

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. 10-295F
TO ITS GAS COST RATES)
(FILED AUGUST 31, 2010))

ORDER NO. 8061

AND NOW, this 18th day of October 2011:

WHEREAS, the Commission has received and considered the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Examiner issued in the above-captioned docket (attached to the original hereof as Exhibit "A") after a duly-noticed public evidentiary hearing held on June 3, 2011; and

WHEREAS, the Hearing Examiner recommends that the parties' jointly submitted Proposed Settlement (attached to the original hereof as Exhibit "B"), including the Gas Cost Rates ("GCR") proposed by Delmarva Power & Light Company in its Application filed August 31, 2010, be approved as just and reasonable and in the public interest for service rendered on and after November 1, 2010;

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

1. That the Commission hereby adopts the Findings and Recommendations of the Hearing Examiner, appended to the Original hereof as Exhibit "A."

2. That the Commission approves the Proposed Settlement, appended to the original hereof as Exhibit "B."

3. That Delmarva Power & Light Company's proposed GCR rates set forth below are approved as just and reasonable rates:

<u>Rate Schedules</u>	<u>2009-2010</u> GCR Charge	<u>Proposed-2010-2011</u> GCR Charge
RG, GG and GL	93.959¢/ccf	94.042¢/ccf
LVG and MVG Demand	\$9.5152/Mcf of MDQ	12.0266/MCF of MDQ
Non-Electing MVG Commodity	\$7.9076/Mcf	\$7.5811/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly

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/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

E X H I B I T "A"

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. 10-295F
TO ITS GAS COST RATES)
(FILED AUGUST 31, 2010))

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: October 12, 2011

RUTH ANN PRICE
SENIOR HEARING EXAMINER

TABLE OF CONTENTS

	<u>PAGE</u>
I. APPEARANCES.....	1
II. BACKGROUND.....	2
A.DELMARVA'S 2010-2011 GSR APPLICATION.....	2
B.PUBLIC COMMENT SESSION.....	5
C.EVIDENTIARY HEARING.....	6
III. SUMMARY OF THE EVIDENCE.....	7
A.COMPANY'S TESTIMONY.....	7
B.TESTIMONY OF THE PUBLIC ADVOCATE.....	11
C.STAFF'S TESTIMONY.....	12
IV. DISCUSSION.....	15
A.GAS COST RATE IS UNCONTESTED.....	15
B.PROPOSED SETTLEMENT AGREEMENT.....	16
V. RECOMMENDATIONS.....	17

E X H I B I T "A"

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. 10-295F
TO ITS GAS COST RATES)
(FILED AUGUST 31, 2010))

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Ruth Ann Price, duly appointed Hearing Examiner in this Docket pursuant to 26 *Del. C.* §502 and 29 *Del. C.* ch. 101 and by Commission Order No. 7848 dated October 4, 2010, reports to the Commission as follows:

I. APPEARANCES

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

By: TODD GOODMAN, Esq., Associate General Counsel
C. Ronald McGinnis, Jr., Regulatory Affairs Lead
Robert Brielmaier, Manager of Gas Operations and Planning

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

By: REGINA IORII, Esq., Deputy Attorney General
Malika Davis, Public Utilities Analyst

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

By: KENT WALKER, Esq., Deputy Attorney General

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

By: Michael D. Sheehy, Public Advocate

II. BACKGROUND

A. DELMARVA'S 2010-2011 GSR APPLICATION

1. On August 31, 2010, Delmarva filed an Application ("Application") with the Delaware Public Service Commission (the "Commission") seeking to increase its Gas Cost Rate ("GCR") factors, effective on and after November 1, 2010, with proration, and with such revised factors to continue in effect until October 31, 2011. Ex. 10.¹ The approved rates for 2009-2010 and the proposed rates for 2010-2011 are as follows:

<u>Rate Schedules</u>	<u>2009-2010</u> GCR Charge	<u>Proposed-2010-2011</u> GCR Charge
RG, GG and GL	93.959¢/ccf	94.043¢/ccf
LVG and MVG Demand	\$9.5152/Mcf of MDQ	12.0266/MCF of MDQ
Non-Electing MVG Commodity	\$7.9076/Mcf	\$7.5811/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly

See PSC Order No. 7848 (Oct. 4, 2010) at ¶ 1.

