

Vest, Lisa A. (DNREC)

From: David Stevenson <davidstevenson1948@gmail.com>
Sent: Sunday, October 18, 2015 8:28 PM
o: Vest, Lisa A. (DNREC)
Subject: CRI Comments on 102 Implementation of Renewable Portfolio Standards (RPS) Cost Cap Provisions
Attachments: Cost Cap Regulation Comments from CRI.docx

Dear Ms. Vest,

Based on the revised proposed rules to be published Nov 1, we are submitting slightly revised public comments. Please see attached.

Sent from [Mail](#) for Windows 10



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Lisa Vest
Public Hearing Officer
State of Delaware – DNREC
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10/19/15

Dear Ms. Vest;

I am submitting comments regarding DNREC's **102 Implementation of Renewable Portfolio Standards (RPS) Cost Cap Provisions** printed in the Delaware Register 10/1/15, regarding how the Director of DNREC will determine how a freeze of the accelerating requirement for renewable power will be triggered.

Electricity is a vital commodity for citizens and businesses in Delaware. By law, Delaware electricity distributors must purchase power from renewable power resources, such as wind and solar. The required percentage of renewable power has increased each year starting in 2010. However, price protections are critical and the Delaware Legislature recognized this need when legislating cost cap protection in 2010. A freeze on the increasing requirements was to be implemented if the purchase of Renewable Energy Credits (REC), or Alternative Compliance Charges, plus the Green Energy Fund contribution caused electric bills to rise over 3%, or solar power increased electric bills over 1%.

We must report the cost is greatly exceeding the cost cap for Delmarva Power customers. In July, 2014, Delmarva Power began showing the Renewable Compliance Cost on electric bills using a formula developed by a working group assembled to reach a settlement in PSC Docket 13-250, including DNREC, and approved by the Public Service Commission. A review of bills for Standard Offer Service customers for the twelve month period July, 2014 to June, 2015 showed the Renewable Compliance Cost plus the Green Energy Fund contribution was adding 9% to electric bills. A similar comparison for a residential heating customer was even higher at 9.5%. This is in substantial violation of Delaware Code 26, Section 354 (i & j).

This is actually the third iteration of proposed regulations. DNREC keeps coming up with more convoluted reasoning to protect their favored renewable electric generation sources. In the initial proposal DNREC included a list of theoretical unpriced costs to be used to offset the direct cost on electric bills. These included undefined market conditions, and the health, job, and price suppression benefits of renewable power. However, no consideration is given to similar added costs, such as, the cost to add transmission lines for remote wind power, upgrading feeder lines and substations to accommodate distributed solar generation, or jobs lost due to higher electric rates. None of these questionable side benefits are spelled out in the legislation. The legislation clearly defines the only costs to be considered are subsidies that get added to electric bills, such as the Green Energy Fund, the cost of Renewable Energy Credits, and the cost of Alternative Compliance Payments, all of which can be easily calculated.

DNREC suggested they can compare apples and oranges dividing just the supply cost of renewable power by the total cost of electricity including transmission and distribution cost. The correct formula would divide the supply cost of renewable power by the supply cost of electricity. Other electric distributors in the state do just that. We note even using DNREC's interpretation, actual electric bills were up 5% for regular SOS residential customers and 6.5% for residential heating customers. DNREC also assumes they have discretion to waive a freeze but establishes no criteria for doing so opening up the possibility of capricious and arbitrary decisions.



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The second iteration of proposed regulations redefined the allowed increase to be 3% year over year instead of 3% cumulative. This defies straight forward legislative language which states in 26 *Del. C.* §354(i) “the total cost of complying with this requirement during a compliance year exceeds 1% (or 3% in (j)) of the total retail cost of electricity for retail electricity suppliers during the same compliance year”. This leads to the absurd result up to a 55% increase would be OK. That’s up to \$900 a year! We note other electric distributors in the state use the cumulative cost definition, as did DNREC in its first proposal.

The third iteration leaves most of the initial misinterpretations, drops the 3% year over interpretation, but also dismisses the cost of Delmarva’s Qualified Fuel Cell Provider project. No explanation is made as to why this cost has been dropped after specifically including fuel cell costs in the two earlier proposals. DNREC championed the fuel cell project with Delmarva Power and Bloom Energy through its affiliate Diamond State Generation and declared fuel cells a renewable power source. Fuel cells use conventional natural gas but they are allowed to offset the requirement to buy more wind and solar power REC’s. In fact, fuel cell power counts twice as much as power from an actual wind farm! Without the fuel cell project Delmarva Power would have to buy more wind and solar REC’s so the cost of the fuel cell project should obviously be included in the compliance cost.

It is understandable DNREC’s Energy & Climate Division would be an advocate for renewable power and would not want to be the source of a freeze on added wind and solar power requirements. This is why the legislature left it to the Public Service Commission to do the cost calculations. Delaware Code 26 *Del. C.* §362(b) clearly assigns authority to the PSC; “For regulated utilities, the Commission shall further adopt rules and regulations to specify the procedures for freezing the minimum cumulative solar photovoltaic requirement as authorized under § 354(i) and (j) of this title”. The PSC has already made the determination of how to calculate the compliance cost in PSC Docket 13-250. Now it simply needs to add the Green Energy Fund Cost, and any Alternative Compliance Cost to the Renewable Compliance Charge and divide by the supply charge to define the percentage cost for a Compliance Year. The PSC, in consultation with DNREC, would then make the determination if a freeze is called for.

Based on the above the following changes to the proposed rule are needed (noting we do not agree DNREC has the authority to develop such a rule):

- (1) The QFCP project costs must be included in calculating the total cost of compliance with REPSA.
- (2) The definition of “Total Retail Costs of Electricity” must be changed to just the supply cost, or the transmission and distribution cost of renewable power must be added to the Renewable Compliance Charge to create a fair comparison
- (3) Sections 5.4 through 5.8 must be removed
- (4) Remove the assumption of discretion to waive a freeze if the 3% and 1% Cost Caps are exceeded

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