

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE INVESTIGATION)
OF THE PUBLIC SERVICE COMMISSION)
INTO REVENUE DECOUPLING)
MECHANISMS FOR POTENTIAL ADOPTION)
AND IMPLEMENTATION BY ELECTRIC) **PSC REGULATION DOCKET NO. 59**
AND NATURAL GAS UTILITIES SUBJECT)
TO THE JURISDICTION OF THE PUBLIC)
SERVICE COMMISSION)
(OPENED MARCH 20, 2007))

REPLY COMMENTS

OF THE

SUSTAINABLE ENERGY UTILITY TASK FORCE

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November 19, 2007

Background

The Sustainable Energy Utility Task Force filed comments in this proceeding on August 15, 2007. In those comments, the Task Force explained how it regards revenue decoupling as a promising tool to improve development of sustainable energy services for the State. The Task Force further explained that for decoupling to realize its full promise, performance targets, a risk premium on the a utility's approved return on equity, and the specific needs for consumers at greatest risk of burden shifting will need to be addressed as key elements of policy design.

Issues

1. Funding of the SEU and the Potential for Unfair Competition from a Utility

In our comments, the Task Force provided some background on the Sustainable Energy Utility (SEU). However, Staff's initial comments indicate that there may be a fundamental misunderstanding about how the SEU will operate. Gaining a full understanding of how the SEU will fund its projects is important in appreciating the Task Force's concern about the potential for unfair competition from a utility.

In their comments, Staff states that "customers currently face higher energy bills as a result of SEU costs, Green Energy Funds, possible advanced metering installations, and generally higher costs of generation over time" (Staff at 9). This statement is incorrect regarding "SEU costs" because there will be no new taxes nor will there be a charge on all gas and electric utility customers to fund the SEU's energy efficiency initiatives (see 29 Del. C. § 8059 (j)). The Green Energy Fund will continue to be the funding source for incentives for the installation of energy efficiency and customer-sited renewable energy, which the SEU will administer.

Participation in the SEU is voluntary and the SEU's existence will be dependent on successfully delivering sustainable energy services to households and businesses in Delaware. For example, the SEU will cover, at no charge to participating households and businesses, the full incremental

cost of high-efficiency versus standard efficiency equipment and measures.¹ In return for this investment by the SEU, its clients enter into a shared savings agreement. To fund these investments, the SEU is authorized to raise a series of special purpose bonds up to \$30 million. If the SEU energy efficiency investments fail to deliver the expected energy savings, the SEU will not be able to repay the bonds. Thus, bondholders and not consumers bear the risk and incur the cost of SEU programs.

In contrast, under the decoupling mechanisms proposed by Delmarva Power and Chesapeake Utilities, funding for utility-sponsored demand-side management (DSM) activities can be recovered from ratepayers without regard to performance.

The ability to recover costs, regardless of performance, provides regulated utilities with a degree of financial security and risk protection that Delaware's other energy service businesses do not have. SEU Implementation Contractors will be competing against other energy service providers including any utility-sponsored DSM programs; receive no guarantee of a rate of return from such contracting; will expose themselves to investment risks; and will be subject to contract targets with rewards and penalties. If there is no performance-based incentive applicable to a utility's DSM programs, these programs could squeeze out the participation of others in the sustainable energy services marketplace and result in DSM programs that do not lower utility bills. This result would seem economically unwise and discriminatory.²

2. Any Commission-Approved Decoupling Mechanism Should Have a Risk Premium on a Utility's Approved Return on Equity

In their initial comments, Delmarva Power and Chesapeake Utilities proposed decoupling mechanisms without performance incentives. In our comments, the Task Force explained how it

¹ In limited cases and with the agreement of the end user, partial coverage of the incremental cost of an efficiency upgrade may be warranted.

² Failure to decouple revenues and sales on the basis of performance would preempt competition in the sustainable energy services marketplace from helping the end user to obtain DSM services at lowest cost. Regulation of DSM services in Delaware has to date produced few results. A new approach is needed.

believes that performance-based policymaking better serves the State's general interest in the development of sustainable energy services for its citizens and businesses. We further explained how for regulated utilities, this principle means putting at risk a portion of a regulated utility's rate of return based on performance of its DSM programs to ensure consumers of utility services they are not simply paying to consume *and* not to consume a regulated utility's product.

If the Commission approves a decoupling mechanism to encourage investment in energy efficiency, the Task Force believes that performance targets including a risk premium on a utility's approved return on equity are vital. Neither Delmarva Power nor Chesapeake Utilities advanced an argument against performance-based incentives such as the risk premium on a utility's approved return on equity. The Task Force believes that Delmarva Power and Chesapeake Utilities should be amenable to performance-based incentives if they are serious about wishing to provide their customers with effective energy efficiency services and if State regulation is to be fair in its treatment of competitors in the sustainable energy services marketplace.

Respectfully submitted on behalf of the Sustainable Utility Task Force.