2. Had Delmarva sought to collect under the normally-applied GCR tariff provisions, a residential space heating customer using 120 ccf in a winter month would experience an increase of \$11.34, or 6.7%, in his total bill. Commercial and industrial customers served on Service Classifications GG and non-electing MVG would experience decreases in their winter bills ranging from 3.9% to 8.2%, respectively, depending on load and usage characteristics. *Id.*

¹ In this Report, the exhibits admitted into evidence at the evidentiary hearing are cited as "Ex." and references to the evidentiary hearing transcript will be cited as "Tr.____."

As addressed in paragraph 4 below, however, Delmarva applied for different rate treatment in this application.

3. Delmarva asserts that the reason for the requested increase in this case is to reconcile the forecasted \$24.5 million under-recovery of gas costs from the gas cost year ("GCY") 2009-2010, which consists of the following items:

- Beginning balance variance of \$3.9 million;
- Demand revenue shortfall of \$1.1 million;
- Commodity revenue shortfall of \$6.1 million;
- Demand cost variance of \$500,000;
- Commodity cost variance of \$9 million; and
- Demand revenue credit variance of \$3.9 million.

See PSC Order No. 7848 (Oct. 4, 2010) at ¶ 3.

4. In its Application for the 2010-2011 GCR year, Delmarva does not ask to recover the entire \$24.5 million under-recovery in one (1) year. Rather, in recognition of the burden a one-year recovery would have upon its natural gas customers given the current economy, Delmarva has proposed to recover this shortfall over two (2) years.

5. Under Delmarva's proposal, which it refers to as the "mitigation mechanism," the gas cost rates for GCY 2010-2011 would be:

Rate Schedules	Current	Proposed	Change from Current
RG, GG, GL	93.959¢/ccf	94.042¢/ccf	0.083¢/ccf
LVG and MVG	\$9.5152/Mcf	\$12.0266/MCF	\$2.5114/MCF
Demand	of MDQ	of MDQ	of MDQ
Non-Electing MVG Commodity	\$7.9076/Mcf	\$7.5811/Mcf	(\$0.3265)/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly	N/A

Delmarva contends that under the proposed mitigation mechanism, residential space heating customers using 120 ccf in a winter month would experience an increase of \$0.10, or 0.1%, in their total monthly heating season bills, rather than the increase of \$11.34, or 6.9%, that would occur under the tariff formula. GG customers would experience either no change or an approximate 0.1% increase in their total bills. Non-electing MVG customers would experience a change in their total monthly bills ranging from a 0.1% increase to a 2.3% decrease, depending on load and usage characteristics. See PSC Order No. 7848 (Oct. 4, 2010) at ¶ 4.

6. In addition, the Application requests approval of the Company's proposal to reconcile and true-up actual versus estimated monthly Commodity Cost Rate assignments for sales under the LVG and "electing" MVG Service Classifications.

7. On September 21, 2010, the Company filed a letter application with the Commission requesting a waiver of its tariff provisions regarding annual reconciliation of over- or under-recoveries of gas costs. In this letter application, Delmarva proposed to implement its proposed mitigation mechanism (which it refers to as the "Waiver Application"). The Company's reasons for the variances and shortfalls included lower-than-forecast sales as a result of the depressed economy, warmer than expected weather, higher than forecasted costs, and hedges made under the previous hedging program. See Waiver Application and 2-3; and see PSC Order No. 7848 (Oct. 4, 2010) at ¶ 6.

8. On October 4, 2010, the Commission ordered that, pursuant to 26 Del. C. §§304 and 306, the mitigation mechanism should be permitted to become effective for usage on and after November 1, 2010, with proration and subject to refund, pending the Commission's further review and final decision. See PSC Order No. 7848 (Oct. 4, 2010).

9. Pursuant to PSC Order No. 7848, the Commission ordered that all petitions to intervene must be filed no later than November 4, 2010. There were no timely petitions for intervention filed in this matter. On January 24, 2011, the Attorney General petitioned for leave to intervene out of time. Noting that the position of Public Advocate became vacant on December 31, 2010, the Attorney General asserted that he was requesting to intervene in order to protect the interests of consumers. His request for intervention was granted pursuant to PSC Order No. 7907 on January 26, 2011.

B. PUBLIC COMMENT SESSION

10. A duly noticed² Public Comment Session was conducted at 7:00 p.m. on November 17, 2010 in the Auditorium of the Carvel State Office Building located at 820 North French Street in Wilmington, Delaware. Public notice of the hearing included publication in the legal classified section of *The News Journal* newspaper on October 19 and 27, 2010 and in *The Delaware State News* newspaper on October 20 and 27, 2010. One member of the public attended. The meeting was adjourned at 7:12 p.m.

