

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY FOR)
APPROVAL OF THE 2013 PROGRAM FOR THE) PSC DOCKET NO. 12-526
PROCUREMENT OF SOLAR RENEWABLE ENERGY)
CREDITS (FILED NOVEMBER 20, 2012))

ORDER NO. 8254

AND NOW, this 18th day of December, 2012:

WHEREAS, on November 20, 2012, pursuant to 26 *Del. C.* §351 *et seq.*, Delmarva Power & Light Company ("Delmarva") filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") requesting approval of its 2013 Program for the Procurement of Solar Renewable Energy Credits (the "2013 Program"); and

WHEREAS, the 2013 Program is based on requirements set forth in the Renewable Energy Portfolio Standards Act ("REPSA") which was enacted in 2007 and amended in subsequent years. See 26 *Del. C.* §§351-364. The 2011 Amendments made Delmarva responsible for procuring RECs¹ and SRECs² necessary for compliance with respect to all energy delivered to Delmarva's distribution customers beginning in compliance year 2012 (June 2012 - May 2013); and

WHEREAS, the 2013 Program is based on recommendations of the Renewable Energy Taskforce (the "Taskforce") which is charged with

¹ A "REC" is defined in 26 *Del. C.* §352(18).

² An "SREC" is defined in 26 *Del. C.* §352(25).

making such recommendations to the Commission and other entities.³ See 26 Del. C. §§360(d), (d)(2), and (d)(3). The 2013 Program is also based on the Pilot Program for the Procurement of Solar Renewable Energy Credits (the "Pilot Program")⁴ which the Taskforce developed and which Delmarva submitted on September 16, 2011, to the Commission for approval; and

WHEREAS, on November 8, 2011, the Commission conducted an evidentiary hearing and approved the Pilot Program with certain modifications via Order No. 8075. Later, the Commission issued its Final Findings, Opinion, and Order on December 20, 2011, via Order No. 8093; and

WHEREAS, per Order No. 8093, the Commission retained a consultant (Meister Consultants Group, Inc. or "Meister") to conduct an independent review of the Pilot Program to determine whether a long-term SREC contracting process should continue, and if so, to examine any associated issues, including, but not limited to:

³ 26 Del. C. §360(a)(2) provides, in pertinent part, that the Taskforce is charged with making recommendations about and reporting on the following and matters related thereto: a. Establishing balanced markets mechanisms for REC and SREC trading; b. Establishing REC and SREC aggregation mechanisms and other devices to encourage the deployment of renewable, distributed renewable, and solar energy technologies in Delaware with the least impact on retail electricity suppliers, municipal electric companies and rural electric cooperatives; c. After an analysis by the Taskforce, the annual progress towards achieving the minimum cumulative percentages for all renewable energy resources including, but not limited to, solar and other eligible energy resources and making appropriate recommendations based upon deliberate and factual analysis and study; d. Minimizing the cost for complying with any portion of this subchapter based upon deliberate and factual analysis and study; e. Establishing revenue certainty for appropriate investment in renewable energy technologies, including, but not limited to, consideration of long-term contracts and auction mechanisms; f. Establishing mechanisms to maximize in-state renewable energy generation and local manufacturing; and g. Ensuring that residential, commercial, and utility scale photovoltaic and solar thermal systems of various sizes are financially viable and cost-effective investments in Delaware.

⁴ See PSC Docket No. 11-399.

(a) Whether procurements should be by tiers, and if, so, the number of tiers and cut-off points between tiers;

(b) Whether there should be competitive bidding for all projects or all tiers;

(c) Whether administratively-set pricing should be used, if so, for which tier or tiers, and if so, the process by which pricing should be determined (including an assessment of the inputs and assumptions that go into the model by which administratively-set prices are developed); and

(d) The effect of the involvement of Sustainable Energy Utility ("SEU") on the Pilot Program's administration and costs.

See Order No. 8093, ¶1.c; and

WHEREAS, Meister did provide the Commission with its independent review in the form of a report dated August 3, 2012; and

WHEREAS, although the Legislature directed the Commission to act based on the Taskforce's work, nothing in 26 Del. C. §360 requires the Commission to adopt the Taskforce's recommendations per se. Thus, the Commission may adopt policies that differ from those set forth in a proposed SREC procurement program if it believes they are warranted; and

WHEREAS, in its Application, Delmarva requested that the Commission schedule the matter for decision on December 18, 2012, or as soon thereafter as possible. Delmarva also stated in its "Report in Support of its Application for Approval of the 2013 Program for the Procurement of Solar Renewable Energy Credits" filed on November 20, 2012 ("Delmarva's Report"), that the Taskforce has recommended that

the next auction for SRECs begin no later than March 31, 2013, for the compliance year starting June 1, 2013. Delmarva's Report at p. 7; and

