

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

IN THE MATTER OF INTEGRATED RESOURCE)
PLANNING FOR THE PROVISION OF)
STANDARD OFFER SUPPLY SERVICE BY)
DELMARVA POWER & LIGHT COMPANY UNDER) PSC DOCKET NO. 07-20
26 DEL. C. § 1007(c) & (d): REVIEW)
OF INITIAL RESOURCE PLAN SUBMITTED)
DECEMBER 1, 2006)
(OPENED JANUARY 23, 2007))

ORDER NO. 7122

This 23rd day of January, 2007, the Commission determines and Orders the following:

1. The Commission opens this proceeding in response to the "Integrated Resource Plan" ("IRP") submitted by Delmarva Power & Light Company ("DP&L").¹ The provisions of 26 Del. C. § 1007(c)² require DP&L to file such a document not only with this Commission, but also with the State Energy Office, the Controller General, and the Director of the Office of Management and Budget. The IRP itself is the end-product of the obligatory "integrated resource planning process" now required of DP&L.³ During that process, DP&L must systematically

¹DP&L filed its IRP on December 1, 2006. In response to Staff's request, DP&L provided supplemental information and materials on January 8, 2007.

²as amended by the "Electric Utility Retail Customer Supply Act of 2006," 75 Del. Laws ch. 242 § 6 (2006). Unless otherwise noted, citations will be to Code sections as amended by the 2006 Retail Consumer Supply Act.

³See 26 Del. C. § 1007(c)(1). Prior to electric restructuring, the Commission had required DP&L, as an investor-owned vertically-integrated utility, to undertake integrated resource planning and submit, on a biennial basis, an "Integrated Resource Plan." See also "Guidelines for Investor-Owned Electric Utility Integrated Resource Planning" (filed Oct. 1992) ("IRP Guidelines"), endorsed in Findings, Opinion and Order No. 3446 (July 21, 1992) ("Order No. 3446").

evaluate all available supply options (including procurement, generation, transmission, conservation, and load management) over a ten-year planning period. It must then forecast the appropriate mix of such resources that will be utilized to meet the needs of its Standard Offer Service ("SOS") customers, at minimal cost and without sacrificing adequate reliability. See 26 Del. C. § 1007(c)(1). See also 26 Del. C. § 1001 ("Integrated resource planning").

2. The Commission now provides notice of DP&L's filing of its initial IRP. The Commission also now solicits comments in two areas.

A. Scope of Review of the IRP?

3. First, the Commission seeks comments about what tasks section 1007(c)(1) assigns, or permits, the Commission to do in response to the IRP. In the Request for Proposal ("RFP") process for DP&L to obtain a long-term supply contract - which is described as "part of the initial IRP process" - the Commission is explicitly empowered to "approve or modify" the elements of the RFP and to "approve" one or more of the responsive proposals.⁴ However, in contrast, section 1007(c) does not explicitly speak to how the Commission is to respond to an IRP submission. The text does not speak of "approval," "rejection," or "modification" of the IRP, or even Commission "evaluation" or "acknowledgement."⁵ Yet, section

⁴See 26 Del. C. § 1007(d)(1), (3).

⁵In Order No. 3466, the Commission decided not to "approve" a utility's IRP or the projects outlined in it. Rather the Commission would offer the filing utility responsive comments about the Plan. Then the Commission would simply "acknowledge" the IRP. Such "acknowledgement" reflected only that the Commission thought the planning process and IRP were reasonable at the time of the acknowledgement. However, favorable rate-making treatment for any aspect of the plan was neither directly nor indirectly guaranteed by such an

1007(c) makes the renewed IRP (and the prior resource planning process) more than a theoretical document (or exercise): beginning in 2009, DP&L must submit reports to the Commission, and to the Governor and General Assembly, "detailing [its] progress in implementing [its] IRPs."⁶ And, apparently, any decision by DP&L to pursue any option for procuring, creating, or load-managing the supply needed to meet its retail SOS load - whether such decision is made inside or outside of the IRP process - is "subject to the approval of the Commission."⁷ Thus, in pursuing any supply alternative, DP&L must either file an application for the Commission's pre-approval, or "have had such action approved as part of the Integrated Resource Plan pursuant to subsection (c)."⁸ But again, section 1007(c) does not explicitly set forth any directives whether, and how, the Commission might "approve" the IRP, either as to the underlying planning process or the final Plan's particular choices and elements.

