

Delaware Sustainable Energy Utility
Meeting of the Oversight Board
Carvel State Building – 10th Floor DEDO Training Room
820 N. French Street – Wilmington, DE 19801
March 28, 2013 – 8:45 A.M.

1. Welcome

Board Chair Senator Harris McDowell called the meeting to order at 8:50 AM. Present were Roger Jones, Dr. Charles Wagner (teleconference), Nnamdi Chukwuocha, Sec. Collin O'Mara, and Kristopher Knight (teleconference). Also present were Sarah Buttner (on behalf of the Public Advocate's Office), Tony DePrima, Executive Director, Lisa Gardner, Office Manager, and Frank Murphy, SEU General Counsel.

2. Approval of Minutes

a. October 19, 2012 – Executive Board - A motion was approved unanimously to adopt the minutes of the October 19, 2012 Executive Board meeting previously circulated.

b. January 17, 2013 – Oversight Board – A motion was approved unanimously to adopt the minutes of the January 17, 2013 Oversight Board meeting previously circulated, with a minor correction to Page 3 regarding the Finance and Audit Report.

3. SEU Business

a. SRECTrade and DPL Contracts for 2013 SREC Procurement – Mr. DePrima informed members that DPL sought approval through the Public Service Commission to have the SEU operate and manage the 2013 SREC auction. Contracts for the second auction were revised to reflect the changes in the fees charged. Under the 2012 program we were managing 11,500 SRECs; the 2013 program will add an additional 7000 SRECs. Delmarva requested that we consider that the cost of processing the additional SRECs should not be equal to the cost of the first contract because there is an “economies of scale”. SRECTrade will add an additional \$5,525 to their monthly charge of \$11,000. This represents a 15% discount toward the cost of the additional 7000 SRECs. It should be noted that while SRECTrade bills the SEU, the SEU in turn bills DPL for this expense. A 19% across the board discount to our “per SREC” administrative fee, with the exception of the first two years. This actually has had the effect of lowering the “per SREC” fee for the additional SREC by 50%.

Senator McDowell indicated that the SREC Procurement Program is vital to stabilizing the SREC market.

A motion was approved unanimously to authorize Mr. DePrima to move forward with the execution of SRECTrade and Delmarva contracts with the proposed fee changes after final review by our General Counsel.

b. Loan Policy – Mr. DePrima indicated that Heather Litzebauer (NW Financial) assisted in developing the Loan Policy and was on the teleconference to address any questions from the board. This policy was brought back to the board to address various issues that were discussed at the last meeting; Mr. DePrima stated that the version provided today's packet contains several comments from Mr. Murphy. The key issue was whether or not to use the Davis-Bacon Act or the Delaware Prevailing Wages. After much discussion, it was recommended to insert Delaware Prevailing wage language in the revised loan policy in Section 2.3(3) and 2.4(4) and uses language from Title 29. Mr. DePrima recommended using the prevailing wages for projects over \$75,000 which is the threshold for our administrative loans. Several members were in agreement to lower the threshold amount to \$50,000.

Mr. DePrima discussed details regarding the Interest Rate Indexing; he recommended a range be used and suggested between 50%-120% of the Municipal Bond Yields for 20 year bond with AA rating; giving the loan committee the discretion to set the rate within the range based a review of: credit worthiness, energy efficiency or renewable energy measures proposed, needs, and other factors that they may determine.

Mr. Murphy reviewed the loan policy and made a number of fine tuning changes. He recommended incorporating the following language: **“These policies and procedures are solely for the internal use of the SEU and any third party administrator retained by the SEU, and may not be relied upon by any applicant for a loan. Nothing contained herein shall be construed a) as creating any obligations on the part of the SEU or any third party administrator to an applicant, or b) as a promise, representation, warranty, or inducement of any kind to any applicant.”**

Mr. Murphy suggested that the Executive Director be added to the Loan Committee in order to have an odd number of members, therefore, the policy is now set with five members: three members of the Audit and Finance Committee, the Financial Advisor, and the Executive Director.

After much discussion, a motion was unanimously approved to defer this matter to the Executive Committee to allow NW Financial the opportunity to research the demand for increasing the maximum loan amount.

c. Delaware Community Investment Corporation (DCIC) – Energy Efficiency Loan Program – Members were presented a proposal for forming a partnership with the Delaware Community Investment Corporation (DCIC) to offer a low interest loan program for low and moderate income housing projects and community non-profit organizations that serve low and moderate income people. The program would create a loan fund for financing energy efficiency projects. The partnership allows us to leverage our funds with funds from DCIC member banks.

A motion was and unanimously approved to authorize the Executive Director to move forward on developing this program as described in the design summary.

d. Investment Policy and Cash Management Plan – NW Financial Group, LLC (“NW”) has developed an investment policy and cash management plan for the Delaware Sustainable Energy Utility (“DESEU”). Mr. DePrima indicated that Dianna Geist, from NW Financial Group was also on the telephone to answer and questions the board may have. The purpose of such is to identify and implement policy guidelines and procedures for the DESEU’s operating funds and bond proceeds.

Both the Investment policy and cash management plan are consistent with the “Best Practices” policy guidelines set forth by the Government Finance Officers Association and should be viewed as a draft guideline for the purposes of review and final comments by the Board.

Referring to Page 3 of the Investment Policy and Cash Management Plan, where it refers to an “Investment Committee”; Mr. Knight recommended that, rather than presenting these issues as part of the Finance and Audit Committee, decisions should be made in front of the Oversight Board rather than the Finance and Audit Committee.

A motion was made and unanimously approved to approve the policies as presented, understanding there are some minor matters that needed to be firmed up with the assistance of Mr. Murphy, Ms. Geist, and Mr. DePrima.

e. Engagement Letter – Baird Brown – Mr. DePrima presented the Letter of Engagement from Drinker Biddle & Reath, LLC for Bond Counsel Services. Mr. Murphy assisted with the development of this three year contract. The recommendation was based upon a competitive bidding process in which each bidder provided written submissions and was interviewed and vetted. A motion was made and unanimously approved for the Executive Director to execute the Engagement Letter.

f. Consideration of Statements

i. Murphy & Landon Legal Services – January & February 2013 - A motion was made and approved unanimously to approve the January 2013 (\$5,550.20) and February 2013 (\$10,702.56) legal statements.

ii. NW Financial – December 2012 – This item was removed from the agenda. Revised statements will be presented at the next board meeting.

g. Election of Vice-Chairperson – This item was removed from the agenda.

4. Reports

a. Executive Director’s Reports

i. Monthly, Bond, and SREC Budget Reports for January and February 2013

ii. Activity Report for January/February 2013

Mr. DePrima briefed members on the latest developments in the Red Clay bond issue. The Office of Management and Budget came forward with an alternative financing proposal under an addendum to a master lease that the State currently had with Bank of America at a lower rate compared to the proposed bond issue. Mr. DePrima indicated that Red Clay will be billed for time and expenses incurred by the SEU, as well as NW Financial Group and Drink Biddle & Reath, LLC.

Additionally, Mr. DePrima discussed the upcoming review by the General Assembly’s Joint Sunset Committee and his preparations.

5. New Business/Old Business

None

6. Public Comment

7. Adjourn

A motion to adjourn was passed unanimously at 10:21 AM.