

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

IN THE MATTER OF THE PROVISION OF)
STANDARD OFFER SUPPLY TO RETAIL)
CONSUMERS IN THE SERVICE TERRITORY) PSC DOCKET NO. 04-391
OF DELMARVA POWER & LIGHT COMPANY)
AFTER MAY 1, 2006)
(OPENED OCTOBER 19, 2004))

ORDER NO. 7162

This 24th day of April, 2007, the Commission finds, determines, and Orders the following:

1. In Findings, Opinion and Order No. 6746 (Oct. 11, 2005) ("Order 6746"), this Commission approved a process for Delmarva Power & Light Company ("DP&L") to procure and price its Standard Offer Service ("SOS") for its "non-shopping" retail customers. For SOS customers with "fixed price" SOS rates, DP&L would procure the needed supply to meet load via a Request for Proposal ("RFP") competitive bid process in the wholesale electric market.¹

2. DP&L conducted its first RFP procurements under the Order 6746 process in late 2005 and 2006. While the Commission concluded that the initial RFP process had been appropriately conducted, and had produced wholesale bids consistent with regional wholesale supply prices, the end result of the procurement was not very gratifying. The high bid prices translated into sharply increased retail SOS

¹The process in Order 6746 was to procure wholesale supply to serve DP&L's retail SOS load after May 1, 2006.

prices for almost all of DP&L's fixed price retail customers. See PSC Order No. 6881 (Mar. 28, 2006).²

3. These steep increases in retail SOS prices caused the General Assembly and Governor, in April, 2006, to make extensive revisions to the SOS provisions in the "Electric Utility Restructuring Act of 1999."³ And while these 2006 amendments created a different paradigm for DP&L's procurement of its SOS needs, the new statutory provisions carried forward the earlier RFP process as the means to procure at least thirty percent of DP&L's overall SOS load.⁴

4. The "grandfathered" RFP process would still be the procurement vehicle in use in late 2006 when DP&L once again had to procure a large proportion of supply to serve its fixed price SOS load after June 1, 2007. Given that, the Commission revisited the RFP process in mid-2006, making changes both in some of the process and the public disclosure of the eventual results. See Findings, Opinion, and Order No. 7053 (Oct. 17, 2006) ("Order 7053").

5. DP&L conducted its two "Tranche" RFP procurement for its outstanding post-June, 2007 SOS supply during late November, 2006 and late January, 2007. Boston Pacific Company, Inc. ("Boston Pacific"), the Commission's retained technical consultant, observed each Tranche

²At this time, the appropriate measure of SOS retail prices was defined as a price that "represents the regional wholesale electric market price, plus a reasonable allowance for retail margin." See 26 Del. C. § 10006 (a)(2)c. (2004 Supp.) (rewritten by 75 Del. Laws ch. 242 (2006)).

³The amendments came in the "Electric Utility Retail Customer Supply Act of 2006," 75 Del. Laws ch. 242 (April 6, 2006).

⁴See 26 Del. C. § 10007(c)(1)a. (as added by 75 Del. Laws ch. 242 (2006)).

procurement. At meetings on November 30, 2006 (Tranche 1) and February 1, 2007 (Tranche 2), the Commission heard from Boston Pacific about the details of each procurement and the successful bids.⁵ On each occasion, the Commission determined (based on Boston Pacific's and Staff's reports) that, for the particular Tranche, the RFP process had been appropriately conducted under the prevailing standards, that the bid responses had been sufficiently robust, and that the resulting successful bids were consistent with projected wholesale market prices for wholesale supply over the particular contract period.

