

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION)	
OF DELMARVA POWER & LIGHT COMPANY)	
FOR AN INCREASE IN ELECTRIC BASE)	PSC DOCKET NO. 11-528
RATES AND MISCELLANEOUS TARIFF)	
CHANGES (FILED DECEMBER 2, 2011))	

PROPOSED SETTLEMENT AGREEMENT

This proposed Settlement Agreement (the "Settlement") is entered into by and among Delmarva Power & Light Company ("the Company" or "Delmarva"), the Staff of the Delaware Public Service Commission ("Staff"), the Division of the Public Advocate ("Public Advocate") and the Delaware Energy Users Group ("DEUG") (individually each a "party" and collectively "the Parties").

I. BACKGROUND

1. On December 2, 2011, Delmarva filed with the Delaware Public Service Commission (the "Commission") an application to increase electric distribution rates by \$31,760,741, or 19.18% over present distribution operating revenues, and for approval of other miscellaneous modifications to its tariff (the "December 2011 Application"). According to the Application, the proposed rate increase was necessary, in part, to reflect additional investment in reliability plant that Delmarva claims is non-revenue producing at a time when revenue growth from customers is slowing, resulting in lower returns on invested capital. The Company sought an overall return of 7.87% (including an increase in its authorized return on equity from 10% to 10.75%) on an estimated rate

EXHIBIT 2

base of \$599,949,723. The Company's filing was based on 6 months of actual data and 6 months of forecasted data through December 31, 2011, as permitted by the Commission's Minimum Filing Requirements.

2. On January 10, 2012, by Order No. 8088, and pursuant to its authority under 26 *Del. C.* §306 (a) (1), the Commission suspended the proposed rate and tariff changes sought in the December 2011 Application pending full and complete evidentiary hearings into their justness and reasonableness; assigned a Hearing Examiner to conduct such evidentiary hearings; and permitted Delmarva to place in effect pursuant to 26 *Del. C.* §306 (c) interim rates intended to produce an annual increase in operating revenue of \$2,500,000, subject to refund and to the conditions set forth in its Order. On January 31, 2012, Delmarva put into effect rates sufficient to allow it to collect an additional \$2,500,000 in revenues.

3. On March 2, 2012, the Company filed additional testimony reflecting actual test period data for the 12 months ended December 31, 2011. The revised test period data increased the Company's proposed revenue requirement to \$33,186,072.

4. In April 2012, the Commission conducted public comment sessions on the Company's proposed rate increase in Wilmington, Dover and Millsboro. At each public comment session, representatives of the Company summarized the Application and members of the public were afforded an opportunity to comment on the Application. At the Wilmington public comment session, a member of the public read a statement in opposition to the Company's proposed Reliability Investment Recovery Mechanism ("RIM"), claiming that the proposal violates Delaware law. No member of

the public appeared at the Dover public comment session. A letter from the American Association of Retired Persons (AARP) opposing the proposed increase was read into the record at the Millsboro session. In addition, the Commission received over 1500 comments, primarily by email from members of AARP, opposing the Company's proposed rate increase.

5. On May 15, 2012, Staff filed testimony in which it took the position that Delmarva should be allowed an additional revenue requirement of \$15,883,075, applied to a rate base of \$533,839,479, rather than the \$31,760,741 in additional revenues the Company requested in its Application. In addition to many proposed accounting adjustments, Staff sought to reduce Delmarva's currently authorized return on equity from 10% to 9.55%.

6. Pursuant to 29 *Del. C.* §8716, the Public Advocate intervened in this proceeding and, also on May 15, 2012, filed testimony in which he took the position that Delmarva should be allowed an additional revenue requirement of \$17,465,428, applied to a rate base of \$561,924,297. In addition to making several adjustments to the Company's proposed rate base and operating expenses, the Public Advocate proposed reducing the Company's equity return from 10% to 8.73%.

7. An additional intervenor, DEUG, also filed testimony on May 15, 2012 supporting certain cost of service adjustments to Delmarva's cost of service study and several rate design changes.

