BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE,
THE DELAWARE ENERGY OFFICE,
THE OFFICE OF MANAGEMENT AND BUDGET,
AND THE CONTROLLER GENERAL

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

FINDINGS, OPINION AND ORDER NO. 7328

BEFORE:

ARNETTA McRAE, Chair
JAYMES B. LESTER, Commissioner
JOANN T. CONAWAY, Commissioner
J. DALLAS WINSLOW, Commissioner
JEFFREY J. CLARK, Commissioner

and

John A. Hughes, Secretary
Delaware Department of Natural Resources and Environmental Control, Delaware Energy Office

Jennifer W. Davis, Director
Office of Management and Budget

Russell T. Larson, Controller General
Office of the Controller General

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THE STATUTORY BACKGROUND.

The EURCSA

1. In March 2006, the Delaware General Assembly introduced House Bill No. 6[1] ("the EURCSA") in response to extensive consumer outrage occasioned by the announcement of imminent and significant rate increases resulting from the higher cost of fuel used to generate electricity and the shift to PJM market-based prices. The cumulative effect of these increases was felt by Delmarva Power & Light Company's

[1] HB 6 is codified in the Electric Utility Retail Customer Supply Act of 2006 ("the EURCSA"), 26 *Del. C.* §§ 1001-1019.

(“DP&L” or “Delmarva”) customers at one time due to the expiration of rate freezes established with deregulation of Delaware’s electric supply industry. The purpose of the EURCSA was to spread out the impact of the rate increases and enable state agencies to explore alternative options of Standard Offer Service (“SOS”)[2] procurement at reasonable and stable prices. The legislation specifically required Delmarva to develop an Integrated Resource Plan (“IRP”) and “investigate all possible opportunities for a more diverse supply at the lowest reasonable cost.” See 26 *Del. C.* § 1007(c)(1)b. On or before August 1, 2006, as part of its IRP, Delmarva was required to file a proposal to obtain long-term contracts, including a proposed Request For Proposal (“RFP”) for the construction of new generation resources within Delaware to serve its SOS customers.

2. The EURCSA authorized the Delaware Public Service Commission (“the Commission”) and the Delaware Energy Office (“the Energy Office”) to approve or modify the RFP terms prior to issuance. The Commission and the Energy Office were instructed to “ensure that each RFP elicits and recognizes the value of:

a. proposals that utilize new or innovative baseload technologies;

b. proposals that provide long-term environmental benefits to the state;

c. proposals that have existing fuel and transmission infrastructure;

d. proposals that promote fuel diversity;

e. proposals that support or improve reliability; and

[2] SOS refers to Delmarva customers who do not receive their energy supply from a third-party electric provider. See *26 Del. C.* § 1001(18).

f. proposals that utilize existing brownfield or industrial sites."

Id. at § 1007(d)(1)a.-f. The General Assembly ordered Delmarva to issue its RFP on November 1, 2006, and set December 22, 2006 as the deadline for the receipt of bids. *Id.* at § 1007(d)(1).

3. The EURCSA specifically directed the Commission, in conjunction with the Energy Office, the Controller General, and the Director of the Office of Management and Budget (collectively the "State Agencies"), to evaluate the proposals received pursuant to the RFP and "determine to approve one or more of such proposals that result in the greatest long-term system benefits … in the most cost-effective manner." *Id.* at § 1007(d)(3). The State Agencies retained an Independent Consultant (the "IC") to oversee development of the RFP and assist the State Agencies during the bid evaluation.

I. The PROCEDURAL BACKGROUND.

The Commission Opens This Docket to Review the Proposed RFP

4. Following the EURCSA's mandate, Delmarva filed its proposed RFP on August 1, 2006. On August 8, 2006, the Commission opened this docket to perform its oversight and review tasks as set forth in the EURCSA. (PSC Order No. 7003.)[3] In October 2006, the Commission and the Energy Office adopted a "big funnel" approach and developed the criteria to be included in Delmarva's RFP that would guide evaluation of the potential bids. On December 21, 2006, Conectiv submitted a primary and alternate bid for a 180 MW combined cycle gas turbine

[3]For a detailed discussion of the procedural history of this docket prior to the State Agencies' decision regarding the generation bid proposals, see pages 7-11 of PSC Order No. 7199 (May 22, 2007).