² The Affidavit of Publication of Notice of the Public Comment Session and the Evidentiary Hearing are included in the record as composite Exhibit 1.

11. On the day of the evidentiary hearing, June 3, 2011, approximately five members of the public attended the hearing. Apparently, they had been told by Aaron Nathans of *The News Journal* newspaper that they would be given an opportunity to provide public comment at the evidentiary hearing. Tr. 26. At the conclusion of the evidentiary hearing, I permitted those individuals who wanted to provide live comment to do so. Tr. 87-93. The sentiment of the public comment was that these ratepayers are against any further rate increases. *Id.*

C. EVIDENTIARY HEARING

12. An evidentiary hearing was conducted on June 3, 2011 in the Third Floor Conference Room in the Carvel State Office Building in Wilmington. Approximately five members of the public attended the evidentiary hearing. The record, as developed at the hearing, consists of a ninety-three (93) page verbatim transcript and nine (9) hearing exhibits, some with subparts.

13. At the June 3, 2011 evidentiary hearing, the parties - the Company, the Attorney General, the DPA and the Commission Staff - jointly submitted a proposed Settlement Agreement ("Proposed Settlement"), which, if adopted by the Commission, would resolve all issues in this Docket. See Exhibit "A" attached hereto; Evidentiary Hearing Ex. 6. As there were no issues in dispute, post-hearing briefs were deemed unnecessary. I have considered all of the record evidence, including the Proposed Settlement and, based thereon, I submit for the Commission's consideration these Findings of Fact, Conclusions of Law and Recommendations.

III. SUMMARY OF THE EVIDENCE

A. COMPANY'S TESTIMONY.

14. With its Application, Delmarva submitted the pre-filed testimony of four (4) witnesses: Michael S. Poncia, Director of Gas Delivery; Phillip L. Phillips, Jr., Manager of Gas Operations & Planning; Robert M. Collacchi, Jr., Director of Natural Gas Supply and C. Ronald McGinnis, Jr., Regulatory Team Lead, Regulatory Affairs Department for PHI Service Company, a subsidiary of Pepco Holdings, Inc. At the evidentiary hearing on June 3, 2011, the Company presented the live testimony of C. Ronald McGinnis, Jr. in its case-in-chief. Delmarva proffered the live testimony in rebuttal of Robert Brielmaier, Manager of Gas Operations. Tr. 37 and Tr. 82, respectively.

15. Mr. McGinnis testified that his responsibility regarding the GCR is to take the sales forecasts of the cost of the natural gas that is provided to him and to develop the rates that customers are charged for the commodity. Tr. 38. Mr. McGinnis testified that the rates he develops do not include any profit in them. *Id.*

16. For purposes of the record in this case, Mr. McGinnis adopted his own prefiled testimony which was entered into the record as Ex. 2. Further, he adopted as his own the prefiled testimonies of Phillip L. Phillips, Jr., Manager of Gas Operations & Planning (Ex.3); Robert M. Collacchi, Jr., Director of Natural Gas Supply (Ex. 4) and Michael S. Poncia, Director of Gas Delivery (Ex. 5).

17. **Summary of Under-recovery and Delmarva's Proposal.** Mr.

McGinnis summarized the Company's testimony by stating that it is proposing a 0.1 percent increase in the gas cost rate, which equates to about \$0.10 a month in a typical customer's winter bill. Tr. 41, LL 19-22. In addition, he explained that if the under-recovery, approximately \$24.5 million, was collected in the normal one-year gas cost rate period, the recovery would equate to an increase of approximately \$11.34 per month. Tr. 42. However, in order to mitigate the impact of the increase in rates, Delmarva has requested that the increase be amortized over two (2) years. *Id.* Mr. McGinnis clarified that the under-recovery of \$24.5 million is money that Delmarva has already spent purchasing gas for customers which it has not recovered. Tr. 43.

18. **Causes of the Under-recovery.** According to Mr. McGinnis, the causes of the under-recovery are three-fold: (1) the general state of the depressed economy, (2) small customers' usage has decreased and (3) Delmarva has lost all of its firm gas supply customers in its large volume gas customer class due to migration to retail suppliers. Tr. 43. The result of this loss in customers causes the Company's fixed costs to be spread over fewer customers, causing a fewer number of customers to share the burden of those costs. Tr. 43-44.