6. Boston Pacific has now submitted a Final Report related to the RFP procurement process for DP&L's outstanding post-June, 2007 SOS supply. Boston Pacific also made an oral presentation concerning the Final Report at the Commission's public meeting on April 3, 2007. The "glass is half-full" news from the Report is that the bid prices this year are not higher than last year's. The "glass is half-empty side" is that, while the bid prices for supply across all blocks declined, those bid prices do not portend any return to pre-2006 retail rates.⁶

⁵At each of these meetings, the Commission sat in executive session so as to be able to consider the bid results (both as to the names of the winning bidders and the actual bid numbers). The Commission had earlier treated the bids, losing and successful, as confidential commercial documents. See 29 Del. C. § 10002(g)(2). See also 29 Del. C. § 10004(b)(6) (allowing executive sessions for discussions of non-public documents). In addition, the Commission determined earlier in Order 7053 not to release winning bidders' identities until 21 days after approval of the results of the final Tranche.

⁶In its Final Report and in its oral presentation, Boston Pacific reported that energy prices prevailing during this procurement period were significantly lower than energy prices during the procurement conducted last year. However, Boston Pacific suggests that such decline in energy prices appears to be countered by significant increases in the market prices for capacity beyond those present during last year's procurement. Boston Pacific suggests these offsetting increases in market prices for capacity might explain why bid prices this year did not come in significantly less from the bid prices of last year. Boston Pacific also reminded us that the procurement

7. The Commission formally accepted Boston Pacific's Final Report at its meeting on April 3, 2007. That action is recorded here. At the same time, the Commission will also now release for public review the minutes, transcripts, and exhibits related to the executive sessions held November 30, 2006 and February 1, 2007, in this matter. Such documents shall be available to public inspection subject only to redactions consistent with the disclosure guidelines announced in Order 7053.⁷

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

1. That the "Final Report of the Technical Consultant on Delmarva's 2006-07 Requests for Proposals for Full Requirements Wholesale Supply to Delaware's Standard Offer Service Customers" (Feb. 22, 2007) filed by the Boston Pacific Company, Inc. is hereby accepted.

2. That the Commission specifically adopts the findings of the Technical Consultant set forth in ¶¶ 2 through 7 at pages 1-3 of the

for the residential class this time only covered one-third of the residential class SOS load. Consequently, any overall change in SOS rates for the residential class is significantly tempered by the fact that the post-June, 2007 retail SOS rates must blend in the initial higher bid prices for two-thirds of that load carried forward under the two and three-year contracts let in the initial procurement.

⁷Table Six in Part IV of the Final Report reflects the percentage share of the fixed price SOS load for each customer class presently held by a particular supplier. Those percentages include contracts let in 2006 and those recently let. In the non-disclosure provisions accepted in Order No. 6881, winning suppliers were identified only by name without any direct connection to the amount of load such supplier would provide. In Order 7053, the Commission changed that restriction to require disclosure of the percentage of load won by each successful bidder. As noted, Table Six reflects loads held as a result of both the 2005-06, as well as the 2006-07, procurements. Staff reports that the suppliers identified in such table, who won some portion of the load in the 2005-06 procurements have consented to the release of the aggregated load percentages in Table Six.

above Final Report. These findings ratify the conclusions reached by the Commission when it reviewed the Tranche 1 and Tranche 2 bid results at its meetings on November 30, 2006 and February 1, 2007.

3. That Delmarva Power & Light Company shall file, on or before April 25, 2007, revised Tariff sheets reflecting changes to fixed price retail Standard Offer Service rates based on the results of the November, 2006 and January, 2007 procurements. Such proposed tariff sheets shall bear an effective date of June 1, 2007. Such proposed tariff revisions shall be subject to review by Staff and final approval by the Commission.

4. That the minutes, transcripts, and exhibits related to the executive sessions held in this docket on November 30, 2006 and February 1, 2007 are hereby released for public inspection under 29 Del. C. § 10004(f) (2006 Supp.). However, these minutes, transcripts, and exhibits have been redacted by Staff consistent with the non-disclosure requirements set forth at ¶¶ 52-59 of Findings, Opinion, and Order No. 7053 (Oct. 17, 2006).

5. 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

PSC Docket No. 04-391, Order No. 7162 Cont'd.

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary