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	)	PSC DOCKET NO. 12-419F
ITS GAS COST RATES	)	
(FILED AUGUST 31, 2012)	)	

ORDER NO. 8397

AND NOW, this 18th day of June, 2013;

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 24, 2013 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 May 28, 2013 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, 2012 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/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

____
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

A T T A C H M E N T "A"

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FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: MAY 28, 2013 **CONNIE S. MCDOWELL**

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(FILED AUGUST 31, 2012)	**)**	

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Connie S. McDowell, duly appointed Hearing Examiner in this Docket pursuant to 26 *Del. C.* §502 and 29 *Del. C. ch*. 101 and by Commission Order No. 8294 dated February 21, 2013, 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
PAMELA J. SCOTT, ESQUIRE, ASSISTANT GENERAL COUNSEL
ASHLEY T. ADAMS, REGULATORY AFFAIRS SENIOR ANALYST
ROBERT M. COLLACCHI, DIRECTOR OF GAS DELIVERY
MARIO A. GIOVANNINI, DIR. OF SUPPLY CUSTOMER ENERGY
ROBERT W. BRIELMAIER, MANAGER OF GAS OPERATIONS
JAMES B. JACOBY, REGULATORY AFFAIRS LEAD

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

By: JULIE DONOGHUE, ESQUIRE, DEPUTY ATTORNEY GENERAL
MALIKA DAVIS, PUBLIC UTILITIES ANALYST
JEROME D. MIERZWA, EXETER ASSOCIATES, INC., CONSULTANT

On behalf of the Division of the Public Advocate ("DPA"):
By: RUTH ANN PRICE, DEPUTY PUBLIC ADVOCATE
ANDREA B. MAUCHER, PUBLIC UTILITIES ANALYST

On behalf of Joseph R. Biden, III, Attorney General of the State of Delaware:

By: JAMES ADAMS, ESQUIRE, DEPUTY STATE SOLICITOR
REGINA A. IORII, DEPUTY ATTORNEY GENERAL

II. BACKGROUND

A. DELMARVA'S 2012-2013 GCR APPLICATION

1. On August 31, 2012 Delmarva filed with the Delaware Public Service Commission ("the Commission") an application seeking approval to modify its Gas Cost Rates ("GCR") effective November 1, 2012, with proration, as follows: (1) revise the volumetrically applied GCR factors applicable to 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 LVG and so-called "electing" MVG Service Classifications. In addition, the Company proposed the following revised rates:

Rate Schedules	Current	Proposed	Change from Current
RG, GG, GL	88.804¢/ccf	68.967¢/ccf	(19.837)¢/ccf
LVG and MVG Demand	$11.0936/Mcf of MDQ	$11.6589/Mcf	$0.5653/Mcf
Non-Electing MVG Commodity	$7.1740/Mcf	$5.1051/Mcf	($2.0689)/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly	N/A

2. If the above rates are approved as filed, a typical residential customer will experience a 22.3% decrease in the GCR. The effect on a residential space heating customer using 120 ccf in a

winter month would experience a decrease of $23.80, or 14.4%, in their total bill. Customers served on Service Classification GG will experience a 12.7% to a 16.8% decrease on their winter bills. Non-electing MVG customers will experience a change on their winter bills within the range of a 22.7% decrease to a 23.2% decrease, depending on their load and usage characteristics. LVG customers will experience a change on their winter bills with the ranges of a 20.0% to 25.0% decrease.

3. With its Application, Delmarva also submitted prefiled testimony from four witnesses: (1) Robert M. Collacchi, Director of Gas Delivery; (2) Mario A. Giovannini, Director of Supply Customer Energy for Pepco Holdings, Inc. ("PHI"); (3) Robert W. Brielmaier, Manager of Gas Operations; and (4) James B. Jacoby, Regulatory Lead for the Regulatory Affairs Department for PHI Service Company.

4. In the Company's prior GCR case (Docket No. 11-381F), the Commission approved a Settlement Agreement which stated that Delmarva would 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.

5. In Order No. 8217 dated September 18, 2012, 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, 2012, with proration and subject to refund, pending further review and final decision. The Commission designated Robert J. Howatt as Hearing Examiner and directed him to: (1) schedule and conduct all necessary and appropriate public evidentiary hearings to develop a

full and complete record concerning the matter; (2) report his 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 actions in this Order in The News Journal newspaper on October 1 and October 30, 2012, 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).

6. In February, 2013, Hearing Examiner Howatt was appointed as the Executive Director of the Commission and was no longer able to act as a Hearing Examiner. In Order No. 8294 dated February 21, 2013, the Commission appointed Connie McDowell as Hearing Examiner in this matter and directed her to assume the duties listed in 5above.

7. On February 27, 2013, 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 under recovery exceeding 6%. Delmarva stated that sales forecasted for November 2012 through January 2013 were almost 835,355 Mcf less than the level expected in the GCR filing. This resulted in a $5.7 million decrease in the projected level of sales, which was partially offset by reduced purchases for send-out. Although Delmarva's tariff calls for the filing of an interim GCR rate change should it appear that the 6% under recovery

threshold will be exceeded, the Company pointed out that it would not be in the best interest of its customers because (1) the interim period for this rate change would do little to reduce the size of the deferral by the next GCR period which begins on November 1, 2013 since it takes a full 12 month period to collect the shortfall and the heating season when its customers use the most natural gas would be over and (2) the amount of time and resources by the Company, PSC Staff and Commission, and Public Advocate to process and implement this GCR rate change would be costly and inefficient. (Letter dated February 25, 2013 from Pamela J. Scott to Susan Neidig, Senior Regulatory Policy Administrator). The Commission granted Delmarva's request in Order No. 8310 dated March 5, 2013.

