



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

November 2, 2015

Lisa Vest
Public Hearing Officer
State of Delaware – DNREC
89 Kings Highway
Dover, DE 19901

Dear Ms. Vest;

We the undersigned legislators are submitting comments regarding Department of Natural Resources & Environmental Control (DNREC) **102 Implementation of Renewable Portfolio Standards (RPS) Cost Cap Provisions** printed in the Delaware Register 11/1/15, regarding how the Director of DNREC will determine how a freeze of the accelerating requirement for renewable power will be triggered.

First we note the Public Service Commission (PSC), not DNREC, has the authority and responsibility to issue regulations governing when a freeze of the minimum percentages of eligible renewable energy resources may be declared. Delaware Code, 26 *Del. C. § 362(b)*, assigns this authority to the PSC and it may not be delegated. For this reason alone the proposed regulation should be denied.

Beyond the issue of authority, we find numerous concerns with how the 2010 Renewable Energy Portfolio Standard Act revisions have been interpreted by DNREC and suggest the following revisions are needed:

- (1) The Qualified Fuel Cell Provider project costs must be included in calculating the total cost of compliance with REPSA.
- (2) The Renewable Compliance Charge, which only includes the cost to supply power, should be divided by just the total retail supply cost of electricity, as intended, to create a fair comparison.
- (3) Sections 5.4 through 5.8 must be removed as no unpriced “externalities” were included in the legislation for consideration in the determination of a freeze in the expanding requirement for renewable power in the event the Cost Caps are exceeded.

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(4) Remove the assumption the Director of DNREC has discretion to waive a freeze if the 3% and 1% Cost Caps are exceeded.

Sincerely,



Daniel B. Short
House Minority Leader
State Representative
40th District



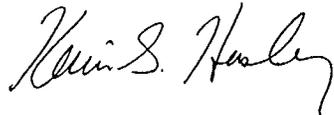
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House Minority Whip
State Representative
12th District



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40th District



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