

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE INTEGRATED)
RESOURCE PLANNING FOR THE PROVISION)
OF STANDARD OFFER SUPPLY SERVICE BY)
DELMARVA POWER & LIGHT COMPANY)
UNDER 26 DEL. C. § 1007 (c) & (d): REVIEW) PSC Docket No. 06-241
AND APPROVAL OF THE REQUEST FOR)
PROPOSALS FOR THE CONSTRUCTION OF)
NEW GENERATION RESOURCES UNDER 26)
DEL. C. § 1007(d))
(OPENED JULY 25, 2006).)

**DELMARVA POWER & LIGHT COMPANY'S
WRITTEN COMMENTS:**

**(1) IN SUPPORT OF APPROVAL
OF THE JUNE 23, 2008 PPA BETWEEN
DELMARVA POWER AND BLUEWATER WIND
AND
(2) ADDRESSING THE APPROPRIATE PROCESS
THROUGH WHICH TO ADDRESS THE ISSUE OF
IN-DELAWARE GENERATION**

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I. HISTORICAL BACKGROUND

The historical background of this docket is a long one. Rather than repeat the entire history here, Delmarva Power hereby incorporates by reference the Historical Background sections contained in its “Written Comments on the December 10, 2007 Proposed Form PAA Between Delmarva Power and Bluewater Wind Delaware, LLC,” filed on December 13, 2007 and in its “Response to the Delaware PSC Staff Report on the Term Sheets for Proposed Power Sales to Delmarva Power and Delmarva’s Written Comments on the Terms Sheets,” filed on November 13, 2007.

In addition, Delmarva provides the following supplemental relevant facts.

Pursuant to Order No. 7328, Delmarva engaged in expedited negotiations with Bluewater Wind.¹ On December 10, 2007, Delmarva filed both the December 10, 2007 Proposed PPA (the “December 2007 Proposed PPA”) and its written comments related thereto.² The State Agencies met on December 18, 2007 to consider the December 2007 Proposed PPA. On that date, the State Agencies “tabled” the matter, due to the inability to reach a consensus.

Beginning in May of 2008, a series of meetings took place between executives of Delmarva and Babcock & Brown.³ As a result of those meetings, Delmarva and Babcock & Brown reached an agreement on the basics of an acceptable PPA. Negotiating teams for each side were reassembled and on June 23, 2008, Delmarva and Bluewater Wind

¹ See, Order No. 7328 at paragraph 59 (page 34) and ordering paragraph 1 (page 35).

² For reasons set forth in those comments, Delmarva disagreed with several of the terms, provisions and conditions contained in the December 2007 Proposed PPA.

³ Bluewater Wind Delaware, LLC is a wholly owned subsidiary of Babcock & Brown.

executed a purchase power agreement for the purchase of offshore wind (the “Offshore Wind PPA”).

By joint letter from counsel for Delmarva Power and Bluewater Wind dated June 23, 2008, the parties informed the State Agencies of the executed Offshore Wind PPA. In the June 23rd letter, the parties informed the State Agencies that the “PPA is the product of successful negotiations between the parties. While many of the terms of this PPA are similar to those included in the Proposed PPA presented to the State Agencies in December 2007, there are some significant differences that merit highlight.” Those differences were set forth substantially as follows:

- Delmarva Power will buy electricity generated by 200 MW of nameplate capacity from the Bluewater wind park (forecasted to total approximately 559,000 MWh each contract year). This amount is approximately ½ of the required purchase under the December 2007 Proposed PPA, which would have required Delmarva’s SOS customers to purchase 300 MWh around the clock (forecasted to total approximately 1,106,000 MWh each contract year).
- The overall price per megawatt hour for Delmarva’s customers was also reduced, due to a negotiated decrease in the price of renewable energy credits. Under the December 2007 Proposed PPA, the combined cost for energy and renewable energy credits (“RECs”) was \$121.64 per MWh (in 2008 prices). Due to a negotiated 22% reduction in the price Delmarva’s customers will pay for RECs, the combined price under the new agreement was reduced to \$117.10 per MWh.
- The various provisions dealing with PJM-related costs, as well as collateral and liquidated damages, were reduced on a pro rata basis to represent the reduced amount of power being purchased by Delmarva’s customers under the Offshore Wind PPA.
- The Bluewater wind park can be as large as 600 MW. Of this 600 MW, Delmarva Power’s customers will buy a pro-rated share equal to no more than 200 MW.