WHEREAS, Staff has reviewed the Application and agrees that expedited treatment should be given to the Application, but needs time to review all of the details of the 2013 Program for compliance with Staff's recommendations in the Pilot Program as well as compliance with the Taskforce's recommendations;

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

1. That, pursuant to the requirements of 26 Del. C. §§102A and 304, Delmarva Power & Light Company ("Delmarva") shall give public notice of the application filed on November 20, 2012 (the "Application"), by causing the notice attached as **Exhibit "A"** to be published in the News Journal and Delaware State News newspapers, in two-column format, outlined in black, **on or before Friday, December 21, 2012**. Delmarva is required to file in this docket affidavits of publication of such public notice by **Friday, January 4, 2013**.

2. That the deadline for written comments on the Application's request for approval of the proposed 2013 Program for the Procurement of Solar Renewable Energy Credits (the "2013 Program") and for any petitions to intervene in this docket pursuant to 26 Del. Admin. C. §1001-2.9 shall be **on or before Friday, January 4 2013**. Late-filed petitions to intervene will not be granted unless good cause is shown. Hearing Examiner Mark Lawrence is designated as the Hearing Examiner in this matter for the sole purposes of granting or denying intervention petitions and for admission of counsel *pro hac vice*.

3. That the Commission Staff shall prepare for the Commission a report on the Application and provide recommendations for any changes to the Application or the proposed 2013 Program. Staff shall submit such report to the Commission **on or before January 11, 2013.**

4. That the Commission will conduct a hearing in this matter at its regular meeting **on Tuesday, January 22, 2013, at 1:00 p.m.,** to consider Staff's report, the Application, the proposed 2013 Program, and any further proceedings on this matter.

5. That the Secretary shall promptly serve a copy of this Order on the Division of the Public Advocate.

6. Delmarva is hereby placed on notice that the costs of the proceeding will be charged to it under the provisions of 26 Del. C. §114(b)(1).

7. 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/ James B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

Exhibit A

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PUBLIC NOTICE OF FILING

**TO: ALL ELECTRIC CUSTOMERS OF DELMARVA POWER & LIGHT COMPANY AND
OTHER INTERESTED PERSONS**

On November 20, 2012, Delmarva Power & Light Company ("Delmarva") filed an application ("Application") with the Delaware Public Service Commission ("Commission"). The Application requested approval by the Commission of the 2013 Program for the Procurement of Solar Renewable Energy Credits (the "2013 Program") developed by the Renewable Energy Taskforce, of which Delmarva Power is a member.

Any person or group wishing to participate by filing written comments or participate formally as a party in this docket (Docket No. 12-526) with the right to submit evidence and to be represented by counsel must petition the Commission for, in accordance with 26 *Del. Admin. C.* §1001-2.9, leave to intervene in the proceedings in this docket and must be granted such leave by the Hearing Examiner. To be timely, all such comments and petitions must be filed with the Commission at 861 Silver Lake Boulevard, Suite 100, Cannon Building, Dover, Delaware 19904, Attn: Docket No. 12-526, **on or before January**

4, 2013. Petitions received thereafter will not be considered except for good cause shown. If possible, you should accompany any written comments with an electronic version of the submission. Such electronic copy may be filed on a copy-capable CD-ROM disk or sent as an attachment to an Internet e-mail addressed to pamela.knotts@state.de.us.

Mark Lawrence is designated as the Hearing Examiner in this matter for the sole purposes of granting or denying intervention petitions and for admission of counsel *pro hac vice*.

The Commission will conduct a public evidentiary hearing on the Application on **January 22, 2013, at 1:00 p.m.** at the Commission's office at the address set forth above.

If you would like to review documents at the Commission's offices, please contact Monica Hall at monica.hall@state.de.us to arrange a time for your review. You may also review copies of Delmarva's Application and supporting documents at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4th Floor, 820 North French Street, Wilmington, Delaware 19801. Please call (302) 577-5077 to arrange for a time to review the documents at that location.

If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia-request&subj=DOS>. There is also a link to the Freedom of Information Act Request Form on the Commission's website at <http://depssc.delaware.gov/default.shtml>. The Commission will respond

to your request in accordance with the Delaware Freedom of Information Act, 29 Del. C. ch. 100.

If you have a disability and wish to participate in these proceedings or to review the materials in this matter, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone), by Internet e-mail, or other means.

If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone). You may also send questions regarding this matter by Internet e-mail addressed to Pamela Knotts at pamela.knotts@state.de.us.