19. **Components of the Under-recovery.** As stated in Paragraph 2 of the Proposed Settlement (Evidentiary Hearing Ex. 6 and attached here as Exhibit "A"), the \$24.5 million under-recovery is comprised of six different elements. On cross-examination, Mr. McGinnis stated that one of the elements is \$3.9 million of 2008-2009 GCY under-

recovery. Tr. 53. There is also \$1.1 million which is due to loss of sales to large customers and lower sales to residential customers. Mr. McGinnis asserted that \$6.1 million was caused by "a commodity revenue shortfall," which is the forecasted sales versus actual sales of large customers and residential sales. *Id.* The fourth element of the shortfall is \$500,000 Delmarva paid for reservation space in the pipeline that it had not anticipated. *Id.* The fifth element of the under-recovery is \$3.9 million related to unused capacity, which the Company tries to sell to a third party to mitigate this expenditure. The final element of the under-recovery is the \$9 million due to the purchase of gas that was hedged at above market price. Tr. 55.

20. Mr. McGinnis asserted that the proposed settlement in this case addresses this under-recovery of costs. Tr. 45. The costs will be recovered over two years. Tr. 45. Further, in response to the Public Advocate's suggestion, Delmarva agreed to forgo collection of \$342,000 in interest expense on the \$24.5 million under-recovery that it customarily would have collected from ratepayers. Tr. 46-47.

21. **Upgrades to Liquefied Natural Gas (LNG) Facility.** In addition, Mr. McGinnis stated that the Company has agreed to hire a consultant to assess the feasibility of equipment to upgrades to its LNG facility. Tr. 46. After the study has been made, the Company will evaluate whether the improvements are reasonable in terms of costs. *Id.*

22. **Natural Gas Hedging.** The natural gas hedging program was not adjusted as part of this proposed settlement, but Mr. McGinnis asserted that the Company is continuing to follow an agreement it made

last year not to purchase more than fifty per cent (50%) of its required natural gas through its hedging program. The Company will purchase fifty percent (50%) of its natural gas each month in the open market. *Id.* On cross-examination, Mr. McGinnis stated that it is the goal of hedging to try to avoid volatility in the purchase price by blending prices of forward supply with prices found in the spot market. Tr. 51. The Company, in deciding not to hedge more than 50 percent of its natural gas supply, has decided to follow the suggestions of consultants retained by the Public Advocate and by the Commission Staff. Tr. 47.

23. **Pipeline Capacity.** Delmarva has agreed to review its pipeline capacity portfolio in an effort to maintain an appropriate level so that ratepayers do not have to pay for capacity that is not needed. Tr. 47. However, the parties understand that Delmarva must maintain adequate pipeline reservation to ensure that it can deliver natural gas during peak periods to its customers without having to pay exorbitant prices for the right to transport gas on the pipeline. *Id.*

24. **Energy Efficiency.** Mr. McGinnis reported that the Company has agreed to include in its 2011-2012 GCR application testimony concerning how it plans to meet the natural gas reduction standards set forth in 26 *Del. C.* § 1502, entitled "Energy Efficiency Resource Standards."

25. **Proposed Rates.** In summary, Mr. McGinnis testified that he believed that the proposed GCR rates for 2010-2011 were just and reasonable given the current economic climate and the Company's desire

to mitigate rate shock for customers. He testified that the amortization over a two-year period will accomplish that end. Tr. 49.

B. TESTIMONY OF THE PUBLIC ADVOCATE

26. At the evidentiary hearing, the Public Advocate, Michael D. Sheehy³, adopted the pre-filed testimony of the Attorney General's expert, Andrea Crane⁴. Ex. 7. The Public Advocate presented his live testimony in support of the just and reasonableness of the proposed settlement to which he was a signatory.

27. The Public Advocate testified that in determining whether a proposed settlement is just and reasonable and in the public interest he applies three rules. Tr. 59. Mr. Sheehy explained his settlement litmus test of reasonableness as follows:

Rule one, is there sufficient information? And the answer is clearly there is more than adequate information between the discovery process and the testimony and the settlement discussions that we have that we, certainly, as the Public Advocate's Office, are comfortable that we understand the numbers.

Secondly, would the Commission likely find something substantively different. And the Commission will do what the Commission will do. And I always say that because it's smart to say that.

But, in fact, when three major players come together and provide a settlement and support it, including their own Staff, it would be unusual for the Commission to make a really substantial change to the settlement itself. It has happened, but not usually.

So, that is another reason we say yes this is in the public interest. It is likely to be a result of something or close to a result we would have gotten had it been litigated anyway.