8. On June 19, 2012, pursuant to 26 *Del. C.* §302(b), Delmarva submitted an application to implement, under bond, subject to refund and the same conditions as set

forth in PSC Order No. 8088 (January 12, 2012), an interim rate increase that would increase its Intra-state distribution revenues by 15%. On July 3, 2012, by Order No. 8167, the Commission approved this request and allowed the Company to increase its rates by an additional \$22,334,360 over the \$2,500,000 approved on a temporary basis in Order No. 8088.¹

9. On June 21, 2012 Delmarva filed rebuttal testimony which addressed the testimony filed by the various parties. It sought to increase its revenue request to \$34,922,000 on a rate base of \$589,996,000.

10. Since the filing of the Application, the Parties have engaged in substantial written discovery. In addition, beginning in May 2012, the parties have engaged in periodic discussions to try to resolve the Company's proposed rate increase on a consensual basis. The Parties acknowledge that they differ as to the proper resolution of many of the underlying issues in this rate proceeding and that, although they have resolved this docket through this proposed Settlement, they preserve their rights to raise those issues in future proceedings. For purposes of this proceeding, the parties believe that settlement on the terms and conditions contained herein will serve the interests of the public and the Company, and will meet the statutory requirement that the resulting rates be both just and reasonable.

¹ The June Application when added to the previous interim request totals \$24,834,360, which is less than 15% of the Company's intra-state distribution revenues.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Delmarva, Staff, the Public Advocate and DEUG that the Parties will submit to the Commission for its approval the following terms and conditions for resolution of the pending proceeding:

II. SETTLEMENT PROVISIONS

11. The Parties agree that the total additional revenue requirement awarded to the Company will be \$22,000,000, which represents an approximate 13.3% increase over the distribution base rates in effect prior to the Company's December 2, 2011 filing. The Parties agree to this revenue requirement award as a compromise of their positions. Delmarva shall file the appropriate modifications to its tariff so as to incorporate the stipulated revenue requirement increase, along with a proposal that credits (or for former customers no longer within the service territory, refunds) the excess revenue of approximately \$227,030 per month, collected from July 3, 2012 through the date the Commission approves this proposed Settlement. When compared to the distribution rates in effect prior to the December 2011 Application, a typical residential customer using an average of 1,000 kWh per month will experience an increase in its total bill of 3.28%, from \$136.86 per month to \$141.35 per month. Because the interim rate increases previously put into effect provided the Company with more annual revenue than this Settlement does, the typical residential customer will actually experience a decrease in rates. That decrease will equal 0.4% of the typical residential customer's total bill, from \$141.93 per month to \$141.35 per month, when compared to rates placed into effect on July 3, 2012.

12. Because this settlement provides the Company with less annual revenues than the combined interim rate increases addressed above, customers whose rates were increased on July 3, 2012 will receive a credit or refund. The credit or refund shall be made to all customers whose rates were increased on July 3, 2012, and thereafter, on a proportional basis using the same billing determinantes that were used to increase their rates. No other modification to the Cost of Service issues raised in this case shall be made at this time.

13. The Settlement revenue requirement amount of \$22,000,000 is stipulated to by the Parties based on a capital structure of 49.61% equity and 50.39% long-term debt, an overall cost of capital of 7.38%, and an authorized rate of return on common equity of 9.75%.

14. SOS Tax Related Billing Error: In conjunction with this Agreement, Staff, the Public Advocate and Delmarva agree to resolve a dispute regarding recovery of costs related to a tax-related rate making error in Docket No. 04-391, Standard Offer Service (SOS) Supply, for the SOS years beginning on June 1, 2012, 2013 and 2014 (the "SOS Docket"). Delmarva paid various taxes assessed by taxing authorities upon its SOS customers but failed to collect the amounts of the various taxes in SOS bills (the "SOS Under Recovery"). In the SOS Docket, Delmarva seeks recovery for various tax-related rate making errors that resulted in its failure to collect various State and local taxes levied upon Delmarva's customers. Pursuant to Section IX E of Delmarva's Delaware Electric Tariff, any Commission-approved recovery of under recoveries attributable to billing errors must be spread over a maximum of three years, without carrying costs.

The total amount of the SOS Under Recovery is \$6,346,205 (“\$6.4 million”).

