

DNREC appeals Public Service Commission's Earth Day action to halt key environmental policy

DOVER, Del. – The Delaware Department of Natural Resources and Environmental Control filed in Delaware Superior Court on Monday to stop the state Public Service Commission from freezing Delaware's increasing standard for renewable energy in its power generation portfolio.

"Last Wednesday was Earth Day, when we consider what we each can do to preserve the planet for future generations. And yet the Public Service Commission acted on Earth Day to halt Delaware's considerable progress in renewable energy," DNREC Secretary Shawn Garvin said. "The PSC's action, if allowed to stand, would economically harm our state's solar industry and stall further reduction of air pollution from electricity generation."

At issue is the state's Renewable Energy Portfolio Standards Act (REPSA), which requires an increasing percentage of electricity used in Delaware come from renewable energy, with 25% of the state's electricity required to come from renewables by 2025, of which at least 3.5% must come from solar power. With REPSA's standards, solar energy capacity in Delaware has grown from 2.3 megawatts (MW) 12 years ago to more than 125 MW today, with more than 5,400 solar installations. The measure is having the intended effect of making renewable energy more affordable: the cost of renewable energy for Delmarva Power customers declined 18% last year, according to the PSC's analysis.

A mechanism in the REPSA law allows the percentage of mandated

renewable energy, which increases each year, to be “frozen” if the cost of acquiring the renewable energy is above a percentage of the total cost of electricity. According to Title 26, Section 354 of the Delaware Code, any freeze is to be invoked by the “State Energy Coordinator” – a role that resides in DNREC – “in consultation with” the PSC.

At the urging of the conservative Caesar Rodney Institute and others who oppose the required purchase of renewable energy, the PSC acted unilaterally to invoke the freeze provision effective later this year, even though DNREC has maintained that only DNREC has the authority in the law to decide to freeze progress on renewable energy. Further, DNREC has contended that the calculation the PSC used to justify its freeze is at odds with state law and contrary to the purpose of REPSA.

On Earth Day, as the PSC was finalizing its order, state Senator Harris McDowell, author of the original REPSA law, [announced legislation](#) that would further increase Delaware’s RPS to 40% as well as clarify that the PSC cannot act unilaterally to impose a freeze. Gov. Carney, in his State of the State address, called for the increase the renewable energy standard to 40%. DNREC fully supports passage of the proposed legislation from Sen. McDowell, Rep. Ed Osienski, and 14 co-sponsors.

“Earth Day is not a day for retreating on actions to combat climate change, but for reaffirming our commitment to protecting our planet and our state.” Secretary Garvin said. “Delaware’s environmental agency will work through the judicial and legislative processes to continue the significant progress we have made in renewable energy, which the PSC is unfortunately trying to stop in its tracks.”

About DNREC

The Delaware Department of Natural Resources and Environmental Control

protects and manages the state's natural resources, protects public health, provides outdoor recreational opportunities and educates Delawareans about the environment. For more information, visit the [website](#) and connect with DNREC on [Facebook](#), [Twitter](#) or [LinkedIn](#).

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