³ Michael D. Sheehy was appointed and confirmed as the Public Advocate of the State of Delaware on April 24, 2011. Tr. 62, L7.

⁴ At the beginning of the evidentiary hearing, I learned that the Public Advocate's counsel, Kent Walker, Esquire, was ill and would not be able to attend the hearing. The Public Advocate chose to continue without having his counsel present. Tr. 27.

And the third one, does it make sense. And from my perspective, yes, it does. I think there was a period of time when this became almost wrote [sic] in terms of how things were going. And what we saw is, as conditions changed that wrote [sic] process was not flexible enough to allow us to provide counsel.

And I think that the company recognized that it would feel more comfortable if we were able to provide some head's up. We never guaranteed anything.

That is not what you do with these things. But we certainly were prepared to meet with them regularly. And you will see in the reporting process, we'll get more information, we'll see about the LNG supply. We are looking at a broader spectrum of ways to manage the gas. And I think that it is absolutely in the public interest in the long run.

So, for those three reasons, as well as the fact that I think presentation the company made and the positions that the Staff and the DPA made were consistent with that. And I believe it is in the public interest and the rates are just and reasonable.

Tr. 59-61.

28. Further, the Public Advocate testified that the investigation of Delmarva's LNG equipment upgrades is being undertaken with a view to diversifying the Company's energy portfolio. Tr. 64. As Mr. Sheehy stated, "[F]rom a portfolio perspective, you need to have a little bit of everything available to you at least to evaluate it and decide whether it fits into your plan." Tr. 64.

C. STAFF'S TESTIMONY

29. **Overview of Staff's Testimony.** On February 10, 2011, Staff submitted the pre-filed testimony of Malika Davis, Public Utilities Analyst and Richard W. LeLash, an independent Financial and Regulatory Consultant, Ex. 8 (Davis) and Ex. 9 (LeLash), respectively. At the evidentiary hearing, Ms. Davis adopted the testimony of Mr. LeLash,

who did not attend the hearing. Therefore, I will refer to Mr. LeLash's testimony as that of Ms. Davis.

30. **Proposed GCR Rates.** Staff Analyst, Malika Davis, testified that in her opinion this case was not about the dollar amount of Delmarva's requested increase because she reviewed the calculations and they were correct. Tr. 71. Ms. Davis asserted that Staff reviewed Delmarva's Application and its supporting information. Based upon her review, Ms. Davis concluded that the Company's proposal to recover the \$24.5 under-recovery over two years was just and reasonable and in the public interest. Tr. 73.

31. She noted that most of the settlement provisions involve information sharing between the Company and Staff and the Public Advocate so that there is better oversight of Delmarva's operations. *Id.* at 71. For example, one of the settlement provisions is aimed at having Delmarva discuss with Staff and the Public Advocate prior to filing its GCR the need for a recovery period of more than one year. *Id.* at 72.

32. **Interest Expense.** Ms. Davis stated that the settlement provision regarding the 2011-2012 and 2012-2013 GCR cost years to be reduced by \$171,000 each GCR year (totaling \$342,000) was in the public interest it reduces the interest customers would pay on the two-year amortization. Tr. 72-73.

33. **LNG Upgrade.** In addition, Ms. Davis testified that Staff believed that the investigation concerning an LNG upgrade was in the public interest because the evaluation performed by the Company indicated that improvements in the instruments and the existing heater

system could be performed at a relatively low cost, the benefits being that reliability and flexibility of the operating system would be enhanced. Tr. 73.

34. **Hedging Program.** Staff also believed that the settlement provisions relating to the gas hedging program were in the public interest because Delmarva has agreed to review and discuss with Staff and the Public Advocate any modifications to it program. Tr. 73.

35. **Asset Management.** Delmarva agreed to discuss any asset management agreements that it is contemplating or that it has executed at the parties' quarterly hedge meetings and in its GCR filing. Delmarva has agreed to notify Staff and the Public Advocate before it executes an agreement to transfer or assign more than twenty-five percent (25%) of its supply to a single asset manager. Tr. 74.

36. **E3 Expenses.** Ms. Davis reported that Delmarva had negotiated a reduction of the payback duration and the interest rate on the expense it is required to pay eastern Shore Natural Gas for costs associated with the Cove Point project ("E3") that was terminated. Tr. 74. The total monthly amount that Delmarva will now pay for E3 expenses through February 16, 2011 is \$24,000. Tr. 75.

