State of Delaware
Department of State
Division of the Public Advocate

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April 25, 2017

Re: In opposition to the Exelon legislation for a Distribution System Improvement Charge (DSIC) surcharge on Delaware consumers

Dear Elected Officials,

On behalf of the Division of the Public Advocate (DPA), I would like to share our thoughts on Exelon Corporation's (Exelon) (parent company of Delmarva Power & Light (DPL)) legislative proposal for a Distribution System Improvement Charge (DSIC). This legislation would allow Exelon to impose a surcharge on customers to collect up to $17 million in between electric rate cases (approximately every two years) and up to $7 million in between gas rate cases ($24 million total) – to pay for distribution system improvements the Company states are necessary for enhanced reliability. However, what Exelon does not tell you is that this generous grant of money would come with significantly less oversight and examination than occurs in a general base rate case.

A base rate case allows a full review of utility requests for rate increases for appropriateness and reasonableness. Indeed, DPL has itself stated that:

> ***The appropriate forum for the Commission to review the costs of Delmarva's investment into the reliability of the electric distribution system is a base rate case. The Commission's ultimate authority to review Delmarva's decisions regarding the proper amount to invest in system reliability comes when Delmarva files rate cases to recover for its investment in its system. The thorough discovery, public comment, and evidentiary hearing process conducted in a base rate case proceeding is, itself, a comprehensive investigation into a utility's rate request***.[1]

The DPA does not suggest that reliability is unimportant; in fact, we believe reliability is paramount. However, DPL has for several years far exceeded the minimum Commission-mandated electric reliability threshold of a 295-minute System Average Interruption Duration Index (SAIDI), a standard the Company advocated for and agreed to in Regulatory Docket No. 50.[2] DPL's SAIDI scores are quite remarkable and are a true testament to the continued

[1] IN THE MATTER OF THE INVESTIGATION INTO DELMARVA POWER & LIGHT COMPANY'S RATE REQUEST FOR DISTRIBUTION INFRASTRUCTURE INVESTMENT. PSC Docket No. 13-152, Delmarva's Response to Commission Staff. p. 2-3 (emphasis added).

[2] This means that an outage should not last longer than 295 minutes, with exceptions in the event of extreme weather events.

infrastructure investments in Delaware. As a result of $397 million of investment from 2012 to 2017, DPL's SAIDI scores have been[3]

Year	SAIDI (Minutes)
2013	139
2014	105
2015	118
Average (2013-2015)	121
*Benchmark	295

These SAIDI scores also exceed the minimum three-year average SAIDI score of 175 minutes by 2020 to which Exelon and DPL agreed in the Amended Settlement Agreement in the Pepco Holdings, Inc.-Exelon merger.[4]

In short, Delmarva has failed to demonstrate a compelling need to invest huge sums of money into its electric and natural gas distribution systems to maintain reliability. Unlike in other states, there has been no request for an accelerated pipeline replacement program for natural gas in Delaware. In a docket that the Public Service Commission (PSC) opened in 2013 to investigate Delmarva's reliability spending, consultants retained by the PSC Staff concluded that "given the fact that Delmarva is already providing electric service that well exceeds the Commission approved requirement, customers should not be required to pay for infrastructure that, according to Delmarva, will enhance reliability."[5] PSC Staff further pointed out that "there is no Commission, Delaware Legislative, Customer, or Local Community directive to provide added reliability and therefore customers should not, necessarily, be required to pay for reliability enhancing projects merely because the Company and its shareholders have invested in them."[6]

Exelon is not requesting this legislation because it needs more money for reliability investment; if it really needed the DSIC funds for that, it would not have agreed to cap its reliability spending from 2015-2019 to $225 million.[7] Rather, it is requesting this legislation because DPL is not currently earning its Commission-approved 9.7% return on equity, but instead is earning around 7%.[8] The reason DPL is not earning its authorized return on equity is because its load is not growing – its electric service territory is essentially fully built out, and consumers are reducing both their electricity and natural gas usage.

