

**BOARD RESOLUTION NO. 10-001**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, DELAWARE, TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS SERVED BY THE BOARD OF PUBLIC WORKS AND TO AMEND THE ELECTRIC TARIFF BY ADDING A NEW SECTION 18 FOR SAME**

**WHEREAS** the Board of Public Works (BPW) exists so that current and future customers have availability and accessibility to safe, reliable and affordable water, electricity, wastewater disposal and other public services; and

**WHEREAS** the BPW provides these services for life sustaining use while being consistent with sound business principles; and

**WHEREAS** the BPW issued an Electric Tariff Including Rules and Regulations Applicable to Electric Service (August 19, 2004), as amended; and

**WHEREAS** the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008); and

**WHEREAS**, pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate"; and

**WHEREAS**, pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority"; and

**WHEREAS**, pursuant to Vol. 77, Ch. 10, Laws of Delaware, as amended, the BPW is authorized to enact regulations governing the provision of electric power to retail customers served by the BPW (*Section 4*); and

**WHEREAS**, the BPW, as the electric retail regulatory authority for the City of Lewes and the BPW service territory, has determined that it would be harmful to demand response in the BPW's service territory, and in the collective interests of the BPW and its customers, as a public power utility with an obligation to serve at retail, and the BPW's retail customers, to permit demand response aggregation by any entity other than the BPW or its authorized designee.

**NOW THEREFORE BE IT RESOLVED** by the Board of Public Works of the City of Lewes that the **Electric Tariff** be amended to provide that the aggregation of demand response on behalf of retail customers served by the Board to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the BPW is a member) be performed by the BPW or its authorized designee, by adding a new Section 18 to be designated "Retail Customer Demand Response" as follows:

## **18. Retail Customer Demand Response.**

### 18.1. Aggregation of Retail Customer Demand Response.

A. The BPW or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the General Manager or his designee is permitted to bid demand response on behalf of retail customers served by the BPW directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

B. Retail customers served by the BPW wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the BPW or with a Curtailment Service Provider duly approved in advance by the BPW.

### 18.2 Ancillary Services Provided by Demand Response Resources.

A. The BPW or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the General Manager or his designee is permitted to bid demand response on behalf of retail customers served by BPW directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

B. Retail customers served by the BPW wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in a program, established by the BPW or with a Curtailment Service Provider duly approved in advanced by the BPW.

I, James S. Roberts, Secretary of the Board of Public Works of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the resolution passed by the Board of Public Works at its regular meeting on February 24, 2010, at which a quorum was present and voting throughout and the same is still in full force and effect.

James S. Roberts  
Secretary

APPROVED AS TO FORM

Tempe Brownell Steen  
Tempe Brownell Steen, Esq.