("CCGT") located at its Hay Road site in Edgemoor, Delaware. The following day, Bluewater submitted twelve variations of a bid proposal that included both 20- and 25- year terms and: (1) a 600 MW capacity plant with a 400 MW energy limit; or (2) a sale of two-thirds of the energy from a 600 MW plant. That same day, NRG submitted a proposal to sell energy and unforced capacity credits from 400 MW of a 600 MW coal-fired integrated gasification combined cycle ("IGCC") facility to be constructed at its Indian River site.

Evaluation of the Generation Bid Proposals

5. On February 21, 2007, Delmarva and the IC filed bid evaluation reports. Both Delmarva and the IC ranked the bids as follows: (1) Conectiv; (2) Bluewater; and (3) NRG. Delmarva concluded that none of the bids achieved the EURCSA's objective because each bid was above the market forecast and produced minimal price stability. Delmarva asserted that the EURCSA's objectives could be satisfied with demand side management ("DSM") programs and energy purchases on the regional market. The IC scored each bid pursuant to the favorable characteristics, project viability, and economics super-categories. With respect to price and price stability, the IC concluded that all three of the bids were above market. However, Conectiv's bid was only \$1.28/MWh above market projection, while Bluewater's and NRG's bids were \$12.01 and \$15.17 MWh higher than market forecast, respectively. The IC recommended deferring a financial decision on the proposals pending Staff's analysis of reliability and economics. The IC also suggested employing a market test to evaluate other regional options.

The Hybrid Energy Portfolio

6. On May 3, 2007, Staff issued the "PSC Staff Review and Recommendations on Generation Bid Proposals," in which it recommended that the State Agencies adopt a portfolio approach to energy planning that would involve the addition of new generation assets in southern Delaware, development of DSM and energy efficiency programs, renewable distributed generation, short- and long-term bilateral contracts, and market purchases. With respect to the generation bids, Staff recommended that the State Agencies direct Delmarva to negotiate with both Conectiv and Bluewater for a hybrid energy supply that would combine a 200-300 MW offshore wind farm with a 150-200 MW synchronous condenser CCGT in Sussex County

7. On May 22, 2007, by PSC Order No. 7199 ("the Order"), the State Agencies accepted Staff's proposed energy supply portfolio and directed Delmarva to negotiate in good faith with Bluewater for a long-term power purchase agreement ("PPA") for the provision of wind power. The Order further instructed Delmarva to negotiate independently with both Conectiv and NRG to provide any necessary backup firm power when wind power is not available and directed that the negotiations for the backup power be conducted at the same time as the Bluewater-Delmarva negotiations.

8. In accepting Staff's recommendations, the State Agencies explained at the outset that the EURCSA does not constrain the State Agencies to consider solely the original generation proposals submitted by the bidders. The State Agencies reasoned that the EURCSA did not contain such limiting language and that the RFP approved by

the Commission and the Energy Office contemplated that negotiations between Delmarva and each bidder might modify the original submissions. Moreover, the State Agencies reasoned that Staff's recommendation was the most appropriate method of diversifying risk, taking control of Delaware's energy future, and providing Delmarva's SOS customers with price-stable reliable energy. Accordingly, the State Agencies found that Staff's proposal was not prohibited by the EURCSA.

9. The State Agencies recognized that their decision to direct Delmarva to negotiate with Bluewater for a wind PPA was not the "least cost" alternative but reasoned that the EURCSA criteria did not focus solely on price. Moreover, the State Agencies observed that price was not even specifically identified in the EURCSA as a Delaware generation evaluation factor. In light of the growing uncertainties with respect to price in the current energy market, the State Agencies based their decision on factors in addition to price such as environmental considerations and price stability. In assessing the risk of relying on the current energy market, the State Agencies considered the research of several leading energy groups and consultants – including the Governor's Cabinet Committee on Energy – advocating a portfolio approach to supply procurement. They considered the experiences of other jurisdictions such as California in concluding that Delaware must take control of its own energy future. They observed the growing uncertainties with respect to price in the current energy market, including the recent estimated 1227% increase in capacity costs from PJM, the uncertainty regarding

transmission, the uncertainty regarding possible retirement of existing generation, the volatility of natural gas prices, and the uncertainty surrounding the cost of carbon.

