BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

COMPLIANCE FILING IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY FOR APPROVAL OF QUALIFIED FUEL CELL PROVIDER PROJECT TARIFF (FILED MARCH 21, 2013)	)))))	PSC DOCKET NO. 13-76-03

ORDER NO. 8356

AND NOW, this 23rd day of April, 2013, the Public Service Commission (the "Commission") determines and orders the following:

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

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

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

[1] A "Qualified Fuel Cell Provider" is defined in 26 *Del. C.* §352(16).
[2] The requirements for the tariffs are set forth in a previous Commission's Order in PSC Docket 11-362, PSC Order No. 8025, dated September 6, 2011. *See also* 26 *Del. C.* §§364(b) and (d).

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

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

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

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

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

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

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

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

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

WHEREAS, on February 22, 2013, Delmarva submitted its thirteenth monthly filing (the "Compliance Filing") to account for the varying QFCP-RC Charge for May 2013, including the typical charges and calculations. In addition, the reconciliation factors (true-ups) of the February billing revenues, February PJM energy revenues, and February operational costs were included in the QFCP-RC Charge; and

WHEREAS, the May 2013 QFCP-RC Charge, which is set forth on the attached Exhibit "A", will be effective for bills issued between April 30, 2013, and May 29, 2013, absent a determination of manifest error by the Commission; and

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

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

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

Filing, the calculations supporting the May 2013 QFCP-RC Charge, and the source documents supporting the calculation of the May 2013 QFCP-RC Charge and was not able to find any manifest errors in the Compliance Filing or the calculations contained therein. However, Staff requested, but did not receive, answers to discovery questions concerning forced outage and force majeure events that the QFCP claimed in the February 2013 true-up. Staff noted that without adequate information and explanations regarding the forced outage and force majeure events, Delmarva's ability to recover these costs in the future will be questionable. In addition, Staff noted that there may be a violation of the prior Bloom compliance orders and a possible violation of Delmarva's existing electric tariff.[7] Thus, Staff recommends that if these issues cannot be resolved before the Commission's next meeting, it will, to the extent necessary, recommend that the Commission open an investigation into these matters via a separate proceeding; and

WHEREAS, Staff did conclude, however, that any issues related to the lack of information on the forced outage and force majeure events did not affect the proposed May QFCP-RC Charge. Staff therefore recommends that the May 2013 QFCP-RC Charge be permitted to take effect for Delmarva customer bills issued between April 30, 2013, and May 29, 2013, subject to the requirement that Delmarva shall provide to Staff, with each future Compliance Filing under the REPSA, all documents which Staff requested from Delmarva as part of the review of

[7] See Tariff for Delmarva Power & Light Company - P.S.C. Del. No. 8 - Electric, Original Leaf No. 74d, Section E: "The Company shall furnish Commission Staff sufficient workpapers for the review and audit of the Service Classification QFCP-RC Charge as needed."

this and any prior Compliance Filings, including, but not limited to, Delmarva's workpapers, and subject to the requirement that Staff reserves the right to perform more detailed audits of any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge;

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

1. That the Commission approves the Compliance Filing made by Delmarva Power & Light Company ("Delmarva") on March 21, 2013, including the May 2013 QFCP-RC Charge which is listed on the attached Exhibit "A".

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

3. That Staff hereby reserves the right to perform a more detailed audit of any months included in Delmarva's Compliance Filing made on March 21, 2013, and any and all months included in the Compliance Filing or any future tariff filings made to adjust the QFCP-RC Charge.

4. That 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

Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

EXHIBIT A

MAY 2013 QFCP-RC CHARGE

Service Classification	$ per kWh
Residential	$ 0.001615
Residential- Space Heating	$ 0.001615
Residential Time-of-Use "R-TOU"	$ 0.001615
Residential Time-of-Use NON-Demand "R-TOU-ND"	$ 0.001615
Small General Service - Secondary Non-Demand "SGS-ND"	$ 0.001615
Space Heating Secondary Service "SGS-ND" and "MGS-S"	$ 0.001615
Water Heating Secondary Service "SGS-ND" and "MGS-S"	$ 0.001615
Outdoor Recreational Lighting Svc - Secondary "ORL"	$ 0.001615
Medium General Service - Secondary "MGS-S"	$ 0.001615
Large General Service - Secondary "LGS-S"	$ 0.001615
General Service - Primary "GS-P"	$ 0.001579
General Service - Transmission "GS-T"	$ 0.001551
Outdoor Lighting PL	$ 0.001615
Outdoor Lighting SL	$ 0.001615