37. **Capacity Storage.** Staff contends that the proposed settlement is in the public interest because Delmarva has agreed to discuss with Staff and the Public Advocate any changes to its capacity storage assets before the changes are made. Tr. 75.

D. THE COMPANY'S REBUTTAL TESTIMONY

38. More in the nature of explanatory testimony for this hearing examiner, rather than rebuttal testimony, Delmarva proffered

the testimony of Robert Brielmaier, Manger of Gas Operations. Tr. 82. Mr. Brielmaier testified concerning the length of time it would take to evaluate changes to Delmarva's capacity storage needs. Mr. Brielmaier defined a design day (also called a peak day) as the Company's attempt to determine how much gas would be needed to service customers on a zero degree day. Tr. 83. Delmarva's design day calculations are based on 30 years of average weather history. From these possible calculations of the weather, Delmarva determines how much gas to buy. *Id.* Delmarva will inform Staff during a quarterly hedge call if it makes any change in its design day. Tr. 84. Delmarva also shares information about its design day methodology when its files its annual gas supply plans.

IV. DISCUSSION

A. GAS COST RATE IS UNCONTESTED

39. The following uncontested matters contained in the Settlement Agreement are well supported in the record, and I recommend their adoption by the Commission. First, I recommend approval of the proposed GCR rates in the Company's Application, which are currently in effect on a temporary basis, subject to refund. The primary purpose of the GCR annual filing is to reset the GCR to reflect the expected future costs incurred to procure gas and to "true-up" any deferred balance. Staff and the DPA reviewed the proposed rates and verified that the Company's projections were reasonable and that the rates were calculated in conformance with the Company's Tariff. Ex. 8 and Ex. 9.

B. PROPOSED SETTLEMENT AGREEMENT

40. Moreover, I recommend approval of the terms and conditions of the proposed settlement agreement attached here as Exhibit "A." The method chosen by Delmarva to collect the under-recovery is reasonable and in the public interest because it demonstrates its sensitivity to the difficult economic climate that we find ourselves in. On the other hand, the Public Advocate expressed its opinion that Delmarva could have avoided approximately \$9 million of the \$24.5 million under-recovery. The Public Advocate, therefore, expressed his belief that it is reasonable that Delmarva should forego recovery of the interest expense, in the amount of \$342,000, related to the under-recovery. As explained above, Delmarva has agreed to forgo recovery of that amount.

41. As mentioned by Staff's witness, Malika Davis, many of the settlement provisions are directed at giving Staff and the Public Advocate greater access to information that Delmarva uses to make decision concerning the purchase of gas assets. Further, I am very encouraged that Staff and the Public Advocate have directed their attentions to investigating Delmarva's decision-making concerning the amount of gas it purchases. The amount of gas that Delmarva purchases through hedges has been a concern for a number of years. However, it is critical that Delmarva does not over-reserve pipeline capacity to transport gas. While everyone recognizes that weather is the major determinant of the amount of fuel that is purchased and that it is unpredictable, in these difficult economic times, Delaware ratepayers

do not have the resources to pay for over-capacity or transport for gas that is not needed.

V. RECOMMENDATIONS

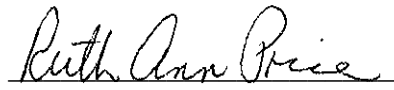
42. In summary, and for the reasons discussed above, I propose and recommend to the Commission the following:

a. That the Commission approve as just and reasonable and in the public interests the Company's proposed revised GCR charges as proposed in the Company's Application filed August 31, 2010 be approved as just and reasonable for service rendered on or after November 1, 2010, as follows:

<u>Rate Schedules</u>	<u>2009-2010</u> GCR <u>Charge</u>	<u>Proposed-2010-2011</u> GCR <u>Charge</u>
RG, GG and GL	93.959¢/ccf	94.042¢/ccf
LVG and MVG Demand	\$9.5152/Mcf of MDQ	12.0266/MCF of MDQ
Non-Electing MVG Commodity	\$7.9076/Mcf	\$7.5811/Mcf
LVG and Electing MVG Commodity	Varies Monthly	Varies Monthly

b. That the Commission approves as just and reasonable and in the public interest the Proposed Settlement Agreement of the parties, which is attached as Exhibit "A". The Company, Staff, Attorney General and the DPA have approved and endorsed this Settlement. A proposed form of Order that implements the forgoing Findings and Recommendations is attached hereto as Exhibit "B."

Respectfully Submitted,

A handwritten signature in cursive script that reads "Ruth Ann Price". The signature is written in black ink and is positioned above a thin horizontal line.