<u>The Power Purchase Agreement Negotiations</u>

10. The Order provided that the PPA negotiations conclude within a 60-day time frame, but the State Agencies indicated their flexibility in extending this deadline, if necessary, to the extent that there was continuing progress in the PPA negotiations. The State Agencies also directed the Staff to retain a third party to oversee the progress of the negotiations and report back periodically to the State Agencies regarding the status of the negotiations and the efforts of all parties to negotiate the PPAs in good faith as well as conform with the EURCSA. Staff hired Professor of Law, Lawrence A. Hamermesh, Esquire, to perform this oversight function as directed by the State Agencies.

11. On August 7, 2007, Professor Hamermesh delivered a status report regarding the PPA negotiations in which he identified disputed issues, presented points of agreement, and emphasized the effort of the parties. The State Agencies determined that extension of the Order's 60-day deadline for the PPA negotiations was appropriate in light of the progress reported by Professor Hamermesh and the negotiating parties. Aspiring for completed PPAs by the end of 2007, the State Agencies directed Delmarva to circulate detailed Term Sheets outlining the material terms of arrangements with Bluewater and the backup firm providers by September 14, 2007 (Order No. 7277).

Delmarva filed all three Term Sheets as directed on September 14, 2007.

12. On October 29, 2007, Staff issued the "PSC Staff Report On the Term Sheets for Proposed Power Sales to Delmarva Power" ("the Staff Report"), in which it recommended that the State Agencies deny approval of all three Term Sheets, consider the Bluewater proposal under specific parameters that would address the concerns raised by Staff, and continue exploration of portfolio energy supply options in the ongoing IRP process, as described *infra*.

13. On November 20, 2007, the Commission's, the Energy Office's, the OMB's, and the Controller General's designated representatives convened to hear oral argument and deliberate in open session on the Staff Report and the parties' positions on the merits of the Term Sheets. This is the Findings, Opinion, and Order of the State Agencies in this matter.

III. SUMMARY OF THE TERM SHEETS.

Bluewater

14. The Bluewater Term Sheet proposes a 25-year contract with Delmarva to provide up to 300 MWh of energy. Under the Bluewater Term Sheet, Delmarva may purchase from Bluewater up to 105 MW of capacity and a set amount of Renewable Energy Credits ("RECs") in each year of the contract term (150,000 in 2014 and 175,000 for years 2015 and beyond).

15. The Bluewater Term Sheet establishes a timeline for constructing the 450 MW offshore wind facility off the coast of

Rehoboth Beach, with a guaranteed initial delivery date as early as June 1, 2014, but no later than the spring of 2015. The Bluewater Term Sheet's projected schedule provides for installation of 50% of the 150 wind turbines in 2012 and the remaining half in 2013, which is approximately a one-year delay from the expected construction schedule under Bluewater's original bid where the first phase of construction was scheduled to commence in 2011. Bluewater's pricing in the Bluewater Term Sheet establishes a capacity payment rate of $65.23 per kw-year, an energy rate of $105.90 per MWh, and a REC rate of $19.75 per REC (each in 2007 dollars). The Bluewater energy rate is subject to commodity and currency pricing escalators. On November 6, 2007, Bluewater filed a report with the State Agencies in which it announced that it was removing all these pricing escalators from its Term Sheet. However, Bluewater's capacity payment rate, energy rate, and REC rate remain subject to a fixed 2.5% annual inflation adjustment rate for each calendar year, commencing on January 1, 2008 and continuing until the end of the 25-year contract term.

16. Bluewater's proposed Term Sheet provides that Bluewater and Delmarva will split, equally, certain PJM charges related to deviations between the wind facility's day-ahead energy schedule and the actual amounts of energy delivered. The Bluewater Term Sheet specifically allocates to Delmarva PJM charges and credits related to differences in the locational marginal price ("LMP") for the quantities of energy scheduled day-ahead with PJM versus the LMP for the energy actually delivered from the wind facility.

