January 24, 2014

Via E-Mail
Lisa Vest, Hearing Officer
Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901

Re: *Comments of the Mid-Atlantic Renewable Energy Coalition on 102 Implementation of Renewable Energy Portfolio Standards Cost Cap Provisions (Proposed Rules to Implement 26 Del. C. §354(i) & (j))*

Dear Hearing Officer Vest:

The Mid-Atlantic Renewable Energy Coalition ("MAREC") submits these comments on the proposed regulations to implement a Renewable Portfolio ("RPS") cost cap as directed in 26 Del. C. §354(i) and (j). We appreciate this opportunity to comment in this important matter.

MAREC is a nonprofit corporation that was formed to help advance the opportunities for renewable energy development primarily in the region where the Regional Transmission Organization, PJM Interconnection, LLC ("PJM"), operates. MAREC's footprint includes Delaware, Pennsylvania, Maryland, New Jersey, Ohio, Virginia, West Virginia, North Carolina, and the District of Columbia. MAREC's membership consists of wind developers, wind turbine manufacturers, service companies, nonprofit organizations and a transmission company dedicated to the growth of renewable energy technologies to boost economic development in the region, improve our environment and diversify our electric generation portfolio, thereby enhancing energy security. The primary areas of focus of MAREC are to work with state regulators to develop rules and supportive policies for renewable energy; provide education and expertise on the environmental sustainability of wind energy; and offer technical expertise and advice on integrating variable wind energy resources into the electric grid.

P.O. Box 385, Camden, DE 19934 Tel: 302-331-4639 E-mail: bburcat@marec.us

I. Background

As a result of the enactment of Senate Substitute No. 1 for Senate Bill No. 119 on July 28, 2010, Delaware's renewable portfolio standard ("RPS") was amended to increase and extend the compliance requirements of the RPS; provide incentives for renewable energy projects that employed Delaware workers and utilized locally manufactured products; and include a provision that could have the State Energy Coordinator in consultation with the Public Service Commission ("PSC" or "Commission") freeze the RPS solar compliance requirements if a 1% cost threshold is exceeded or freeze the non-solar RPS compliance requirements if a 3% cost threshold is met. For purpose of these comments MAREC will limit its discussion to the 3% cost threshold for non-solar RPS compliance. The key statutory section for the non-solar cost cap is now found in 26 Del. C. §354(j).

II. Discussion

We have reviewed the proposed regulation and believe to a large extent that it is consistent with the statutory authority provided in the enacting legislation. The cost cap should be applied without impeding the intent of the original RPS legislation, which mandates the procurement of a minimum level of renewable resources in the State's electricity supply portfolio for the purpose of achieving a number of important goals, such as: increased electric supply diversity, reduced price volatility, new economic development opportunities and improved air and health quality, among other stated benefits. 26 Del. C. §351(b).

MAREC has several specific comments on the proposed rule, which are as follows:

1. Definitions under 2.0: MAREC believes that there is an error in the definition of "non-exempt load" definition. The definition is not consistent with its use in Section 4.4 of the regulation and the definition of "Total Retail Costs" of Electricity under 2.0. We think that there is an inadvertent use of the word "not" in the definition that should be excluded. We do, however, support the recommended revision to the definition provided by the Public Service Commission Staff that captures the appropriate meaning of the definition that non-exempt sales should be included in the total retail sales for RPS compliance. In the current proposed version, the use of the word "not" in the definition indicates that such load or sales should not be included in the total retail sales. We also support the Staff's recommended change in the term "non-exempt load" to "non-exempt sales." The use of the term "load" does not necessarily translate into actual costs.