8. The DPA exercised his statutory right of intervention on September 18, 2012. On or about March 15, 2013, Michael Sheehy, DPA, resigned from his position. On March 18, 2013, the Attorney General petitioned the Commission to Intervene Out of Time because the consumers' interests would not be otherwise represented. By Order No. 8332 dated March 18, 2013, the Hearing Examiner granted the Petition.

B. THE PUBLIC COMMENT SESSION

9. As part of Hearing Examiner Howatt's approved procedural schedule, a duly noticed public comment session was conducted by Mr. Howatt at 7:00 p.m. on November 19, 2012 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 October 1 and 30, 2012, in accordance with PSC Order No. 8217. No members of the public attended. In addition, no written comments were received by the Commission.

C. THE EVIDENTIARY HEARING

10. By e-mail correspondence on April 22, 2013, Delmarva counsel, Pamela J. Scott, notified me that the parties had reached a settlement and a copy of that settlement was attached to the e-mail. The parties would be presenting it at the evidentiary hearing along with the justification of why it was in the public interest.

11. A duly-noticed evidentiary hearing was conducted on April 24, 2012 in Third Floor Conference Room in the Carvel State Office Building in Wilmington. At the April 24, 2013 hearing, the parties – Delmarva, Staff and Attorney General - 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 Attorney General's Office also stipulated to the admission of 12 exhibits into evidence. At the close of the hearing, the record was closed which consists of 12 exhibits and 53 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.

12. For Delmarva, Robert W. Brielmaier testified by summarizing the Company's application and the terms of the Settlement Agreement. He also explained why the Settlement Agreement was just and reasonable and in the public interest. He stated that the Company's filing proposed a reduction of 22% in the GCR rates and those prices

represent reasonable prices. The Company has agreed to monitor and investigate the Lost and Unaccounted For Gas ("LAUF") factor so that GCR customers are not paying for gas costs attributable to a specific large volume gas transportation customer. The parties have agreed on a going forward basis to work to improve the GCR process to minimize unrecovered costs carried in the subsequent GCR filings.

13. For Staff, Malika Davis testified the proposed GCR rates were just and reasonable and that they were calculated correctly and in accordance with the Company's tariffs. She said that the hedging program has a significant impact on the gas cost rates that Delmarva's customers pay and Delmarva has agreed for Staff and the Attorney General's Office to examine any proposed modifications before implementing them. She also said that the continued investigation of the LAUF attributed to the specific large volume gas transportation customer would assure GCR customers being charged the correct gas costs attributed to them and that the parties have agreed to work together to try to improve the GCR process so that the need for waivers is reduced or eliminated and the under-recovered balances carried into subsequent filings can be minimized. Lastly, she stated that the Company has agreed to regularly evaluate its pipeline capacity and its storage assets with the goal of mitigating increases and fixed costs whenever feasible.

14. For the Attorney General's Office. Andrea B. Maucher testified that she had verified the Company's calculations of the proposed GCR rates and had determined that they were accurate and in compliance with the Company's tariff and felt that proposed rates were

just and reasonable since they were approximately a 22% decrease. She also felt it was in the public interest because the Company included a LAUF proposal of a $2 million credit to the Deferred Fuel Balance and that Delmarva would continue to monitor the LAUF to true-up any gas costs that should not have been charged to GCR customers.

III. SUMMARY OF EVIDENCE – THE PARTIES' TESTIMONY

15. The testimonies of Mr. Mario A. Giovannini, Mr. Robert W. Brielmaier, Mr. Robert M. Collacchi, and Mr. James B. Jacoby from Delmarva Power & Light Company were included in the Application filed on August 31, 2012. On March 7, 2013, Staff submitted Direct Testimony from Public Utility Analyst Malika Davis and Staff Consultant Jerome D. Mierzwa from Exeter Associates, Inc. and the Attorney General's Office submitted Direct Testimony from Public Utility Analyst Andrea B. Maucher. Their testimonies are summarized in this section.

A. DELMARVA

16. ***Mario A. Giovannini***. Mr. Giovannini presented Delmarva's development of the total estimated gas supply costs for the 2012-13 GCR period, consisting of all gas commodity costs; interstate pipeline transportation demand costs, storage demand and capacity costs, storage withdrawal/injection costs, variable transportation commodity, fuel and capacity release and off-system sales revenue credits. He also discussed Delmarva's natural gas hedge plan. (*Id.* at 2). His testimony stated that Delmarva will begin this 2012-13 period with 190,775 Mcf of peak (design day) supply deliverability available to meet firm sales customer requirements. *Id.* at 2 and Sch. MG-1.

However, based on the contract terms of the Columbia FT Contract 80722, the daily Mcf of 15,458 will be reduced to 9,768 Mcf on April 30, 2013. *Id.* at 2-3. This contract change will reduce the design day supply deliverability to 185,085 Mcf available after April 30, 2013. *Id.* at 2 and Sch. MG-1. In addition, on May 31, 2011, Delmarva provided a notice of intent to terminate Transco FT contract 1005012 of 1,600 Mcf. Based on the contract terms, this contract will not officially terminate until May 31, 2014. *Id. a*t 2.

17. Mr. Giovannini identified the major differences between the 2012-2013 GCR period projected transportation and storage demand costs versus the prior GCR period's projections. He noted that Delmarva expected its fixed costs to decrease by $215.549 (0.8%) due to reduced costs associated with Columbia FT contract 80722 and Columbia Firm Storage Service contract and lower costs resulting from contract terminations, offset by higher Columbia Gulf and Eastern Shore costs since the previous year's GCR included pipeline refunds and higher Transco Washington Storage Service which reflects a full year of storage costs since the previous year's GCR reflected only 9 months of storage costs. *Id.* at 3. He also stated that Delmarva has not forecasted any interstate pipeline credits or refunds in this year's GCR filing. *Id.* at 3.

18. Mr. Giovannini described the development of the systems gas requirements forecast. He explained that firm sendout is based upon (a) a monthly forecast of firm billed sales, adjusted for (b) company use, (c) a 3% percentage factor for losses and unaccounted-for-gas (LAUF), and (d) a cycle billing effect and non-firm sendout is assumed

to be zero based on Delmarva’s recent experience with very few sales under its flexibly priced citygate sales service (FPS). *Id.* at 4 and Sch. MG-3.

19. Mr. Giovannini 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 13, 2012 as its spot wholesale nature gas price. Mr. Giovannini testified that these closing prices were reasonable and that Delmarva did not believe a different methodology would provide a more accurate GCR forecast. This methodology is also consistent with the Settlement Agreement in PSC Docket No. 05-312F. *Id.* at 4 and 5.

20. Mr. Giovannini identified the major components of Delmarva’s $54,640,528 projected natural gas commodity costs for the 2012-2013 GCR period as: (1) natural gas expected to be withdrawn from storage, (2) gas that is currently hedged for the 2012-2013 determination period, and (3) “spot” gas purchases. He testified that Delmarva intends to hedge a portion of the “spot” gas according to the non-discretionary hedging program approved in PSC Docket No. 08-266F. *Id.* at 5 and Table 1.

21. Mr. Giovannini compared the projected 2012-2013 commodity costs to the 2011-2012 forecasted commodity costs. Delmarva projects its 2012-2013 GCR period wholesale gas commodity costs to be $18,811,743 lower than the 2011-2012 GCR period costs. Mr. Giovannini

explained that the storage withdrawal costs are expected to be $3,338,799 lower than the last GCR filing because of lower natural gas market prices during injection months (April through October); the hedged purchase costs are $14,937,094 lower mainly due to the expiration of legacy hedges which were entered into prior to the new hedging program; and the spot purchases are expected to occur at an average price of $3.44 per Mcf which is lower than the $4.43 per Mcf expected in last year's GCR filing. *Id.* at 6 and 7 and Table 2.

22. Mr. Giovannini described how Delmarva projected storage withdrawal costs by taking actual inventory cost of August 13, 2012 and projecting the volume and total cost of gas expected to be injected between August 14, 2012 and October 31, 2012. The total cost of injected gas into Delmarva's storage facilities includes all transportation commodity and storage charges in addition to the underlying market cost of natural gas at the time of injection. *Id.* at 7. Mr. Giovannini outlined the guidelines of the Company's natural gas hedging program as approved by the Commission in PSC Docket 08-266F. The 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. The time horizon of the hedging program is 12 months, therefore, hedges are entered into on a pro-rata basis (1/12th each month) over the 12 months preceding the month in which the physical gas is delivered to customers. Delmarva created a method to track the quantity of hedges by month it needs to execute in order to maintain compliance with the

above guidelines to hedge 1/12 each month on a pro-rata basis beginning 12 months in advance. This tracking mechanism is shared and discussed with the PSC Staff and Public Advocate on a quarterly basis. At this time, there have been no changes to Delmarva's natural gas hedging program. *Id.* at 7 and 8.

23. Mr. Giovannini described the objectives of Delmarva's Gas Hedging Program and Natural Gas Planning and Procurement Strategy. The objective of the Gas Hedging Program is to reduce gas commodity price volatility while limiting the firm sales customers' exposure to increases in the market price of natural gas. The overall objective of Delmarva's Gas Supply Planning & Procurement Strategy is to provide reliable natural gas supply and service to core residential, commercial and industrial customers at the best possible cost. To ensure reliability, Delmarva secures by long-term contract the needed pipeline and storage services to serve its core customers' firm requirements. *Id.* at 8.

24. Mr. Giovannini also 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 the interstate pipeline transportation capacity it has under long-term contract that it does not need to serve firm sales customers. The term of the off-system sales transactions are typically either monthly or daily. Capacity release arrangements are usually done for a seasonal term or for a term of one year. Delmarva estimates it will earn approximately $3.362 million from off-system sales and capacity releases in the 2012-2013 GCR period. In addition,

Delmarva expects to continue to capitalize on spread differentials between supply sources and the Market Area to earn off-system sales margins, and expects to achieve value from releasing pipeline capacity on a monthly and seasonal basis. Delmarva continually evaluates its transportation and storage portfolios in an effort to reduce costs while maintaining reliability. *Id.* at 8 and 9. Delmarva has canceled Transco FT contract 1005012 with daily deliverability of 1,600 Mcf which directly affects Delmarva’s firm deliverability to the city gate. This Transco contract expires on May 31, 2014 and has a provision that requires Delmarva to keep the service for a period of time after notice of cancellation. Delmarva’s seasonal Columbia FT contract 80722 with firm winter deliverability of 15,458 Mcf contractually reduces to 9,768 Mcf on March 31, 2013. Delmarva also has two Columbia contracts that are set to expire March 31, 2013 and March 31, 2014, respectively. He also stated that Delmarva is in the process of evaluating renewal or release of these contracts. *Id.* at 10, Graph 1 and MG-5.

25. Mr. Giovannini compared Delmarva’s firm supply deliverability with the forecasted design-day customer demand. Delmarva’s firm supply deliverability for the 2012-2013 GCR period is 190,775 Mcf which 11.93% higher than the projected design-day requirement of 170,448 Mcf. Delmarva expects its design-day reserve to change over the next 3 years based on most recent strategic planning. *Id.* at 9 and MG-1.

26. Mr. Giovannini explained that Delmarva continually reviews its array of pipeline and storage services for possible capacity

reductions or changes in its composition of its portfolio. Mr. Giovannini provided a complete listing of Delmarva's pipeline and storage assets along with expiration dates, evergreen provisions "stay period" and the first date Delmarva can make a decision to renew or terminate assets in timeline format. He also stated that Delmarva has not entered into any new Asset Management Agreements as part of its portfolio. *Id.* at 10 and MG-5.

27. ***Robert W. Brielmaier.*** Mr. Brielmaier testified on the overall development of Delmarva's gas sales, transportation, sendout volume forecasts, Lost and Unaccounted For Gas ("LAUF"), the modification to the methodology for calculating the GCR customer loss factor and a credit to be applied to the Deferred Fuel balance. *Id.* at 2.

28. Mr. Brielmaier stated that Delmarva forecasted Firm Bundled Sales of 12,856,057 Mcf and Firm Transportation volume of 6,388,595 Mcf for a total Firm Throughput of 19,244,652 Mcf. *Id.* at 2 and Schedule RWB-1. He compared the current forecasted results with the forecast filed in last year's GCR, PSC Docket No. 11-381F. Forecasted Firm Bundled Sales are essentially unchanged (-.7%), Firm Transportation is down 3.8% and Firm Throughput is down 1.7%. Interruptible Transportation shows a 10% decrease. When comparing the customer class to last year's GCR forecast, the following forecasts are: RES (+8.7%), GG (+0.7), GVFT (+15.6%), MVFT (+6.7%), MVIT (+6.6%), RSH (-0.4%), MVG (-7.4%), LVG (-100%), LVFT (-8.3%), LVIT (-15.6%). The 100% change in the LVG forecast reflects the conversion of the only remaining LVG customer to LVFT. During the time period

August 2011 through August 2012, fifty three Large or Transportation customer changes occurred. These included changes to MDQ, facility closings or additions, and rate changes. *Id.* at 3.

29. Mr. Brielmaier also explained that Delmarva used the same forecasting methodology that was used in prior GCR filings and the same 30-year average weather normalization approved in PSC Order No. 6327 in PSC Docket No. 03-127. *Id.* at 3 and 4. Delmarva's firm sendout is forecasted by developing a monthly forecast of firm billed sales and then adjusted for (a) company use, (b) a 3% factor for LAUF and (c) cycle billing effect. *Id.* at 4 and Schedule MG-3.

30. Mr. Brielmaier testified that the Company had revised the LAUF from 2% to 3% due to the adoption of a revised methodology for determining GCR losses. The prior methodology included the calculation of volumetric flows to a specific large volume gas customer. The new methodology in this GCR filing includes only volumes flowing to the firm billed and transportation customers. This change was a result of a disparity between gas system sendout and billed sales. Delmarva initiated an in-depth analysis of the LAUF which showed a link between a specific large volume gas customer and gas sendout. The analysis revealed that the meters to a specific large volume gas customer were not in balance with the gas sendout on that customer's pipeline segment. *Id.* at 5 and 6.

31. Mr. Brielmaier stated that Delmarva has taken steps to ensure LAUF on this pipeline segment is being properly monitored and accounted for going forward. Delmarva has initiated a process for calculating LAUF on this pipeline segment on a bimonthly basis and

incorporated this process into its standard operating procedures. Based on Delmarva's current estimate of LAUF, as of July 1, 2012, this large volume gas customer is now required to make daily deliveries to the Ridge Road gate station equivalent to 101.5% of its confirmed gas requirements. This additional volume of delivered quantities is designed to cover the customer's share of losses. *Id.* at 6 and 7.

32. Mr. Brielmaier explained how the GCR customers were impacted by the LAUF and how these customers will be reimbursed for the LAUF costs that should have been paid for by the specific large volume gas customer. Delmarva has tentatively determined that the GCR customers paid for 1.5% of the gas used by this specific large volume gas customer and the Company will continue to evaluate if this percentage is accurate. In this application, Delmarva has reduced the Deferred Fuel Balance by $2,000,000 to reimburse the GCR customers for this discrepancy and will true-up the Deferred Fuel Balance in future GCR filings to reflect the final amounts determined for LAUF related to this specific large volume customer with interest. *Id.* at 8 and 9.

33. Mr. Brielmaier also testified that Delmarva did not incur any pipeline penalties during the period August 2011 through July 2012. *Id.* at 9.

34. ***Robert M. Collacchi.*** Mr. Collacchi testified on the final results of the 2-year amortization for the estimated under-recovered balance of $24,861,953 in the 2010-2011 GCR filing, the Customer Communications and Budget Billing and the status of the settlement agreement in PSC Docket No. 11-381F. *Id.* at 2.

35. Mr. Collacchi explained the results of the second year amortization of the 2010-2011 under-recovery balance which was agreed to by the Parties in a settlement agreement in PSC Docket No. 10-295F. The Company amortized $12,430,977 during the GCR period 2011-2012 which completed the 2-year under-recovery of $24,861,953. *Id.* at 4. He further testified that the under-recovery balance for the 2012-2013 GCR period is $12,008,315. Delmarva anticipates that the proposed rates, which were effective November 1, 2012, subject to refund, will reduce the under-recovery position while still providing customers with a decrease in this year's GCR rate. *Id.* at 4 and 5.

