



**Washington Gas  
Energy Services**

*A Washington Gas Affiliated Company*

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2010 NOV 1

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October 29, 2010

**FEDERAL EXPRESS**

Ms. Karen Nickerson, Secretary  
Delaware Public Service Commission  
861 Silver Lake Boulevard  
Cannon Building, Suite 100  
Dover, Delaware 19904

**Re: PSC Regulation Docket No. 56 – Washington Gas Energy Services, Inc. Comments**

Dear Ms. Nickerson:

Pursuant to Delaware Public Service Commission Order No. 7834, enclosed please find an original and ten (10) copies of Washington Gas Energy Services, Inc. (“WGES”) comments regarding the proposed revisions to the Commission’s “Rules of Procedure to Implement the Renewable Energy Portfolio Standard.”

Please feel free to contact me at 703.793.7565 or via Email at [lgibbons@wges.com](mailto:lgibbons@wges.com) if you have any questions or require additional information.

Sincerely,

*Leah Gibbons*

Leah Gibbons  
Director, Regulatory and Legislative Affairs

Enclosures

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DELAWARE P.S.C.

Before the public service commission  
Of the state of Delaware

ORIGINAL

IN THE MATTER OF THE ADOPTION  
OF RULES AND PROCEDURES TO  
IMPLEMENT THE RENEWABLE ENERGY  
PORTFOLIO STANDARDS ACT, 26 DEL.  
C. §§ 351-363, AS APPLIED TO RETAIL  
ELECTRICITY SUPPLIERS (OPENED  
AUGUST 23, 2005; REOPENED  
SEPTEMBER 4, 2007; AUGUST 5,  
2008, AND SEPTEMBER 22, 2009;  
SEPTEMBER 7, 2010)

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\* PSC REGULATION DOCKET NO. 56  
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**Comments of Washington Gas Energy Services, Inc.**

Washington Gas Energy Services, Inc. (“WGES”) hereby files these comments in response to Delaware Public Service Commission Order No. 7834 seeking written comments regarding proposed revisions to the Commission’s Rules to reflect Senate Substitute 1 (SS 1) that amended the Renewable Energy Portfolio Standards Act (RPS). WGES’ comments in this proceeding focus primarily on how the new minimum percentages of retail electricity sales that must be from eligible energy resources and solar photovoltaics will be applied to retail supply contracts executed prior to enactment of SS 1 which specifically increased the requirements for solar photovoltaic resources for the period 2011 – 2013. WGES also agrees with and supports the comments filed in this docket by the Retail Energy Supply Association (RESA).

**Commission Regulations Should Ensure a Smooth Transition to the New RPS  
Requirements**

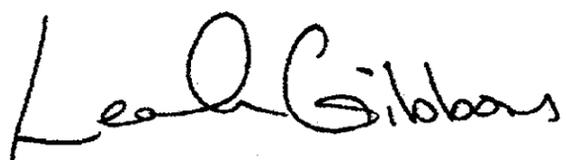
SS 1 increases the minimum solar requirement with which retail electricity suppliers must comply by a factor of four in 2011 and 2012 respectively, and by a factor of three in 2013. WGES has contracted with customers and wholesale energy suppliers to meet those commitments through 2013 based on – and in compliance with – the RPS requirements in place at the time the contracts were signed. If the new requirements were deemed to apply to retail

electricity sales contracts executed prior the enactment of SS 1, WGES – and all other suppliers with existing contracts – would have to secure more solar renewable energy credits to meet RPS requirements for these existing commitments, the costs for which are not included in the solar electricity prices to these existing customers, including 1,000 government accounts with State of Delaware, with whom WGES has a three-year agreement. WGES calculates that the impact of such an increased solar credit requirement for all customer contracts executed prior to July 28, 2010 would be more than \$600,000 over the three year period identified in SS 1. WGES strongly believes that it was not the intent of the legislature to place such a significant burden on suppliers, or more importantly, on the customers who entered into contractual commitments to secure fixed pricing that met their needs and who would now potentially be faced with their suppliers passing these unanticipated costs on to them and having their contracts disrupted.

WGES urges the Commission to use its discretion as it adopts regulations to implement SS 1 by ruling that the new solar RPS requirements do not apply to existing retail electricity sales contracts that were executed prior to the effective date of SS 1 or, in the alternative, to allow the contracts to be grandfathered to ensure a smooth transition to the new requirements. This would recognize that existing retail electricity sales contracts were in compliance with the RPS law as it existed at the time the contracts were signed – which suppliers would still be required to demonstrate in their annual RPS compliance reporting with the Commission – and honor those contracts without disruption. Of course, all new contracts executed after the effective date of SS 1 would be subject to the new solar RPS standards. Such an approach would be consistent with that taken by surrounding jurisdictions such as Maryland, which also increased its solar RPS requirements in the 2010 legislative session with the passage of SB 277 but without disrupting existing contracts that were in effect at the time of passage.

Finally, WGES agrees with and supports the comments filed by RESA in this docket. The proposed regulations have the potential to have a chilling effect on Delaware's competitive retail market and the Commission should use its discretion to ensure that the market and Delaware customers are not harmed by these regulations. WGES appreciates the opportunity to share its concerns with the Commission on this matter and urges the Commission to allow existing contracts executed prior to the adoption of SS 1 to be grandfathered.

Respectfully Submitted,

A handwritten signature in black ink that reads "Leah Gibbons". The signature is written in a cursive style with a large initial "L" and "G".

Leah Gibbons  
Director, Regulatory & Legislative Affairs