4. Consequently, the Commission now asks for views concerning what section 1007 requires, or permits, the Commission to do in response to an IRP. For example, what is the "scope of review" (if

"acknowledgement." Order No. 3466 at ¶¶ 19-20. See also Guidelines at p. 1 "Introduction." Compare Final Findings, Opinion and Order No. 3760 at ¶ 117 (Mar. 15, 1994)(same).

⁶See 26 Del. C. § 1007(c)(1)3.

⁷See 26 Del. C. § 1007(b).

⁸See 26 Del. C. § 1007(b) (emphasis added). If DP&L follows the application alternative to obtain Commission approval for a particular action, the Commission must hold an "evidentiary" hearing on the supply request and can only "approve" the action if it is found to be "in the public interest." Id. Once the Commission approves such a request, then the Commission shall review all the reasonable incurred costs of the proposed action and include those costs in SOS rates. Id.

any) to be undertaken by the Commission? Is it enough for the Commission to ensure that DP&L did indeed follow the "explore all options" process set forth in section 1007(c)(1)? Or must - or can - the Commission also investigate and evaluate the substantive end-results of DP&L's earlier analysis? Put more simply, can the Commission reject - either entirely or in part, the IRP, or conversely, must the Commission approve, in whole or in part, the particular actions set forth in the IRP?

5. The Commission hopes that the comments on this "scope of review" issue primarily focus on the text of section 1007. However, the Commission welcomes the submission of any relevant, reliable, and material legislative history that might further illuminate the textual scheme. Finally, those commenting are welcome to also offer practical or policy insights that might better inform the Commission about the benefits or disadvantages of any particular type of Commission review of an IRP.

B. Contents of the IRP and the Planning Process

6. In more general terms, the Commission also solicits comments on the content of the IRP itself and the planning process underlying it. Such comments may speak to whether the filed IRP reflects a planning process consistent with the process requirements of section 1007(c).

7. The Commission will now also refer the filing to a designated Hearing Examiner to superintend the proceedings necessary or appropriate in order to develop a complete record. As part of those procedures, the Hearing Examiner may wish to consider having

DP&L conduct a "technical" workshop to illuminate its planning process, as the utility did during the filing of its 1992 IRP. After the necessary or appropriate proceedings, the Hearing Examiner can then submit a report with his proposed findings and, if necessary, a recommended decision.

Now, therefore, **IT IS ORDERED:**

1. That this docket is now instituted, under 26 Del. C. § 1007(c), in response to the Integrated Resource Plan filed by Delmarva Power & Light Company on December 1, 2006.

2. That Delmarva Power & Light Company shall publish the form of notice attached hereto as Exhibit "A," in the following newspapers, in two-column format, outlined in black, on the designated dates:

The News Journal (February 1, 2007)

Delaware State News (February 2, 2007)

Delmarva Power & Light Company shall file proof of such publication on or before February 23, 2007. The Secretary shall promptly also: (a) post (for thirty days) the attached form of notice on the Commission's Internet website under an appropriate heading; and (b) deliver the attached form of notice by Internet e-mail to each participant on the service list in Docket No. 06-241. The Staff shall also promptly post copies of the public versions of the Integrated Resource Plan submitted on December 1, 2006 and the supporting documents submitted on January 8, 2007 to the Commission's Internet website.