36. Mr. Collacchi discussed Delmarva's Annual Customer Communications Plan. Delmarva proposes to inform customers about the GCR and educate them on ways to use energy more efficiently. Activities in the Plan include various forms of communications and customer education such as website messaging, customer newsletter messaging, community speakers bureau meetings, on-line home energy audit tools and employee education programs. The Plan also includes a timetable for meeting with various interest-groups who serve the needs of people who are most sensitive to the cost of energy. *Id.* at 5.

37. Mr. Collacchi also discussed the status of the Budget Billing Plan. As of July 31, 2012, Delmarva had 123,450 gas customers of which 14,127 or approximately 11% were enrolled in the Budget Billing Program. The Plan includes a series of activities, such as bill inserts, e-mails to customers and articles in the Delmarva's newsletters, designed to raise customers' awareness of the Program. Delmarva also supports and sponsors such programs as the Good Neighbor

Energy Fund and the Low Income Summit Meeting and offers flexible payment arrangements to help customers better manage payment requirements. *Id.* at 6.

38. Mr. Collacchi summarized the settlement agreement approved in the last GCR filing, PSC Docket No. 11-381F. The settlement agreement: (1) approved the rates as submitted, (2) required Delmarva to execute its Gas Hedging Program and to hold quarterly hedge meetings, (3) required Delmarva to continue regularly evaluating its portfolio of pipeline capacity and storage assets, its design day reserve and asset revenue opportunities, and (4) credit the GCR for $531,890 to reflect expenses not absorbed by Delmarva customers. *Id.* at 7.

39. Mr. Collacchi also discussed how Delmarva plans to meet the requirements of 26 Del. C. § 1502 for reducing natural gas usage. Delmarva has been and continues to be an active participant in the Energy Efficiency Resource Standards Workgroup. This Workgroup has submitted its report to the Secretary of the Department of Natural Resources and Environmental Control for consideration of various energy efficiency issues identified in the Statute. In addition, Delmarva regularly provides its gas customers with information on how to conserve natural gas and reduce their gas consumption. *Id.* at 7.

40. ***James B. Jacoby.*** Mr. Jacoby testified on the following: (1) the development of the GCR based on the Gas Service Tariff, (2) the reconciliation of actual versus estimated system weighted average commodity cost of gas ("WACCOG") assigned to LVG and electing MVG customers, (3) the Interest Calculation Adjustments, (4) LAUF

adjustment's effect on the GCR, (5) the audit of the 2011-2012 GCR year, and (6) the revision of the Balancing Charge rate applicable to Gas Transportation Customers. *Id.* at 2.

41. Mr. Jacoby explained how the estimated firm gas expenses for the period November 2012 through October 2013 were derived. First, the estimated gas costs associated with Company-Use was credited against the total estimated gas commodity costs. Next, the Revenue from Transition Charges from customers who switched from Firm Sales to a Transportation Service, No-Notice Swing Charges, and Balancing Charges at 100% of their value; Margins related to Interruptible Transportation at 80% sharing; and Margins from Capacity and Off-Systems Sales up to $3 million for the 12-month period ending every June and thereafter shared at 80% until the following July were credited against the estimated gas demand expenses. *Id.* at 4 and 5 and Sch. JBJ-5, Page 2 of 2.

42. Mr. Jacoby discussed the under-recovery gas costs position of $12,008,315 (exclusive of interest) expected at October 31, 2012. This under-recovery is based on nine months of historical data and three months of estimates. The Adjusted Deferred Fuel Balance at November 1, 2011 was $22,280,985. *Id.* at 5.

43. Mr. Jacoby testified that the Company calculated interest on the under-recovery gas costs in accordance with Leaf No. 36 in Delmarva's Gas Service Tariff. The calculation is based on the average monthly gas deferred fuel balances, at the rate of 1/12 of the applicable FERC Natural Gas Interest Rate Factor of 3.25% for the 2011-2012 GCR period. *Id.* at 6 and Sch. JBJ-7. This interest

calculation is offset by two adjustments. The first adjustment of $171,000 was agreed to by Delmarva in a settlement agreement in PSC Docket No. 10-295F, which included the 2012-2013 GCR application. The second adjustment is an interest credit to customers for the LAUF adjustment which totals $62,901. The overall interest expense added to the under-recovery gas cost balance is $227,718. *Id.* at 6 and Sch. JBJ-7.

44. Mr. Jacoby described the derivation of the proposed Commodity Cost Rate (CCR)factors for the 2012-2013 GCR application period. 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. The same method was used in prior GCR filings to calculate the estimated commodity costs to be assigned to the Monthly CCR customers by setting the commodity portion each month at the system Weighted Average Commodity Cost of Gas ("WACCOG") projected for that month (as adjusted for losses and unaccounted-for gas). This method sets monthly commodity revenues equal to expenses for Monthly CCR customers. All remaining estimated firm commodity expenses are assigned to the Annual CCR customers. There were no projected Monthly CCR customers for this GCR application period. Therefore, there was no allocation between Monthly and Annual CCR customers. *Id.* at 6 and 7 and Sch. JBJ-1, Page 3 of 6. A true-up of LVG and Electing MVG commodity revenues and expenses will be made if there is an over-recovery or an under-recovery that exceeds 5% of total gas commodity costs or $250,000 for the 12 months ended June 30, 2012. The actual WACCOG variance for the 12 months ended June 30,

2012 was an over-recovery of $9,948 or 2.77%. Therefore, there is no WAGGOC surcharge for this GCR application period. *Id.* at 7 and Sch. JBJ, Page 2 of 6.