- Bluewater has two years to decide the final size of the wind park. During this time Bluewater will work to find additional buyers of its power.
- Until Bluewater's financing is in place, Delmarva Power customers are guaranteed to pay no higher price for energy and environmental attributes (such as RECs) than any other future Bluewater Wind offshore wind customer from any of Bluewater's facilities within a 50-mile radius of the Delaware Offshore Wind Park.
- As an integral component of the Offshore Wind PPA, and in an effort to make the development of this renewable resource and this potential new Delaware industry viable, legislation was enacted that establishes a 350% Renewable Energy Credit ("REC") applicable to 28.6% of each megawatt of energy purchased for Delmarva's customers from this facility. The mechanism permits Delmarva to return RECs to Bluewater, which Bluewater can use to generate revenues needed to support this new facility.⁴
- The legislation also recovers the costs of the Agreement from Delmarva's entire customer base through a non-bypassable charge to be established by the Public Service Commission.
- Delmarva Power agreed that if the Offshore Wind PPA is approved as written by the State Agencies, it will not challenge or otherwise appeal the approval.

After executing the Offshore Wind PPA, Bluewater Wind and Delmarva appeared before the State Agencies on July 8, 2008 and confirmed their support for the Offshore

⁴ The 350 percent REC credit applies to only 28.6 % of the RECs produced from the 200 MW nameplate portion of the facility that is dedicated to Delmarva's customers. The credit serves to treat that 28.6% of RECs as if it is 100% for the sole purpose of Delmarva's obligation under the Delaware Renewable Portfolio Standards Act. The credit does not create any additional RECs; rather, it provides BWB with the ability to retain 71.4% of the RECs purchased by Delmarva so that Bluewater can sell those RECs in the PJM market for additional revenue. This mechanism resulted in a negotiated 20% reduction in the price Delmarva's customers pay for RECs (from \$121.65 per MWh (in 2008 prices) down to \$117.11 per MWh) and further results in approximately \$100,000,000 in direct savings to Delmarva's customers. Moreover, because the multiplier creates no additional RECs and is limited in application to only 28.6 % of the RECs produced from the 200 MW nameplate dedicated to Delmarva's customers, the state and regional REC market should not be negatively affected. By releasing 71.4% of the RECs purchased by Delmarva to be sold by Bluewater into the PJM REC market, the legislation enables Bluewater to obtain the additional revenues needed to make this facility economically viable.

Wind PPA. For its part, Delmarva explained that the new agreement resolved several of Delmarva's concerns. First and foremost was the concern over the cost impact to Delmarva's SOS customers. By reducing the size of the PPA by 50 percent to 200 megawatts of nameplate capacity, reducing the combined price for energy and RECs from \$121.65 per MWh (in 2008 prices) down to \$117.11 per MWh, and recovering the lower amount from Delmarva's entire Delaware customer base, the above-market cost to Delmarva's customers was reduced from approximately \$20 per month for a typical residential customer⁵ to approximately \$2.64 per month.⁶

Delmarva's second concern, fairness to its SOS customers, was addressed in several ways. First, through legislation, the cost of the offshore wind farm will be recovered from all of Delmarva's Delaware customers – not just SOS customers. In addition, as Delmarva's entire customer base will most likely be only one group of purchasers as part of a larger off-shore facility – rather than having only its SOS customers pay for nearly an entire 450 MW facility, it is probable that Delmarva's customers will be one of several buyers taking energy from a regional project. These changes were sufficient to settle the issue of fairness.