2. Section 4.2.1: This section provides that Green Energy Fund contributions that are attributable to the support of the development of renewable resources should be included in the Renewable Energy Cost of Compliance for a particular compliance year. We believe that this provision to be overly expansive and the language should be revised to ensure that these funds have been directly funded by ratepayers and not come from sources such as RGGI funds; or other pots of funding currently available or not yet known. A certain level of funding derived from customers of Delmarva Power is deposited into the

Green Energy Fund and can be utilized to help fund renewable energy projects among other technologies, including energy efficiency, conservation and other environmental incentives. Only to the extent that these funds are used as rebates to help fund an "Eligible Energy Resource" as defined by 26 Del. C. §352(6), should they be considered as a cost for inclusion in the "Renewable Energy Cost of Compliance." No such funds should be included, unless these funds can be clearly demonstrated to have been ratepayer funded and not come from sources such as RGGI revenues. However, the current language would appear to include any other funding that may be deposited into the Green Energy Fund – used to fund renewables, even if not contributed directly from ratepayers of a commission regulated electric company.

3. Section 4.2.4: We strongly disagree with the use of Bloom Energy cost for compliance in the calculation for Renewable Energy Cost of Compliance for the following reasons:

a. Because Bloom Energy offsets or associated RECs do not fall into the category of being considered attributes of an Eligible Energy Resource, as they are derived as a result of fuel cell technology utilizing natural gas (not "powered by renewable fuels"), these costs should not count toward the cost cap.

b. It is also evident that the Bloom Energy arrangement which resulted in special legislation to deal with this project (primarily for economic development purposes) was meant to be judged from a cost perspective on a different basis than envisioned by the cost cap provisions of the RPS law. In fact, 26 Del. C. §364(d)(1)c[1] placed a distinct cost cap restriction on the Bloom arrangement which had to be met prior to Commission approval of this long-term arrangement.

4. Section 5.0: We do support the Director's discretion to potentially not impose the freeze, if in fact the 3% threshold is met in a particular year.

The language in 26 Del. C. §354(j) states that if the 3% threshold is exceeded during a compliance year, "[t]he State Energy Coordinator in consultation with the Commission, may freeze" the minimum RPS compliance requirement for that year. There are two key indicators in that statute that makes this a discretionary act by the Director. First, it is clear and unambiguous that the permissive word "may" was used in this context, rather than the mandatory word "shall." The choice of the permissive language, when the word "shall" easily could have been used instead, is a clear indicator that the General Assembly was intent on providing the Director with significant discretion, even if the 3% threshold were to be exceeded. Moreover, by including a consultation with the Commission as part of that language it is evident that there was no intention to have the freeze immediately implemented in all circumstances. If the 3% cost cap were to be mandatory act, then why have the Commission consult with the Coordinator when a freeze would be required to be imposed in any event?

[1] 26 Del. C. §364(d)(1)c states that: "[t]he cost to customers of the commission-regulated electric company for each MWH of output produced by the project which, on a levelized basis at the time of Commission approval, does not exceed the highest cost source for combined energy, capacity and environmental attributes approved by the Commission for inclusion in the renewable portfolio of the commission-regulated electric company as of January 1, 2011."

P.O. Box 385, Camden, DE 19934 Tel: 302-331-4639 E-mail: bburcat@marec.us

MAREC believes that the use of various factors such as energy market conditions, avoided cost benefits from renewables, externality benefits and economic development impacts from renewable energy development are all reasonable and justifiable given the clear discretion provided in the cost cap legislation. Specifically, with respect to the Director's discretion in 5.4.2 as furthered defined in 5.6, there are numerous studies outlining the price reducing impacts of renewable energy when it participates in the wholesale energy market like PJM's. There are now a number of studies, which have concluded that wind generation participating in organized wholesale electricity markets, like PJM, can actually serve to reduce the price of electricity to the ultimate benefit of consumers. Essentially, when wind bids into the market at little or no cost, because it has no associated fuel cost, it will displace higher cost electricity resources, which leads to a lower clearing price and lower costs to consumers. The following is a summary of some of the studies finding that wind energy can create a prices suppression benefit:

- In 2013 , PJM Interconnection, the independent operator of the 13-state electricity grid released study results showing what would happen if renewable energy were to increase to 20 or 30 percent of the grid's electricity supply. What PJM found is that increasing renewable to 20 – 30% of grid supply would reduce wholesale electricity prices annually by $9 - $21 billion (by increasing renewable electricity penetration from current levels to 20 - 30 percent).[2]

