

Delaware Sustainable Energy Utility Oversight Board Meeting (Executive Session)
Perkins Student Center, Kirkwood Room 2nd Floor, University of Delaware, Newark
10:00 a.m., March 10, 2010

****The following are minutes of the Executive Session held during the Board Meeting on March 10, 2010.**

ATTENDANCE

Executive Committee Members

Senator Harris B. McDowell, III, Co-Chair
John Byrne, Director, Center for Energy and Environmental Policy, Co-Chair
Secretary Collin O'Mara, Department of Natural Resources and Environmental Control
Sharron Cirillo, Public Accountant
Representative Pamela Thornburg
Dr. Charles Wagner, Manufacturer of Energy Devices
Roger Jones, Nature Conservancy
Nnamdi Chukwuocha, Kingwood Community Center
Randall Day, Perdue Agribusiness
Judge Arthur Padmore, Delaware Public Advocate
Charlie Smisson, State Energy Coordinator (ex officio)

Board Staff

Sean Finnigan, Delaware State Senate
Frank Murphy, SEU Attorney

Scribe

Peter Olmsted, Center for Energy and Environmental Policy

SEU Contract Administrator

Ralph Nigro

Members of the Public

Jim Black, CAC	Mike Humphrey, citizen
Pat Todd, LWV	Barry Yerger, Mid Atlantic Renewable Partners
Brian Kramer, LWV	Nello Paoli, Preferred Electric
Becky Fleischauer, Navigator Communications	Sally Buttner, Energy Transition Consulting
Cara Lampton, DNREC	Finn McCabe, Flexera, Inc.
Marvin Lands, citizen	Rachel Marcus, CMI Solar Electric
Doug Beish, citizen	Brian Gallagher, E3 Energy
Priscilla Chandler, PJM	

I. SEU Participation in Dover Sun Park SREC Agreements

Senator McDowell indicated that he would entertain a motion that the Oversight Board enter into Executive Session to discuss items of a proprietary and confidential nature related to the development of the Dover Sun Park. SEU attorney Frank Murphy cited the relevant FOIA

section providing for executive session. The Board voted unanimously to approve the motion to enter into executive session. Members of the public were excused.

Dr. Byrne updated the Board on the discussions among the Executive Committee members and the negotiations related to the Dover Sun Park project. Dr. Byrne informed the Board that the other parties involved, including DMEC, the City of Dover, Delmarva, and White Oak (subsidiary of LS Power), have reached agreements and that the SEU is the only party yet to reach an agreement about its participation in the project.

Dr. Byrne explained that there were several reasons for the SEU to become involved at this time. First, given the amount of SREC's that would be generated, the SEU's participation was needed to prevent the collapse of the SREC market in Delaware. The SEU's participation would stabilize the sale of SRECs over the next five years. Second, the Dover Sun Park will generate a substantial amount of economic benefit for Delaware, for example, by creating several hundred construction and maintenance jobs. Third, federal tax credits will expire at the end of the year, and since there is a minimum five-month construction schedule, there is a need to act promptly.

Dr. Byrne explained that the SEU could finance its participation through a loan to conserve capital and allow the SEU to maximize its financial flexibility. It will not have to commit as many dollars to the project up front.

The Board had been provided with two draft contracts regarding the SEU's proposed involvement in the Dover Sun Park project. The first is a contract between the SEU and White Oak for the purchase of SRECs, and the second is a contract between the SEU and Delmarva for the forward sale of SRECs. Dr. Byrne explained the contracts for the Board.

Under the proposed contracts, the SEU would purchase a fixed amount of SRECs from White Oak (a subsidiary of LS Power and the owner and operator of the Sun Park), from 2011 through 2014. During RPS compliance years 2015 and 2016, the SEU would then sell these SRECs to Delmarva, which would use them to comply with DE's RPS solar carve-out. Due to the fact that DE's RPS solar carve-out schedule grows gradually over the initial years, the arrangement under which the SEU will forward sell SRECs to Delmarva will help to stabilize the SREC market and create market opportunities for a variety of participants.

Dr. Byrne has worked directly with Citigroup and Ballard Spahr to identify a lending institution and identified a bank in New York that was willing to offer a product to finance the SEU's participation. The lender is Metropolitan National Bank and the Board was provided with a term sheet and related schedules from the bank for the proposed transaction. The lender offered a CD-secured loan at a fixed rate of 4% and a loan fee capped at 1% of the total amount borrowed. \$25,000 would be required for a letter of commitment from the lending agency, and total fees including the letter of commitment would not exceed \$55,000. The loan and CD-deposit would be active on a quarterly basis, and it was indicated that there will be no more than a 1% spread between the bond and the interest rate on the loan. With appropriate levels of financing, the SEU would be in a position to either purchase 20% or 40% of the SRECs generated by the Dover Sun Park.

Dr. Byrne indicated that the contract with Delmarva based upon a fixed price per SREC will first need to receive the approval of the Delaware Public Service Commission.

Several Board members raised questions and concerns about the proposed loan transaction. A lengthy discussion followed during which Dr. Byrne responded to questions raised by several Board members. Thereafter, the Board entertained a motion to conclude the executive session and return to public session. The motion was approved unanimously. All further proceedings occurred in the public session of the Board meeting.