Finally, many of Delmarva's concerns about the risk the December 2007 Form PPA would put on its customers were addressed. In addition to the reduction in the size of the purchase obligation, price and spreading the costs to all customers, was the addition to Delmarva's renewable energy portfolio of three proposed long-term contracts for land-based wind farms. These land-based contracts, if approved by the Commission,

⁵ Using Delmarva's original analysis.

⁶ According to an analysis of the June 23, PPA performed by Delmarva's consultants, ICF International, using the new price factors and an updated market forecast.

will result in the construction of three additional new wind farms in Maryland and Pennsylvania. If all of these diverse projects are approved, Delmarva's customers will have four wind farms under agreement (including Bluewater Wind) for 15, 20 and 25 year terms. The wind farms will be in several separate locations, using different turbine technologies and operated by different companies. If one of the wind farms suffers damage from a storm or other natural disaster; if one experiences a failure of its turbines or other equipment; or if one of the developers fails to complete a facility – Delmarva's customers will still have renewable wind energy available from the remaining 3 wind farms. A portion of the wind supply from the four proposed projects has a flat-rate for the length of the contract. The others are capped at a 2.5 percent increase or less each year. These wind farms, when combined, create a diverse, reasonably-priced renewable energy portfolio consistent with Delaware's clear preference for wind generated energy. As a result of this diverse renewable wind portfolio, Delmarva has addressed its future non-solar renewable portfolio standard obligations through approximately 2020-2024.⁷

Delmarva supports the Offshore Wind PPA and respectfully requests that it be unanimously approved by the State Agencies.

⁷ Delmarva looks forward to working with organizations such as the Sustainable Energy Utility and the University of Delaware to ensure that Delmarva will meet and/or exceed the solar carve-out of the RPS Act.

II.
**CONSTRUCTION OF A NEW FOSSIL FUEL GENERATION PLANT
FOR THE PURPOSE OF BACKING UP THE OFFSHORE WIND PPA
IS UNECESSARY - - THE ISSUE OF GENERATION
IN SOUTHERN DELAWARE IS A RELIABILILTY ISSUE
THAT SHOULD BE TRANSFERRED TO THE IRP
PROCESS AS INTENDED BY EURCSA**

The Offshore Wind PPA does not need additional generation to back-up or firm the off-shore wind facility. The June 23rd Offshore Wind PPA presents an entirely different situation than was contemplated when the State Agencies adopted the Hybrid Proposal of Commission Staff. The Hybrid Approach approved by the State Agencies in Order No. 7199 is no longer relevant to the current facts. The December 2007 Proposed PPA that arose from the Hybrid Approach would have required Delmarva's SOS customers to purchase 300 MWh of energy and RECs from the then-proposed 450 MW nameplate offshore wind facility whenever energy was being generated by the facility. Staff's independent consultant ("Staff's I.C.") forecasted the annual purchase obligation of Delmarva's SOS customers under that proposal to be approximately 1,106,000 MW each contract year.⁸

The June 23, 2008 Offshore Wind PPA is 50% smaller (200 MWh nameplate capacity), which Staff's I.C. has forecasted to equate to an annual purchase obligation, now spread across all Delmarva customers, of approximately 559,000 MW each contract year.⁹ Due to recently-enacted legislation that recovers the cost of the Offshore Wind PPA from Delmarva's entire customer base, Delmarva's SOS customers are only

⁸ Staff's I.C.'s Report dated 12/13/2007 at p. 6, Table 1.

⁹ Staff's I.C.'s Report dated July 3, 2008 at p. 4.

responsible for approximately 280,000 MW annually of that 559,000 MW purchase.¹⁰

This 280,000 annual SOS customer purchase obligation equates to only 25% of the original 1,106,000 MW that Delmarva's SOS customers would have been responsible for under the December 2007 Proposed PPA. A second, fossil-fueled, generation facility is simply not needed to firm or backup only 25% of the amount of energy intended for Delmarva's SOS customers under the original December 2007 Proposed PPA.

