

217 New Castle Street
Rehoboth Beach, DE 19971
November 24, 2015

Lisa Vest
Hearing Officer
Delaware Department of Natural Resources
and Environmental Control
89 Kings Highway
Dover, DE 19901

By electronic mail and US mail

Re: *DNREC, NOPR at 19 DE Reg. 397 (Nov. 1, 2015)*
“102 Implementation of Renewable Energy Portfolio Standards Cost Cap
Provisions” (Third Proposed Rule Version)
Comments of Gary Myers

Dear Hearing Officer Vest:

Pursuant to the notice posted in the November 1, 2015 Register of Regulations, and pursuant to the provisions of 29 Del. C. §§ 10116 & 10118(a), I am hereby submitting the attached set of comments for consideration in the above-captioned DNREC rule-making proceeding. I ask that they may be made part of the record in the proceeding.

1. As regard to the new comments, two filing cautions are needed. The comments and carried over comment have been constructed separately and contain only a header reference to my name and other identifying information. Consequently, this cover letter should accompany them into the record. Similarly, I have also submitted (as e-mail attachments) electronic copies of the comments, carried-over comment, and this letter. Those three electronic files should also be kept linked or connected in order to identify the electronic version comments as mine.

2. In the new comments I refer to, and cite, statements made by legislators and an executive in the Governor's office during the General Assembly's consideration of the 2011 Bloom Energy amendments to REPSA. Apparently, the Division did not choose to create a transcript of those proceedings although, in this NOPR, the Division has called into question the legislative intent about Bloom Energy surcharges and their integration with the REPSA renewable requirements and the attendant cost caps. Similarly, you must have denied my earlier written request that you direct DNREC to prepare such transcript. I never received any ruling by you on my earlier petition. Thus, my comments cite to the audio disks of those proceedings. Can you please confirm, as I have asked several times before, that the audio CDs of the Bloom amendment proceedings that I submitted earlier are indeed part of the record in this NOPR?

3. Once again, I pose the more general question about exactly what earlier-filed

comments, documents, data, and materials are being carried over into this new NOPR. Mr. Noyes' notice in the November 1 Register said that comments in response to the Oct. 1, 2015 notice would be considered, thus apparently excluding all the materials and comments submitted in response to the two earlier 2013 and 2014 NOPRs. His statement suggests that all previous submissions are not in this record. Can you tell me what of the previous submitted materials from the earlier NOPRs are indeed in this record? I need to know that quickly for if Mr. Noyes' view holds, I will have to go back and resubmit all the materials I submitted from both the 2013 and 2014 NOPRs.

2. I also wish to incorporate into this submission Part 6 of the comments I filed on January 10, 2015 in response to the December 1, 2014 NOPR. Those comments were entitled: "6. The 'Freeze' Provisions in Proposed Rules §§ 6.0 and 7.0 Need to be Modified to Explain the Effects of a Freeze." Those comments dealt with the fact that the statutory text and the legislative history imposes two types of "freezes" when the cost cap percentages are breached. One stops any further obligation for customers to pay for RECs, SRECs, and equivalencies. The second freezes the yearly renewable requirement increase. I continue to believe that the Division must speak to both the cost cap portion of the text, as well as the yearly increase freeze language, in the statutory subsections. I have enclosed a copy of those earlier submitted comments under the title "2015 NOPR, Carried-Over Comment." I ask that it be considered in the record of this third go-round NOPR. That document should be kept with the new comments and this cover letter.

If you have any questions, please contact me. Thank you for your prompt response clarifying what previous submissions are, or are not, in the present NOPR record.

Respectfully submitted,

Gary Myers
(302) 227-2775
<garymyers@yahoo.com>

Enclosure

G. Myers' 2015 comments on 2015 NOPR proposed cost cap rules
G. Myers' 2015 NOPR, Carried-Over Comment from 2014 NOPR

cc: Thomas Noyes,
Div. of Climate & Energy (w. enc.) (by e-mail only)