45. Mr. Jacoby described the derivation of the proposed Demand Cost Rate factors for 2012-2013 GCR period. Demand-related costs are allocated and recovered through two separate and distinct 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 derive firm demand expenses attributable to service rendered to support average loads. All remaining firm demand expenses are allocated based on excess loads, which are calculated by subtracting the average daily loads, by class, from the design day loads. The ratio of each class's excess load to the system total is then multiplied by the demand costs which remain unallocated after the development of expenses based on average loads. The addition of the average and excess load allocations result in the firm demand costs, which are to be collected from the volumetric (RG, GG and GL) and Demand Metered (MVG and LVG) classes. *Id.* at 7 and 8. The gas demand rate applicable to MVG and LVG customers is calculated by dividing their share of the firm demand charges by their total Contract Maximum Daily Quantity (MDQ), which is a measure of an individual customer's contribution to the peak level of demand. *Id.* at 8 and Sch. JBJ, Page 4 of 6. Firm gas demand expenses not allocated to the non-volumetric Demand Cost Rate (DCR)

customers are the basis for calculating the volumetric DCR factor. *Id.* at 8 and Sch. JBJ-1, page 6 of 6.

46. Mr. Jacoby discussed the demand cost true-up in the calculation of the Demand Cost Rate factors for both volumetric and non-volumetric customers. A true-up of demand related cost differences has been applied to all sales customers. This true-up is achieved by comparison of the estimated monthly demand costs and the actual demand costs for the period of August 2011 through July 2012. For the period August 2012 through October 2012, estimates from the August 2011 GCR filing are compared to the estimates developed for use in this GCR application. The cumulative monthly variance is multiplied by 1/12 of the then-effective FERC Gas Refund Rate. The total true-up (variance plus interest) of $219,790 is allocated among the volumetric and non-volumetric customers in the development of the volumetric and non-volumetric DCR factor calculations. *Id.* at 8 and Sch. JBJ-4.

47. Next, Mr. Jacoby described the LAUF adjustment's impact on the GCR. The LAUF adjustment in this filing is a reduction in the Deferred Fuel Balance of $2 million. Also, included is a related interest adjustment of $62,901. *Id.* at 9.

48. Mr. Jacoby discussed the 2011-2012 GCR audit. In PSC Docket No. 96-218F, the parties agreed that Delmarva's Internal Auditing Department should expand the scope of its annual GCR audit in light of various design changes and margin sharing mechanisms approved in PSC Docket No. 95-44F. A primary concern focused on determining that customer billing and the determination and sharing of margins were

treated in accordance with the Commission's Order and Delmarva's tariff. Delmarva's Internal Auditing Department is in the process of completing the audit for 2011-2012 GCR year, which includes the review of a sampling of customer billing and regulatory accounting records concerning sales, gas costs and gas cost revenue. The audit procedures and results will be reviewed by Price-Waterhouse-Coopers LLC for the purpose of forming an opinion on the basic financial statements, taken as a whole. The final audit report concerning the 2011-2012 GCR is scheduled to completed and filed with the Commission before the end of October 2012. *Id.* at 9 and 10.

49. Mr. Jacoby also discussed the proposed change to the Gas Transportation Balancing Charge. The proposed balancing charge that went into effect on November 1, 2012 was a decrease of 13%. This decrease was due to a reduction in the estimated upstream costs of balancing and a projected decrease in total gas deliveries. *Id.* at 10 and Sch. JBJ-12.

50. Mr. Jacoby described the components of the GCR. The components consist of Commodity Related Items, Demand Related Items, Under Recovery Balance and the LAUF Adjustment. The Commodity component is primarily composed of the cost of natural gas as quoted by the NYMEX on August 13, 2012. The Demand component is the per unit cost of Delmarva's transportation and storage assets. Transportation assets are needed to deliver natural gas to the Delmarva's citygate for customer consumption and storage assets are necessary for reliability. *Id.* at 11.

B. ATTORNEY GENERAL'S TESTIMONY

51. ***Andrea B. Maucher.*** Ms. Maucher testified that she offered the following recommendations in this proceeding: (1) that the Commission should approve, as final and without modification, the GCR rates approved on a temporary basis in PSC Order No. 8217, (2) that Delmarva continue to use the same methodologies as previously used to calculate the GCR rates, (3) that Delmarva continue its quarterly meetings in compliance with the terms of the Settlement Agreement in PSC Order No. 8203 to discuss its natural gas hedging program, asset management, formal energy conservation or efficiency programs and other issues raised by the Company or the participating parties, (4) that Delmarva has complied with the terms of the Settlement Agreement in PSC Order No. 8203 concerning the GCR credit resulting from an issue with the Interface Management Units ("IMUs") deployed in the Company's service territory and this matter is now resolved, (5) that Delmarva continue its participation in stakeholder working groups, as well as continue to provide its customers with conservation information as part of Delmarva's plans to achieve the natural gas usage reductions set forth in 26 Del. C. §1502, (6) that Delmarva does not need to include discussions of the Budget Billing Program in future GCR filings, (7) that Delmarva continue the quarterly calls where the parties have the opportunity to discuss program modifications that may be warranted as conditions in natural gas market changes, (8) that Delmarva include in its natural gas base rate case, PSC Docket No. 12-546, tariff changes and corrections that were identified in this proceeding, and (9) that the Commission accept the

Company's proposed increase in the LAUF factor from 2% to 3%, approve the proposed GCR credit and its associated interest adjustment, and require Delmarva to provide regular updates regarding the on-going monitoring and negotiations, as well as provide detailed analysis in its next GCR filing. *Id.* at 5-8.