The RFP provisions of EURCSA are clear that in-Delaware generation arising out of the RFP is "for the purpose of serving [Delmarva] customers taking Standard Offer Service."¹¹ Accordingly, a backup facility arising out of the EURCSA RFP process cannot exceed the size necessary to firm the annual 280,000 MW to be purchased by Delmarva's SOS customers. A back-up facility is not needed for an annual SOS purchase obligation of 280,000 MW of energy. In fact, a facility would not be necessary to backup or firm even the full 559,000 MW annual load from a 200 MW nameplate offshore wind facility. A fossil fuel generating facility to backup the Offshore Wind PPA is unnecessary for SOS supply purposes, and is, therefore, incompatible with the

¹⁰ In Appendix B of Staff's I.C.'s Report dated July 3, 2008, Staff's I.C. indicates the SOS purchase obligation for offshore wind load will be 190,000 MW per year. ICF, however, concludes that the SOS offshore wind purchase obligation will be 280,000 MW per year. This difference between ICF and Staff's I.C. is due to the fact that the I.C. considered only the residential small commercial and small industrial SOS customers ("RSCI"), while ICF included the additional load attributable to those larger commercial customers that also take SOS service. See, Appendix 1 attached hereto. For planning purposes, such large customers are often considered differently within the SOS process because of their propensity to leave SOS. In fact, in the Commission-approved annual SOS procurement process, energy for these larger industrial SOS customers is only procured on an annual basis, where energy for the RSCI SOS customers is procured on a rolling three year basis. Because these large customers are, in fact, part of the SOS load, they do need to be included in determining what amount of the offshore wind load must be allocated to Delmarva's SOS customers.

¹¹ EURCSA specifically states: "...to stabilize the long-term outlook for standard offer supply in the DP&L service territory, DP&L shall file on or before August 1, 2006, a proposal to obtain long-term contracts. The application shall contain a proposed form of request for proposals ("RFP") for the construction of new generation resources within Delaware for the purpose of serving its customers taking standard offer service." 26 Del.C. 1007 (d) (emphasis added).

unambiguous RFP provisions of EURCSA. Compelling the construction of a backup facility under the RFP provisions of EURCSA would, therefore, violate EURCSA.

For several years, Commission Staff has supported the potential development of some level of new generation in lower Delaware for reliability purposes. Now that a backup facility for a 280,000 MW annual SOS offshore wind purchase obligation is clearly unnecessary to satisfy the supply requirements of Delmarva's SOS customers, the real issue is whether some form of generation is needed in Delaware to meet future reliability needs. In other words, the issue of in-Delaware generation is a system reliability planning issue and as such, does not belong in the RFP. Rather, pursuant to EURCSA, such planning issues must be addressed in EURCSA's well-defined IRP process. EURCSA's language specifically provides that issues related to reliability shall be addressed in the IRP process:

“In its IRP, DP&L shall systematically evaluate all available supply options during a 10-year planning period in order to acquire sufficient, efficient and *reliable* resources over time to meet its customers' needs at a minimal cost.”¹²

On May 15, 2008, Delmarva filed a second update to its 2006 IRP (the “Second IRP Update”). The Second IRP Update was replete with references, discussion and preliminary analysis related to the issue of the need for in-Delaware generation for reliability purposes.¹³ In fact, in both its first update to its 2006 IRP, filed on March 5, 2008 (the “First IRP Update”) and in its Second IRP update, Delmarva acknowledged that the Commission may require Delmarva to build or acquire new Delaware-sited generation and that at some time in the future it may be appropriate to build, own, and

¹² 26 Del. C. §1007 (c)(1) (*emphasis added*).

¹³ For example, see May 15, 2008 Second IRP Update at pages 5, 10, 14, 34-35, 44, 48, 57-59 and 61.