3. That interested persons or entities may file and serve comments on the subjects described in paragraphs 3 through 6 of the body of this Order on or before March 7, 2007. Delmarva Power & Light

Company may file responding comments on or before March 23, 2007. Such comments may be served and filed in writing (10 copies) or electronically by Internet e-mail, with a single written copy to be filed and serve thereafter.

4. That the Secretary shall deliver a copy of this Order to the State Energy Office, the Director of Management and Budget, and the Controller General. The Commission specifically solicits from those entities comments regarding the Commission's scope of review of the submitted IRP and any comments regarding the contents of the IRP.

5. That persons or entities may also file petitions to intervene under Rule 21 of the Commission's Rules of Practice and Procedure. Such petitions shall be filed on or before February 23, 2007.

6. That, pursuant to 26 Del. C. § 502, Senior Hearing Examiner O'Brien is designated as the Hearing Examiner for this matter. Senior Hearing Examiner O'Brien shall supervise, or conduct, such proceedings in this matter as he deems necessary or appropriate to construct an adequate record. Senior Hearing Examiner O'Brien is delegated the authority to grant or deny petitions to intervene. Senior Hearing Examiner O'Brien is also delegated the authority to determine the manner and content of any public notice he thinks necessary or appropriate. At the conclusion of the proceedings, Senior Hearing Examiner O'Brien shall submit a Report with his proposed findings and, if necessary, recommendations concerning what actions the Commission should take in response to the Integrated Resource Plan filed by Delmarva Power & Light Company on December 1, 2006.

7. That James McC. Geddes, Esquire, is appointed Rate Counsel in this matter.

8. That Delmarva Power & Light Company is notified that it will be assessed the costs of this proceeding under 26 Del. C. § 114(b).

9. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

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**NOTICE OF SUBMISSION OF
INTEGRATED RESOURCE PLAN
BY DELMARVA POWER & LIGHT COMPANY
AND REQUEST FOR COMMENTS**

On December 1, 2006, Delmarva Power & Light Company ("DP&L") filed an Integrated Resource Plan ("IRP") with the Public Service Commission ("the Commission"). Such submission is required by 26 Del. C. § 1007(c)(1). The IRP is a document that reflects the end result of an integrated resource planning process by DP&L during which it has systematically evaluated all actions or options for procuring, creating, or load-managing electric supply to meet, at minimal cost, the needs of its Standard Offer Supply retail customers over a ten-year planning period.

The Commission now solicits written comments about the IRP submitted by DP&L. In particular, the Commission seeks comments about: (1) the scope of the Commission's review of the submitted IRP; and (2) the contents of the IRP. If you wish to submit comments, you should review PSC Order No. 7122 (Jan. 23, 2007). That Order is

available on the Commission's Internet website at www.state.de.us/delpsc. Comments must be filed, and served, on or before March 7, 2007 as follows:

Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904
Attn: PSC Dckt. No. 7-20
karen.nickerson@state.de.us

Anthony C. Wilson, Esq.
Delmarva Power & Light Company
800 King Street
Post Office Box 231
Wilmington, DE 19899
Attn: PSC Dckt. No. 7-20
anthony.wilson@pepcoholdings.com

You must file 10 copies of written comments with the Commission and serve another copy by mail on DP&L. As an alternative, you may file and serve your comments electronically as an attachment to an Internet e-mail, followed by the filing and service of a single paper copy with the Commission and DP&L.

You may also ask to be allowed to intervene in the matter. To do so, you must file a petition to intervene under Rule 21 of the Commission's Rules of Practice and Procedure. That petition must be filed with the Commission on or before February 23, 2007.

If you are disabled and need assistance to participate in this matter, contact the Commission to discuss arrangements for such assistance. You can contact the Commission directly or by telephone at (302) 739-4247 (including text telephone) or toll-free at 1-800-282-8574 (Delaware only). Questions or inquiries can also be made by Internet e-mail addressed to www.robert.howatt@state.de.us.