C. <u>STAFF'S TESTIMONY</u>.

52. ***Malika Davis.*** Ms. Davis testified that she offered the following recommendation in this proceeding: (1) that the Commission should approve, as final and without modification, the GCR rates approved on a temporary basis in PSC Order No. 8217, (2) that the Company should continue with its actions to mitigate increases in fixed costs with regard to pipeline charges, storage services and peaking sources, (3) that the Company should continue to update Staff and the Division of the Public Advocate as to how it is planning to meet its legislatively mandated reductions in natural gas use, and (4) that the Company should examine possible changes regarding the annual GCR filings to address the repeated need to request waivers of Section XX D of its gas tariff. *Id.* at 2 and 3.

53. Ms. Davis also provided the following summary of the provisions in the Settlement Agreement approved in PSC Order No. 8203 dated August 21, 2012: (1) Delmarva agreed to implement the GCR rates approved and provided Staff with the gas tariff sheets showing that it had complied, (2) Delmarva would continue to execute its Gas Hedging Program in accordance with the settlement approved in PSC Docket No. 08-266F and further continue to hold quarterly hedge meetings to discuss and review the program and Delmarva has held these

quarterly meetings with the parties, (3) Delmarva agreed to notify Staff and the Division of the Public Advocate prior to entering into any natural gas asset management agreement involving the assignment or transfer of more than 25% of its total natural gas supply portfolio to one single manager and the Company has not entered into any such agreements, (4) Delmarva agreed 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 and in this filing Delmarva has projected a reduction in capacity costs, (5) Delmarva agreed to provide an update on how it is planning to meet the legislatively-mandated goal for reduction in natural gas consumption over the next several years and Delmarva reported that it is an active participant in the Energy Efficiency Resource Standards Workgroup and that the Company regularly provides its customers with information on how to conserve natural gas and reduce their consumption. *Id.* at 11 and 12.

54. ***Jerome D. Mierzwa, Staff Consultant from Exeter Associates, Inc.*** Mr. Mierzwa was retained to evaluate the reasonableness of Delmarva's gas procurement practices and policies and make recommendations on his findings. He testified that he offered the following recommendations in this proceeding: (1) that Delmarva had improperly charged GCR customers for LAUF costs associated with serving a large volume gas transportation customer and that the Commission should approve the $2 million credit plus interest that the Company had proposed and require the Company to continue to

investigate and report its findings on the trued-up amount of this overcharge and to further investigate if GCR customers were overcharged during the time this customer's facilities were owned by Delmarva, and (2) that Delmarva will be reducing its interstate pipeline capacity by 7,290 Mcf prior to the 2014-2015 winter season and this will reduce its design peak day reserve margin to 6.61 percent. Staff has generally maintained that the Company's reserve margin should be limited to 5 percent, however, because of the Company's design peak day forecasting model and the current usage characteristics of its firm sales customers, the additional 1.61 percent reserve margin in excess of the 5 percent does not appear to be unreasonable. *Id.* at 3 and 4.

IV. <u>PROPOSED SETTLEMENT AGREEMENT</u>

55. On April 24, 2013, Delmarva, Staff and the Attorney General's Office presented me with the fully-executed Settlement Agreement (Exh. 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 approved in PSC Docket No. 08-266F, and would continue to hold quarterly hedge meetings to review and discuss the hedging program, and upon consensus, make any potential modifications to the hedging program mechanics;
- The parties agree to the proposed increase in the LAUF factor to be applied to GCR customers from 2% to 3%. The parties further agree to approve the reduction in the Deferred Fuel Balance initially by $2 million for the LAUF costs associated with serving a large volume gas transportation customer ("LG Customer") which were improperly charged to GCR customers. As Delmarva

continues to investigate the LAUF issue involving the LG Customer, Delmarva will provide the Parties with regular updates at least every two months regarding the on-going investigation. Once the actual LAUF costs are finally determined, the Deferred Fuel Balance will be trued-up with interest in the immediately subsequent GCR filing. Within thirty days after the actual LAUF costs are finally determined, the Company will file a report with the Commission which identifies the definitive findings of its investigation and the actual LAUF costs. The report must also address whether the GCR customers were improperly assessed LAUF costs during the period when the LG Customer's facilities were owned by Conectiv Delmarva Generation, LLC. The Parties agree that regardless of the results of the negotiations between Delmarva and the LG Customer, and subject to applicable law and tariff provisions, GCR customers will not be responsible for any of the LAUF costs associated with serving the LG Customer, whether such costs were incurred before or after the time when the LG Customer's facilities were owned by Conectiv Delmarva Generation, LLC;

- The Parties agree to work together to investigate a framework for future GCR filings that would improve the GCR process, including but not necessarily limited to, modifications to existing tariff provisions that will minimize unrecovered costs carried into subsequent GCR filings;

- Delmarva agrees to continue regularly evaluate its pipeline capacity and storage portfolio with the goal of mitigating increases in fixed costs whenever feasible.

(Exh. 10 at 4 and 5.)

V. DISCUSSION AND RECOMMENDATIONS

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

57. 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.

58. 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 welcomes settlements of part or all of a case.

59. Second, I note that each of the Settlement's signatories represents a different constituency and comes to the case with different interests. Delmarva's 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 Division of the Public Advocate (represented by the Attorney General's Office) 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.

60. Third, the witnesses for both Staff and the Attorney General's Office testified that they had reviewed Delmarva's forecasts, methodologies and calculations of the proposed GCR rates and found them to be in compliance with previous Commission Orders, reasonable and accurate. Therefore, the proposed GCR rates were not challenged.

61. Fourth, the Company has agreed to meet on a quarterly basis to discuss its hedging program, retention of an asset manager,

pipeline capacity and storage purchases, LAUF and other issues affecting the GCR.