\$2,115,401.67 of that amount is currently being collected, subject to refund, in current SOS rates.

15. The Parties agree to resolve the SOS Under Recovery issue in the SOS

Docket as follows:

- a. The claimed \$6.4 million under recovered amount shall be reduced to \$3,346,205 (“\$3.4 million”) and will no longer be subject to refund. Pursuant to Section IX E of Delmarva’s Delaware Electric Tariff, the \$3.4 million will be collected over three SOS years beginning June 1, 2012, without carrying costs.
- b. In conjunction with the 20% AMI Asset Phase-In and the adjustment of distribution rates to reflect the Settlement revenue requirement amount of \$22,000,000 referred to herein, on January 1, 2013, SOS rates will be adjusted to reflect a collection of \$1,115,401.67 for the 2012-2013 SOS year. Each year there will be a true-up with the total amount of the SOS Under Recovery collected not to exceed \$3,346,205. The remainder of the SOS Under Recovery will be collected as follows :
 - i. 2013-2014 SOS year: \$1,115,401.67
 - ii. 2014-2015 SOS year: \$1,115,401.67

16. Phase-In of AMI Regulatory Asset: Pursuant to Order No. 7420 (Docket No. 07-28), Delmarva established a regulatory asset for operating costs associated with the deployment of Advanced Metering Infrastructure and demand response equipment (the “AMI Asset”).

- a. The Parties agree to a phase-in of the recovery of the AMI Asset into customer rates (the “Phase-In”) as follows;
 - i. 20% of the AMI Asset will be put into rates on January 1, 2013,
 - ii. 50% of the remaining AMI Asset² will be put into rates June 1, 2013, and

² “50% of the remaining AMI Asset” represents 40% of the AMI Asset before 20% of the AMI Asset is placed into rates on January 1, 2013.

- iii. The remainder of the AMI Asset will be put into in rates June 1, 2014

- b. Attached hereto and incorporated herein as "Attachment 1" is a list of AMI capabilities associated with each Phase-In date. In order for the percentage of the AMI Asset to be included in rates on the June 2013 and 2014 dates referenced above, each listed capability must, for a period of at least 60 days prior to the applicable June 1 dates:
 - i. have been reasonably functioning as planned; and
 - ii. have been enabled for at least 95% of customers eligible for each respective capability.³

In addition, the filing for the June 1, 2013 and June 1, 2014 Phase -In must be made 75 days before or by March 15th of each year.

- c. Assigned to each capability listed in Attachment 1 is a percentage value between 1 and 100% of the total value planned to be phased-in during each June AMI Phase-In rate adjustment. If a capability scheduled to go into effect by the particular June Phase-In rate adjustment has either not been enabled for at least 95% of the eligible customers or has not met the 60 day functionality period, then
 - i. the amount to go into rates during that June Phase-In rate adjustment will be reduced by the percentage value associated with that capability;
 - ii. that same amount will remain in the AMI Asset and will not be eligible to go into rates until the following June 1; and
 - iii. the \$1,115,401.67 referred to in Paragraphs 15. b. i. and ii above will be reduced as follows:
 - 1. A total of \$250,000 will be at risk for failure to meet capabilities:
 - a. \$125,000 will be at risk for the SOS year beginning June 1, 2013; and
 - b. \$125,000 will be at risk for the SOS year beginning June 1, 2014.
 - 2. If a capability scheduled to go into effect by the particular June Phase-In rate adjustment has either not been enabled for

³ An example would be remote voluntary turn on/turn offs. If, by June 1, 2013, Delmarva has not, for a period of at least 60 days, been remotely turning on/off at least 95% of its eligible customers who request that service, then it may not phase in the value of that portion of the AMI Asset in June 2013.

at least 95% of the eligible customers or has not been reasonably functioning as planned for at least 60 days prior to the applicable June 1 date, then the percentage value associated with that capability will be applied to the \$125,000 at risk on the relevant June 1 Phase-In date and that percentage of the \$125,000 will be deducted from that same year's SOS rates.