Ruth Ann Price
Senior Hearing Examiner

Dated: October 12, 2011

EXHIBIT "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. 10-295F
GAS COST RATES (FILED AUGUST 31, 2010))

PROPOSED SETTLEMENT

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

I. INTRODUCTION AND PROCEDURAL BACKGROUND

1. On August 31, 2010, 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, 2010, with proration, and with such revised factors to continue in effect until October 31, 2011. 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. Delmarva has forecasted a \$24.5 million underrecovery of gas costs from Gas Cost Year (“GCY”) 2009-2010, comprised of: (1) a \$3.9 million beginning balance variance; (2)

a \$1.1 million demand revenue shortfall; (3) a \$6.1 commodity revenue shortfall; (4) a \$0.5 million demand cost variance (5) a \$9 million commodity cost variance; and (6) a \$3.9 million demand revenue credit variance. The proposed increase in this case would reconcile this underrecovery as follows:

Present			Proposed	
Rate Schedules	GCR Demand Charge	GCR Commodity Charge	GCR Demand Charge	GCR Commodity Charge
RG, GG, GL	N/A	\$93.959¢/ccf	N/A	103.738¢/ccf
LVG and MVG Demand	\$9.5152/Mcf of MDQ		\$12.0266/Mcf of MDQ	
Non-Electing MVG Commodity	\$9.5152/Mcf of MDQ	\$7.9076/Mcf	\$12.0266/Mcf of MDQ	\$8.5507/Mcf
Electing LVG & MVG	\$9.5152/Mcf of MDQ	Varies Monthly	\$12.0266/Mcf of MDQ	Varies Monthly
Standby Service	\$9.5152/Mcf of Standby MDQ	N/A	\$12.0266/Mcf of Standby MDQ	N/A

Implementation of these rates would result in a residential space heating customers using 120 ccf in a winter month to experience an increase of \$11.34 or 6.7% in their total bills. Commercial and industrial customers would experience increases in ranging from 3.9% to 8.1%.

3. In order to mitigate the magnitude of the rate increase that would be necessary to reconcile the entire \$24.5 million forecasted underrecovery, Delmarva proposed to reconcile the underrecovery over a two-year period. On September 21, 2010, the Company filed an application requesting waiver of the tariff provisions requiring annual reconciliation of gas costs, and proposed the following rates for the 2010-11 GCY:

Present			Proposed	
Rate Schedules	GCR Demand Charge	GCR Commodity Charge	GCR Demand Charge	GCR Commodity Charge
RG, GG, GL	N/A	93.959¢/ccf	N/A	94.042¢/ccf
LVG and MVG Demand	\$9.5152/Mcf of MDQ		\$12.0266/Mcf of MDQ	
Non-Electing MVG Commodity	\$9.5152/Mcf of MDQ	\$7.9076/Mcf	\$12.0266/Mcf of MDQ	\$7.5811/Mcf
Electing LVG & MVG	\$9.5152/Mcf of MDQ	Varies Monthly	\$12.0266/Mcf of MDQ	Varies Monthly
Standby Service	\$9.5152/Mcf of Standby MDQ	N/A	\$12.0266/Mcf of Standby MDQ	N/A

Under these proposed rates, residential space heating customers using 120 ccf in a winter month would experience an increase of \$0.10 or 0.1% in their total bills. GG customers would experience either no change or an approximate 0.1% increase in their total bills. Non-electing MVG customers would experience a change in their total monthly bills ranging from a 0.1% increase to a 2.3% decrease, depending on load and usage characteristics.

4. On October 4, 2010, by Order No. 7848, the Commission granted the requested tariff waiver and permitted the proposed rates to go into effect on November 1, 2010, with proration, on a temporary basis and subject to true-up and refund, pending evidentiary hearings and a final decision by the Commission.

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

6. The Parties have conferred in an effort to resolve all cost recovery and reporting issues raised in this proceeding. The Parties acknowledge that they differ as to the proper resolution of some of the underlying issues in this proceeding. Notwithstanding these differences, the Parties have agreed to enter into this Proposed Settlement on the terms and conditions contained herein, because they believe that this Proposed Settlement will serve the interest of the public and Delmarva, while meeting the statutory requirement that rates be both just and reasonable. The Parties agree that subject to the approval of the Hearing Examiner, the terms and conditions of this Proposed Settlement will be presented to the Commission for the Commission's approval forthwith.