62. Fifth, the Settlement is in the public interest because it avoids the cost of unnecessary rebuttal testimony and litigated evidentiary hearing and Commission's final decision meeting.

63. For the foregoing reasons, I conclude that the Settlement Agreement, attached hereto as Exhibit "1", 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 "2".

Respectfully Submitted,

Date: May 28, 2013

/s/Connie S. McDowell
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. 12-419F
GAS COST RATES (FILED AUGUST 31, 2012)	)	

PROPOSED SETTLEMENT

Delmarva Power & Light Company ("Delmarva" or the "Company"), the Delaware Public Service Commission Staff ("Staff"), and the Attorney General of the State of Delaware, by and through his designee James Adams, Deputy State Solicitor ("Attorney General")[1], 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, 2012, 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, 2012, with proration, and with such revised factors to continue in effect until October 31, 2013. 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

[1] Per Order No. 8332 (March 18, 2013), the Attorney General was permitted to intervene in this Docket due to the resignation of the Public Advocate ("DPA").

classification, and a revision of the balancing charge rate applicable to Gas Transportation Customers.

2. In its Application, Delmarva proposed the following rate adjustments:

	Prior Demand Charge	Prior Commodity Charge	Proposed Demand Charge	Proposed Commodity Charge
RG, GG, and GL	N/A	$0.88804/Ccf	N/A	$0.68967/Ccf
Non-electing MVG	$11.0936/Mcf Billing MDQ	$7.140/Mcf	$11.6589/MCF Billing MDQ	$5.1051/Mcf
Electing MVG and LVG	$11.0936/Mcf Billing MDQ	Varies	$11.6589/MCF Billing MDQ	Varies
Standby Service	$11.0936/Mcf Billing MDQ	N/A	$11.6589/Mcf Billing MDQ	N/A

3. The rates proposed in the Application, if approved, would result in a GCR decrease of 22.3% for RG, RSH, and GL customers. Residential space heating customers using 120 Ccfs in a winter month would experience decreases of $23.80 or 14.4% in their total bill. Customers served on Service Classifications GG would experience decreases of 12.7% to 16.8% on their winter bills. Non-electing MVG customers would experience decreases in their winter bills of 22.7% to 23.2%, depending on usage characteristics. LVG Customers will experience decreases in their winter bills of 20.0% to 25.0%.

4. On September 18, 2012, the Commission issued Order No. 8217, allowing the GCR factors to become effective with usage on and after November 1, 2012, 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 25, 2013, Delmarva filed a request with the Commission seeking a waiver of Section XX. D. of the Company's gas 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 the continuation of above-normal temperatures experienced in December 2012 and the first half of January 2013, natural gas sales had fallen significantly short of the GCR sales forecast. Sales from November through January were almost 835,355 mcf less than the level expected, resulting in approximately $5.7 million in lost sales revenue. 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 the DPA agreed, and by PSC Order No. 8310, issued March 5, 2013, the Commission granted the waiver.

9. The DPA and Staff each submitted testimony on March 7, 2013. Staff and the 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, 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.

II. SETTLEMENT PROVISIONS

11. **GCR Rates**: The Parties agree that the proposed GCR rates filed by Delmarva in its Application 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. **Lost and Unaccounted for Gas (LAUF):** The Parties agree to the proposed increase in the LAUF factor to be applied to GCR customers from 2% to 3%. The parties further agree to approve the reduction in the Deferred Fuel Balance initially by $2 million for the LAUF costs associated with serving a large volume gas transportation customer ("LG Customer") which were improperly charged to GCR customers. As Delmarva continues to investigate the LAUF issue involving the LG Customer, Delmarva will provide the Parties with regular updates at least every two months regarding the on-going investigation. Once the actual LAUF costs are finally determined, the Deferred Fuel Balance will be trued-up with interest in the immediately subsequent GCR filing. Within thirty days after the actual LAUF costs are finally determined, the Company will file a report with the Commission which identifies the definitive findings of its investigation and the actual LAUF costs. The report must also address whether the GCR

customers were improperly assessed LAUF costs during the period when the LG Customer's facilities were owned by Conectiv Delmarva Generation, LLC. The Parties agree that regardless of the results of the negotiations between Delmarva and the LG Customer, and subject to applicable law and tariff provisions, GCR customers will not be responsible for any of the LAUF costs associated with serving the LG Customer, whether such costs were incurred before or after the time when the LG Customer's facilities were owned by Conectiv Delmarva Generation, LLC.

14. **Improving the GCR Process:** The Parties agree to work together to investigate a framework for future GCR filings that would improve the GCR process, including but not necessarily limited to modifications to existing tariff provisions that will minimize unrecovered costs carried into subsequent GCR filings.

15. **Fixed Costs:** Delmarva agrees to continue regularly evaluate its pipeline capacity and storage portfolio with the goal of mitigating increases in fixed costs whenever feasible.

III. ADDITIONAL PROVISIONS

16. The provisions of this Proposed Settlement are not severable.

17. 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 Proposed 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 Proposed 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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 to the other Parties.

24. 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) if the Commission does not issue a final order approving this Proposed Settlement without modifications; or (b) in other proceedings before the Commission or another 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.

25. 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.

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

27. 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. If 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.

[SIGNATURE PAGE TO FOLLOW]

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/ Robert Howatt____________________ Date:____4/24/2013______________

DELMARVA POWER & LIGHT COMPANY

By: /s/ Robert M. Collacchi, Jr.___________ Date: ___4/24/2013______________

THE ATTORNEY GENERAL FOR THE STATE OF DELAWARE

By: /s/ James Adams____________________ Date: ___4/24/2013_______________