- In 2013, Synapse Energy Economics, Inc. found that that doubling the use of wind energy in PJM beyond existing requirements would decrease consumer electric bills by $6.9 billion per year on net. The additional wind would reduce the cost of operating the power system by $14.5 billion per year, for an upfront cost of only $7.6 billion per year, yielding $6.9 billion per year in net benefits for consumers. The economic benefits of increased wind energy use outweigh the costs by a factor of almost 2 to 1.[3]

- In 2012, Synapse found that wind energy can reduce overall electricity costs for consumers by $63 million to $147 million per year in MISO. This assumes 20,000 megawatts of wind capacity in the Midwest ISO ("MISO") footprint by 2020. The net savings over this time period for MISO customers ranges from $3 billion to $6.9 billion. This study was conducted to analyze the costs and benefits of MISO's proposed Multi-Value Project transmission expansion projects.[4]

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[2] PJM Renewable Integration Study (PRIS) (conducted on PJM's behalf by GE Energy Management) 2013. http://www.pjm.com/~/media/committees-groups/committees/mic/20131028-impacts/20131028-pjm-renewable-integration-study.ashx

[3] Synapse Energy Economics, Inc "The Net Benefits of Increased Wind Power in PJM" 2013. http://www.synapse-energy.com/Downloads/SynapseReport.2013-05.EFC.Increased-Wind-Power-in-PJM.12-062.pdf

[4] Synapse Energy Economics, Inc. "Rate Effects of Wind and Transmission in MISO." 2012. http://cleanenergytransmission.org/wp-content/uploads/2012/05/Full-Report-The-Potential-Rate-Effects-of-Wind-Energy-and-Transmission-in-the-Midwest-ISO-Region.pdf

- In 2010, the New England Wind Integration Study found that wholesale electricity prices (LMPs) would decline anywhere from $5 per MWh to $11 per MWh with 20% regional wind penetration depending on which sites were used for wind production. [5]

- In 2009, The New York State Energy and Research Development Authority (NYSERDA) evaluators found that additions of renewable energy, primarily wind, to the NYISO grid, have lowered electricity prices by more than $1.60 per MWh. [6]

- In 2009, PJM studied the impact of adding up to 15,000 MWs of wind energy to the PJM grid. The study found the addition of 15,000 MWs of wind to the PJM grid would decrease wholesale electricity prices (LMPs) by between $5 to $5.50 per MWh and the wholesale cost of power in the aggregate by between $4 to $4.5 billion. As a result, electricity customers' monthly bills would decrease by $3.50 to $4 per month or by $42 to $48 annually.[7]

- In 2009, Tudor, Pickering, Holt, and Company, a leading energy investment and merchant bank, found that significant increases in wind supply would induce a $7 to $15 MWh decrease in electricity rates from 2009 to 2013 in ERCOT.[8]

MAREC appreciates this opportunity to comment on this process to develop regulations that are required to implement the renewable energy portfolio cost cap provisions.

Sincerely,

Bruce H. Burcat

Bruce H. Burcat
Executive Director
Mid-Atlantic Renewable Energy Coalition
P.O. Box 385
Camden, DE 19934
Phone: (302) 331-4639
bburcat@marec.us

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[5] "New England Wind Integration Study." General Electric for ISO-NE. http://www.iso-ne.com/committees/comm_wkgrps/prtcpnts_comm/pac/mtrls/2010/nov162010/newis_ge.pdf

[6] NYSERDA, "New York Portfolio Standard Program Evaluation Report," 2009. http://www.nyserda.ny.gov/Page-Sections/Energy-and-Environmental-Markets/Renewable-Portfolio-Standard/~/media/Files/EDPPP/Energy%20and%20Environmental%20Markets/RPS/RPS%20Documents/market-conditions-final-report.ashx

[7] PJM, "Potential Effects of Proposed Climate Change Policies on PJM's Energy Market," 2009. http://www.pjm.com/~/media/documents/reports/20090127-carbon-emissions-whitepaper.ashx

[8] Tudor, Pickering, Holt and Company, "Texas Wind Generation," August 2009. http://www.tudorpickering.com/Websites/tudorpickering/Images/Reports%20Archives/TPH.Texas.Wind.Generation.Report.August.2009.pdf