II. SETTLEMENT PROVISIONS

7. **GCR Rates**: The Parties agree that the proposed mitigated GCR rates, as filed by Delmarva, should be approved, subject to amortization over two years.

8. **Interest on Underrecovery:** Delmarva agrees to reduce its 2011-12 GCR and 2012-13 GCR recovery by \$171,000 each GCY (for a total of \$342,000), pursuant to the following conditions:

(a) This reduction resolves any and all claims for denial of recovery related to the \$24.5 million forecasted underrecovery at October 31, 2010 throughout the amortization period, including but not limited to interest.

(b) This provision shall not serve as precedent in any future Delmarva GCR docket. Rather, it shall apply only to the \$24.5 million forecasted underrecovery as of October 31, 2010 and the interest incurred thereon during the amortization period.

(c) This settlement does not address any additional underrecovery subsequent to October 31, 2010 or any interest incurred thereon.

9. **Future Amortization Over One Year:** At every second quarterly hedge meeting, the Parties will discuss any potential need for Delmarva to file a GCR with a proposal to reconcile any over- or underrecovery over a period spanning longer than the tariffed one-year GCR recovery period.

10. **LNG Capacity:** Delmarva agrees to engage an engineering firm to assess the feasibility and cost of manifolding the existing ethylene glycol heater systems. Delmarva will proceed with such improvement if: (a) such improvement is feasible; (b) the cost is within a reasonable range of the preliminary estimate in the January 2010 Capacity Evaluation; and (c) the project can be completed by November 15, 2011. Delmarva further agrees to engage an engineering firm to assess the feasibility and cost-effectiveness of a comprehensive instrument and control upgrade to the LNG plant, focused on a formal, phased approach. Delmarva will take reasonable steps to achieve the completion of this assessment in 2011 and will share the

assessment with Staff and the DPA upon completion. The Parties agree that Delmarva may seek to recover the costs of the assessments and any work performed on the LNG plant as a result of such assessments in a future base rate case.

11. **Natural Gas Hedging Program:** Delmarva agrees to continue to execute its Gas Hedging Program in accordance with the Settlement approved in Docket No. 08-266F, and further agrees to review with Staff and the DPA any potential modification of the hedging program mechanics.

12. **Asset Management:** Delmarva agrees that it will discuss asset management agreements that it is contemplating or that it has executed at its quarterly hedge meetings and in its GCR filing. Delmarva further agrees to notify the parties prior to entering into any asset management agreement that involves the assignment or transfer of more than 25% of its total supply portfolio to one single manager.

13. **E3 Expenses:** Delmarva may recover in its GCR the expenses identified in the revised payment schedule provided to the Parties on March 8, 2011, which is based on monthly payments of \$24,004.45 through February 2016.

14. **Capacity:** Delmarva agrees 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. Delmarva will discuss its evaluation of its portfolio and prospective plans with Staff and the DPA during quarterly hedge meetings, starting with the next quarterly hedge meeting immediately following approval of this Settlement. If no quarterly hedge meeting is scheduled prior to the deadline for Delmarva's GCR filing, then a meeting shall be scheduled to specifically address Delmarva's evaluation of these issues. Each Party reserves its right to take positions

regarding a reasonable level of reserve margin for Delmarva, including but not limited to the issue of the appropriate amount of capacity Delmarva should maintain to serve gas transportation customers in the event that such customers return to firm service.

15. **Inclusions In The Next GCR Filing:** Delmarva will include in its testimony in its next GCR filing a discussion as to how it plans to meet the requirements of 26 *Del. C.* §1502 for reducing natural gas usage.

III. ADDITIONAL PROVISIONS

16. The provisions of this 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 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.

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. In the event that this Proposed Settlement does not become final, either because it is not approved by the Commission or because it is the subject of a successful appeal and remand, each Party reserves its respective rights to submit additional testimony, file briefs, or otherwise take positions as it deems appropriate in its sole discretion to litigate the issues in this proceeding.

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 and any related court appeals.

28. This Proposed Settlement may be executed in counterparts, and each such counterpart shall be as valid as if all signatures appeared on the same page.

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: 06/02/11

DELMARVA POWER & LIGHT COMPANY

By: /s/ Robert M. Collacchi, Jr.

Date: 06/03/11

THE PUBLIC ADVOCATE

By: /s/ Michael Sheehy

Date: 06/03/11

JOSEPH R. BIDEN, III, ATTORNEY GENERAL

By: /s/ Kent Walker
Deputy Attorney General

Date: 06/06/11