

ORDER NO. 83345

IN THE MATTER OF THE REVIEW OF *
DELMARVA POWER & LIGHT *
COMPANY STANDARD OFFER SERVICE *
ADMINISTRATIVE CHARGE *

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9226

IN THE MATTER OF THE REVIEW OF *
THE POTOMAC ELECTRIC POWER *
COMPANY STANDARD OFFER SERVICE *
ADMINISTRATIVE CHARGE *

CASE NO. 9232

To: The Parties of Record and Interested Persons

On April 7, 2010, the Maryland Office of Peoples' Counsel ("OPC") filed a *Motion to Expand Scope of Proceeding* ("OPC's Motion") with the Public Service Commission ("Commission"). OPC asked that the Commission broaden the scope of the proceeding to include a full examination of all components of the Administrative Charge, as such term is defined in a Settlement Agreement approved by the Commission in Case No. 8908.¹ Currently, the matter delegated to the Hearing Examiner Division only includes review of the Potomac Electric Power Company ("Pepco") and Delmarva Power & Light Company (collectively "Companies") Standard Offer Service ("SOS")-related cash working capital ("CWC") revenue requirement.

On April 12, 2010, the Commission issued a *Notice of Opportunity to Respond to Motion* with responses due by April 26, 2010. In response to the Notice, on April 26, 2010, the Commission received responses from the Companies² and comments from the

¹ See Order No. 78400 (April 29, 2003), In the Matter of the Commission's Inquiry into the Competitive Selection of Electricity Suppliers Standard Offer Service, Case No. 8908.

² The Companies oppose OPC's Motion, and ask that the proceeding not be expanded.

Apartment and Office Building Association of Metropolitan Washington (“AOBA”)³ and the Retail Energy Supply Association (“RESA”).⁴

On April 27, 2010, Commission Staff (“Staff”) filed a *Motion to Bifurcate Proceeding* (“Staff’s Motion”) and its reply.⁵ Staff supports OPC’s Motion. In addition, it asks that the Commission bifurcate the proceeding, and conduct a separate proceeding for each of the Companies citing the Maryland Court of Appeals’ decision in *Delmarva Power & Light Co. d/b/a Connectiv Power Delivery, et al. v. Public Service Commission of Maryland, et al.* (“Delmarva Case”).⁶ On April 30, 2010, the Companies responded to Staff’s Motion and opposed it on the grounds that it was untimely and prejudicial. Further, the Companies disagreed with Staff’s conclusion that the consideration of cash working capital costs for both Companies in the same proceeding equates to a generic case that would result in a violation of the Maryland Court of Appeals’ ruling in the Delmarva Case. The Companies asked the Commission to reject Staff’s and OPC’s Motions.

The Commission finds OPC’s and Staff’s argument that this proceeding should be expanded to consider all the components of the Administrative Charge persuasive. The Administrative Charge is comprised of four components, which components were agreed upon through settlement negotiations. Additionally, the Settlement Agreement, although

³ AOBA, while supporting the substantive arguments in the OPC’s Motion, argued that the more appropriate proceeding to review the Pepco CWC requirements is in Case No. 9217, the current Pepco rate case. AOBA asks the Commission to incorporate the issue into the proceedings in Case No. 9217, and either extend the procedural schedule by 30 days or permit live rejoinder testimony at the scheduled evidentiary hearings in the matter.

⁴ RESA urges the Commission to allow the current procedural schedule for the case to proceed unchanged. RESA states that if the Commission finds it appropriate to conduct a full review of the Administrative Charge, then it should do so in a separate proceeding.

⁵ Staff filed a Request for Leave to Submit Late Reply as it made its filing one day later than required by the Notice. The Commission grants Staff’s Request.

⁶ 370 Md. 1 (2002).

expired, reflects the parties' agreement that each return component and the cost component were to remain fixed. As Staff points out, the return, CWC and other components of the Administrative Charge were negotiated to establish a "finely crafted balance" in the Administrative Charge. Consequently, to permit the Companies to change the CWC revenue requirement, without review of the other components, may adversely alter this balance to the detriment of the ratepayers and significant benefit to the Companies.

Further, as OPC submits, at the time the Settlement Agreement was entered into and approved by the Commission, SOS had just been implemented. Thus, the Administrative Charge was negotiated based on estimates and projections. The Companies now have actual data on their incremental costs and the amounts collected through the Administrative Charge. Accordingly, any changes needed to any of the components may be determined using this actual data, rather than changing one component using actual data while maintaining the other components at a fixed rate that was determined using estimates and projections.

Although the Commission does not necessarily share Staff's conclusion that the separate proceedings are necessary under the Delmarva Case, the Commission, because of the complexity of the case if all of the components of the Administrative Charge are reviewed, believes that it is appropriate to consider each of the Company's Administrative Charge in a separate proceeding. The Commission, therefore, initiates a new proceeding, Case No. 9232, for review of Pepco's Administrative Charge, and delegates the matter to the Hearing Examiner Division for hearing. The Commission further directs that the description for Case No. 9226 be revised to read as follows: In the

Matter of the Review of the Delmarva Power & Light Company Standard Offer Service Administrative Charge. The Commission encourages the Chief Hearing Examiner to assign the same hearing examiner to both of the cases, but the Commission leaves to the discretion of the hearing examiner whether he wishes to consolidate the proceedings in whole or in part.

IT IS THEREFORE, this 20th day of May, in the year Two Thousand Ten by the Public Service Commission of Maryland,

ORDERED: (1) That the Motion to Expand the Proceedings filed by OPC is hereby granted;

(2) That a new proceeding is initiated, Case No. 9232, In the Matter of the Review of the Potomac Electric Power Company Standard Offer Service Administrative Charge;

(3) That the title of Case No. 9226 shall be revised to read: In the Matter of the Review of the Delmarva Power & Light Company Standard Offer Service Administrative Charge; and

(4) That to the extent not granted in this Order, all other motions and requests for relief are denied.

By Direction of the Commission,

/s/ Terry J. Romine

Terry J. Romine
Executive Secretary