majeure events does not affect the proposed June QFCP-RC Charge; and

**WHEREAS**, Staff therefore recommends that the June 2013 QFCP-RC Charge be permitted to take effect for Delmarva customer bills issued between May 30, 2013, and June 27, 2013. This recommendation is subject, however, to two requirements. First, Delmarva shall provide

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<sup>8</sup> "FM" stands for "Forced Majeure Event." Under Delmarva's current electric tariff, FM means (i) a Forced Outage Event; or (ii) an event or circumstance that: (a) prevents a Party from performing its obligations under this Service Classification; (b) was not foreseeable by such Party; (c) was not within the reasonable control of, or the result of the negligence of such Party; and (d) such Party is unable to reasonably mitigate, avoid or cause to be avoided with the exercise of due diligence. See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric - Original Leaf No. 74n, Section Q.

<sup>9</sup> "FOE" stands for "Forced Outage Event." Under Delmarva's current electric tariff, FOE means the inability of a QFCP Generator to obtain from its Qualified Fuel Cell Provider or any other Persons a replacement component part or a service necessary for operation of one or more Energy Servers at its nameplate capacity. See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric - Original Leaf No. 74n, Section Q.

<sup>10</sup> See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74h - 74j, Sections K(1) to K(7), which set forth the requirements for when Delmarva must collect from its customers and disburse to the QFCP Generator disbursements when there is a FM or FOE.

to Staff, with each future Compliance Filing under the REPSA, all completed documents which Staff requested from Delmarva as part of the review of this and any prior Compliance Filings. This includes, but is not limited to, Delmarva's workpapers. Second, this recommendation is also subject to the requirement that Staff reserves the right to perform more detailed audits of any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge;

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

1. That the Commission approves the Compliance Filing made by Delmarva Power & Light Company ("Delmarva") on April 26, 2013, including the June 2013 QFCP-RC Charge which is listed on the attached Exhibit "A", but excluding the amended March 2013 outage event log submitted by Delmarva to the Commission Staff ("Staff").

2. That Delmarva shall provide to the Commission Staff ("Staff"), with each future Compliance Filing under the Renewable Energy Portfolio Standards Act, 26 Del. C. §§351 - 364 (the "REPSA"), all documents that Staff requested from Delmarva as part of its review of this Compliance Filing, including, but not limited to, Delmarva's workpapers.

3. That Staff hereby reserves the right to perform a more detailed audit of any months included in Delmarva's Compliance Filing made on April 26, 2013, and any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge.

4. That for any future claimed Tariff K payment,<sup>11</sup> the MOR and outage event log provided by DSGP and filed by Delmarva must provide detailed information on the outage events, including all of the information set forth in the outage event log in the format provided by Staff to Delmarva, before any recovery of a Tariff K payment will be considered.

5. 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/ Jaymes B. Lester  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

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Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary

<sup>11</sup> See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74h - 74j, Sections K(1) to K(7), which set forth the requirements for when Delmarva must collect from its customers and disburse to the QFCP Generator disbursements when there is a FM or FOE.

EXHIBIT "A"

June 2013 QFCP-RC Charge

## EXHIBIT A

### JUNE 2013 QFCP-RC CHARGE

<u>Service Classification</u>	<u>\$ per kWh</u>
Residential	\$ 0.001945
Residential- Space Heating	\$ 0.001945
Residential Time-of-Use "R-TOU"	\$ 0.001945
Residential Time-of-Use NON-Demand "R-TOU-ND"	\$ 0.001945
Small General Service - Secondary Non-Demand "SGS-ND"	\$ 0.001945
Space Heating Secondary Service "SGS-ND" and "MGS-S"	\$ 0.001945
Water Heating Secondary Service "SGS-ND" and "MGS-S"	\$ 0.001945
Outdoor Recreational Lighting Svc - Secondary "ORL"	\$ 0.001945
Medium General Service - Secondary "MGS-S"	\$ 0.001945
Large General Service - Secondary "LGS-S"	\$ 0.001945
General Service - Primary "GS-P"	\$ 0.001902
General Service - Transmission "GS-T"	\$ 0.001868
Outdoor Lighting PL	\$ 0.001945
Outdoor Lighting SL	\$ 0.001945