17. The Parties have agreed to meet and discuss several issues outside the confines of this rate proceeding in the hopes of resolving each of them. These issues include: (1) the establishment of metric(s) for the reporting and/or approval of reliability projects going forward so that customers are aware of how investment in Delmarva's plant in service benefits them in a quantifiable manner; (2) an agreement to meet and discuss alternative regulatory methodologies which would include, but not be limited to, multi-year rate plans; and (3) continued discussions with the Company on improving the Company's compliance with the financial reporting requirements under the Delaware Administrative Code.

18. The Company, Staff and the Public Advocate will continue to hold quarterly AMI update meetings during which the Company will update Staff and the Public Advocate on the continued diffusion of AMI technology into Delmarva's system. Staff and the Public Advocate will continue to share with Delmarva any recommendations, ideas and/or concerns relating to AMI. These quarterly meetings will continue until either further order of this Commission or until such time as Staff, the Public Advocate and Delmarva agree that the AMI system is substantially developed and operational to the extent that such regular meetings are no longer necessary.

19. The electric distribution revenue increase referenced in paragraph 11 will be implemented on an across-the-board basis, such that the percentage change in the

distribution revenues will be the same for all of Delmarva's Service Classifications, except that the GS-T customer class shall receive no increase in distribution rates.

20. The Parties agree that all pre-hearing motions are deemed withdrawn as part of this settlement.

III. ADDITIONAL PROVISIONS

21. This Settlement is the product of extensive negotiation, and reflects a mutual balancing of various issues and positions. It is therefore a condition of the Settlement that the Commission approve it in its entirety without modification or condition. If this Settlement is not approved in its entirety, this Agreement shall become null and void.

22. This Settlement shall not set a precedent and no Party shall be prohibited from arguing a different policy or position before the Commission in any future proceeding. The purpose of this Settlement is to provide just and reasonable rates for Delmarva's customers, and the Parties believe that this Settlement accomplishes this goal. In addition, the Parties believe that the Settlement is in the public interest because, among other things, it avoids substantial additional litigation costs.

23. The terms of this Settlement will remain in effect until changed by an order of the Commission, and the Commission shall retain jurisdiction over this Settlement. All statutory procedures and remedies shall be available to the Parties to ensure that rates are just and reasonable, while providing a fair rate of return, including without limitation 26 Del. C. §§304, 309-311.

24. This Settlement may be executed in counterparts by any of the signatories hereto and transmission of an original signature by facsimile or email shall constitute valid execution of this Settlement, provided that the original signature of each Party is delivered to the Commission's offices before its consideration of this Agreement. Copies of this Settlement executed in counterpart shall constitute one agreement. Each signatory executing this Settlement warrants and represents that he or she has been duly authorized and empowered to execute this Settlement on behalf of the respective Party.

DELAWARE PUBLIC SERVICE COMMISSION
STAFF

Date: 8/28/2012

By: Will O'Brien

DELMARVA POWER & LIGHT COMPANY

Date: 8/28/2012

By: Gary R. H.

THE PUBLIC ADVOCATE

Date: 8/28/2012

By: Truly

DELAWARE ENERGY USERS GROUP

Date: 8/28/2012

By: Michael J. Quinan / by RAH
8/28/12

Attachment 1 to Proposed Settlement Agreement

PSC Docket No. 11-528

Capabilities and Percentage Values as referred to in Paragraph 16 of the Proposed Settlement Agreement in this docket.

June 1, 2013:

1. Implement remote turn-on/turn-off capability for customers requesting this service – 75%
2. Demonstrate successful Phase 1 of Delmarva's Dynamic Pricing Program for residential field acceptance testing customers – 25%

June 1, 2014:

1. Implement remote turn-on/turn-off capability for failure to pay¹ and other involuntary service terminations (such as theft of service, safety violations, etc.) – 50%
2. Demonstrate successful Phase 2 of Delmarva's Dynamic Pricing Program for residential customer base – 50%

¹ Subject to approval of currently pending request to amend the regulations found at Section 3002 of the Delaware Administrative Code, which were promulgated by Order No. 6148, PSC Regulation Docket No. 53, titled "Regulations Governing Termination of Residential Electric or Natural Gas Service by Public Utilities for Non-Payment During Extreme Seasonal Temperature Conditions."