

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) PSC DOCKET NO. 13-76-05
CELL PROVIDER PROJECT TARIFF)
(FILED May 24, 2013))

ORDER NO. 8393

AND NOW, this 18th day of June, 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 tariffs² 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 PJM³ 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

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 May 24, 2013, Delmarva submitted its fifteenth monthly filing (the "Compliance Filing") to account for the varying QFCP-RC Charge for July 2013, including the typical charges and calculations. In addition, the reconciliation factors (true-ups) of the April billing revenues, April PJM energy revenues, and April operational costs were included in the QFCP-RC Charge; and

WHEREAS, the July 2013 QFCP-RC Charge, which is set forth on the attached Exhibit "A", will be effective for bills issued between June 28, 2013, and July 30, 2013, absent a determination of manifest error by the Commission; and

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

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 July 2013 QFCP-RC Charge, and the source documents supporting the calculation of the July 2013 QFCP-RC Charge and was not able to find any manifest errors in the Compliance Filing or the calculations contained therein. However, Staff expected to receive, but did not, the outage event information in the format that was previously provided to Delmarva. On or about June 4, 2013, Delmarva filed additional information from Diamond State Generation Partners, LLC ("DSGP") regarding the April 2013 outage event log and a DSGP Outage Reporting Update dated June 3, 2013 (the "Outage Update Information"), but the April outage event log did not contain the level of detail that Staff had requested; and

WHEREAS, Staff notes that its receipt of the April outage event log does not mean that Staff agrees with the information provided to it or that Staff accepts this information as complete or sufficient. In addition, Staff notes that its receipt of the Outage Update Information does not preclude Staff from refusing to accept any future filings of the monthly report and outage event log which are missing the requested details as set out in the format requested by Staff. Moreover, Staff disagrees with any argument that DSGP does not need to submit the detailed outage event log for May 2013 or any subsequent months when "no claim for a FOE/FM payment is being made;"⁷ and

WHEREAS, in the April MOR, DSGP stated as follows: "DSGP is not seeking any FM⁸ or FOE⁹ Payment for this or past FOE/FM events. The

⁷ This language was included in a document entitled "DSG Outage Reporting Update 6/3/13" which was part of the Outage Update Information filed by Delmarva on or about June 4, 2013.

⁸ "FM" stands for "Forced Majeure Event." Under Delmarva's current electric tariff, FM means (i) a Forced Outage Event; or (ii) an event or circumstance

outage information and calculation of potential Section K(5) payments has been supplied to provide full disclosure;" and

WHEREAS, the Outage Update Information stated that "DSG (Diamond State Generation Partners) expressly agreed and understood that any FOE/FM claim would have to be accompanied by the level of detail acceptable to DPL and the DE PSC;" and

WHEREAS, for any Tariff K payment¹⁰, Delmarva must provide detailed information on the outage events, including, but not limited to, all of the information set forth in the outage event log previously provided to Delmarva, before any recovery of a Tariff K payment will be considered; and

WHEREAS, Staff concludes that any issues related to the lack of information on the forced outage and force majeure events does not affect the proposed July QFCP-RC Charge; and

WHEREAS, Staff therefore recommends that the July 2013 QFCP-RC Charge be permitted to take effect for Delmarva customer bills issued between June 28, 2013, and July 30, 2013. This recommendation is subject, however, to two requirements. First, Delmarva shall provide

that: (a) prevents a Party from performing its obligations under this Service Classification; (b) was not foreseeable by such Party; (c) was not within the reasonable control of, or the result of the negligence of such Party; and (d) such Party is unable to reasonably mitigate, avoid or cause to be avoided with the exercise of due diligence. See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric - Original Leaf No. 74n, Section Q.

⁹ "FOE" stands for "Forced Outage Event." Under Delmarva's current electric tariff, FOE means the inability of a QFCP Generator to obtain from its Qualified Fuel Cell Provider or any other Persons a replacement component part or a service necessary for operation of one or more Energy Servers at its nameplate capacity. See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric - Original Leaf No. 74n, Section Q.

¹⁰ See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74h - 74j, Sections K(1) to K(7), which set forth the requirements for when Delmarva must collect from its customers and disburse to the QFCP Generator disbursements when there is a FM or FOE.

to Staff, with each future Compliance Filing under the REPSA, all documents which Staff requested from Delmarva as part of the review of this and any prior Compliance Filings. This includes, but is not limited to, Delmarva's workpapers. Second, this recommendation is also 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 May 24, 2013, including the July 2013 QFCP-RC Charge which is listed on the attached Exhibit "A", but excluding the April 2013 outage event log and the Outage Update Information which Delmarva filed on or about June 4, 2013.

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 May 24, 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 for any future claimed Tariff K payment,¹¹ Delmarva must provide detailed information on the outage events, including, but not limited to, all the information set forth in the outage event log previously provided by Staff to Delmarva, before any recovery of a Tariff K payment will be considered.

5. 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

¹¹ See Delmarva Power & Light Company, P.S.C. Del. No. 8 - Electric, Original Leaf No. 74h - 74j, Sections K(1) to K(7), which set forth the requirements for when Delmarva must collect from its customers and disburse to the QFCP Generator disbursements when there is a FM or FOE.

EXHIBIT A

July 2013 QFCP-RC CHARGE

<u>Service Classification</u>	<u>\$ per kWh</u>
Residential	\$ 0.002074
Residential- Space Heating	\$ 0.002074
Residential Time-of-Use "R-TOU"	\$ 0.002074
Residential Time-of-Use NON-Demand "R-TOU-ND"	\$ 0.002074
Small General Service - Secondary Non-Demand "SGS-ND"	\$ 0.002074
Space Heating Secondary Service "SGS-ND" and "MGS-S"	\$ 0.002074
Water Heating Secondary Service "SGS-ND" and "MGS-S"	\$ 0.002074
Outdoor Recreational Lighting Svc - Secondary "ORL"	\$ 0.002074
Medium General Service - Secondary "MGS-S"	\$ 0.002074
Large General Service - Secondary "LGS-S"	\$ 0.002074
General Service - Primary "GS-P"	\$ 0.002029
General Service - Transmission "GS-T"	\$ 0.001993
Outdoor Lighting PL	\$ 0.002074
Outdoor Lighting SL	\$ 0.002074