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[3] Delmarva Power 2015 Annual Performance Report. April 29, 2016. p. 3.
[4] Docket No. 14-193, Amended Settlement Agreement, ¶82.
[5] IN THE MATTER OF THE INVESTIGATION INTO DELMARVA POWER & LIGHT COMPANY'S PLANNED DISTRIBUTION INFRASTRUCTURE INVESTMENTS OVER THE NEXT FIVE YEARS. PSC Docket No. 13-152. p. 2.
[6] IN THE MATTER OF THE INVESTIGATION INTO DELMARVA POWER & LIGHT COMPANY'S PLANNED DISTRIBUTION INFRASTRUCTURE INVESTMENTS OVER THE NEXT FIVE YEARS. PSC Docket No. 13-152. Staff Report, p. 2-3.
[7] Docket No. 14-193, Amended Settlement Agreement, ¶79.

Exelon says it is only asking for what the water utilities have had since 2001; however, it is my opinion that the water utilities companies should not have a DSIC either. Furthermore, Exelon's claims that a DSIC will result in fewer base rate cases and reduce regulatory costs are not borne out by Delaware's experience with the largest water company in the state. Despite having the DSIC, Artesian Water Company, has applied for rate increases six times in 14 years.[9] And as for the expense of rate cases, we note that DPL's last contested electric base rate case for which we have final figures[10] cost $750,000 – which included the costs of PSC Staff time and the cost of PSC and DPA consultants. This legislation, however would allow DPL to collect up to a total of *$24 million* over a two-year period for natural gas and electric. It is also important to recognize the benefit ratepayers receive from rate case proceedings: in its most recent electric rate case, DPL asked the PSC to approve a $62 million rate increase, but then settled for half of that amount. Similarly, DPL sought $21 million increase in natural gas rates, then settled for $4.9 million – less than one-fourth of their initial request. On the other hand, not once has the PSC rejected or reduced a DSIC request.

If this legislation is approved, DPL estimates that its electric customers could see a monthly increase of $1.35-$2.41 (6.1 percent) on their total bill, and its gas customers could see an increase of $2.50-$3.80 per month (3 percent) on their total bill. And there is no decrease in statement volatility, as Exelon claims: as it files rate cases every two years, the volatility returns. Additionally, the pass-through of both electric and natural gas supply costs, as well as the other surcharges on the electric side (such as for Bloom, Renewable Portfolio Standard compliance, and the low-income fund) cause volatility in customer's bills as well. Importantly for purposes of this letter, the cost of electric supply represents approximately 70% of a customer's total bill.

As Delaware faces an almost $400 million budget deficit, now is not the time to approve a surcharge on Delmarva Power customer bills so Exelon can earn a higher rate of return. Regulation is designed to act as a substitute for competition. Regulated utilities are given the *opportunity* to earn the returns on equity awarded by the PSC, but they are not guaranteed they will earn it. Allowing any utility to collect revenues from captive customers without the oversight that comes through the rate case proceeding is the antithesis of good regulatory policy and serves as a disincentive to control costs in the manner that competitive businesses do. Delaware already has some of the highest rates in the south-Atlantic region.[11] Delaware's high electric rates deter large commercial and industrial concerns from considering Delaware. Moreover, there is a very real likelihood that DPL's ratepayers' rates will increase substantially when the Artificial Island project commences. If this legislation passes, DPL's low-income residents will be even less able to afford their bills, and economic development opportunities will be further stifled - to the benefit of the Chicago-based headquarters of Exelon Corporation.

As a 2005 National Association of State Utility Consumer Advocates resolution opposing infrastructure surcharges such as this DSIC noted, such surcharges may prevent the regulatory

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[9] *See* Docket Nos. 02-109, 04-42, 06-158, 08-96, 11-207, 14-132.

[10] Docket No. 13-115.

[11] U.S. Energy Information Adminstration. April 25, 2017.
https://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_06_a

authority from reviewing capital investments and any offsetting contemporaneous cost reductions or revenue increases, and will force ratepayers to become "involuntary investors paying for unreviewed investments that will increase rates … ."[12] The appropriate forum for considering these reliability investments is a base rate case. It can be a limited base rate case, which you have already enabled utilities to file, but it should be subject to full investigation and review.

Exelon is the largest regulated utility in the United States, with more than 10 million customers and revenues of $34.5 billion.[13] I do not believe that company and shareholder profit should be subsidized by Delaware's captive residential, small commercial or industrial consumers. I hope you will join me in opposing this legislation and help save ratepayers from an additional monthly surcharge benefiting a $34.5-billion publicly-traded company.

Sincerely,

/s/ Andrew Slater

Andrew C. Slater
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[12] http://nasuca.org/infrastructure-surcharge-resolution-2005-03/
[13] About Exelon. http://www.exeloncorp.com/company/about-exelon