17. The Bluewater Term Sheet provides Bluewater a right to terminate the contract if the Minerals Management Service ("MMS") does not publish regulations for the siting and operation of offshore wind farms by November 30, 2010, or if the published MMS regulations will render Bluewater's performance economically unfeasible. In addition, the Bluewater Term Sheet contains termination rights for Bluewater's failure to obtain permits or achieve financial closing by a specified date.[4]

NRG

18. The NRG Term Sheet proposes construction of a new 300 MW natural gas-fired combined cycle facility located at its existing Indian River site in Sussex County. An essential component of the project is the construction of a new natural gas pipeline to be built by Eastern Shore Natural Gas Company ("ESNG") submerged below the Chesapeake Bay from Cove Point, Maryland to a location in proximity to the project site (the "New Pipeline"). The New Pipeline, with an associated pipeline extension, will provide firm natural gas transportation service for the project. However, if ESNG does not receive all the required permits to build the pipeline by June 1, 2012, or if the pipeline is not in service by the project's June 1, 2013 in-service date, either party may terminate the PPA without liability. Additionally, Delmarva has the right to terminate the contract if the Bluewater project does not reach commercial operation

[4]All three Term Sheets contain unresolved disputed contract terms. See "Assessment of Term Sheets for Proposed Power Sales to Delmarva Power" ("the IC Assessment") at 51-55 for a discussion of these disputed issues.

prior to NRG’s initial delivery date or will reduce operations below full service levels after NRG’s initial delivery date.

19. NRG proposes to sell 195 MW of unforced capacity from the plant and a sufficient amount of energy equal to the difference between 300 MWh and Bluewater’s hourly deliveries to Delmarva. Delmarva can change the energy cap during the service term upon 90 days notice to NRG. In the event of a shortfall of wind energy production relative to the day-ahead schedule in any hour, the Term Sheet provides that NRG will sell to Delmarva the amount of the shortfall at the applicable PJM real time energy price. In the event of an excess of wind energy production relative to the day-ahead schedule in any hour, NRG would buy back the excess at the real time price.

20. Under the NRG Term Sheet, the proposed capacity payment rate is $19.25/kW-month with no escalation over the 25-year term of the PPA. The NRG Term Sheet includes a charge to compensate NRG for the monthly demand charge payable to ESNG for the New Pipeline for 44,000 MMBtu/day. After application of the demand charge, the total estimated price for 195,000 kW-month of unforced capacity is $23.85/kW-month.

21. The project energy payment rate is equal to the product of the guaranteed contract heat rate of 7.2 MMBtu/MWh (7,200 Btu/kWh) and a market price for regional natural gas—the daily Transco Zone 6 Non-NY price published in Gas Daily—plus a Variable O&M Rate of $2.00/MWh in 2007, adjusted in accordance with changes in the Gross Domestic Product Implicit Price Deflator (“GDPIPD”). In addition, the Term

Sheet provides for payments to NRG and compensation for fuel used associated with plant starts. NRG expects that the plant will average one start per week.

22. Finally, the energy charge includes a pass-through provision for the costs of any future environmental compliance costs associated with a change in law – including the cost of buying allowances associated with the RGGI and costs associated with complying with future federal greenhouse gas emission regulations. The Term Sheet applies any allowance allocations to costs based on the 65% ratio of project capacity to total capacity.

Conectiv

23. The Conectiv Term Sheet proposes two new 100 MW GE LMS electric generating units to be located in Sussex County near Bridgeville, which interconnects the grid at a point on the North Seaford-Harrington 138 kV transmission line. Conectiv proposes to sell 195 MW of capacity from the project. Like NRG, Conectiv is also responsible for providing the backup energy requirement from the project or any other source, subject to the terms of the PPA. Unlike NRG's project that generates electricity strictly from natural gas, Conectiv will use low-sulphur diesel as a backup fuel source.

24. Capacity charges consist of two components. First, Conectiv proposes a flat charge of $10.65/kW-month for the entire 25-year term of the PPA. Second, Conectiv proposes a separate charge for interconnection and system upgrade costs equal to the product of $0.06/kW-month and the sum of the project's total interconnection costs and system upgrade costs in millions of dollars. With respect

to the backup energy requirement, the energy rate is the lower of: (a) the sum of (i) the Day Ahead energy LMP in the Delmarva zone plus (ii) $0.50/MWh in 2008, adjusted each year thereafter with changes in the GDPIPD; and (b) the project's Run Cost. If the backup energy requirement in any hour is more than 195 MW, for such hours the energy rate would be Day Ahead LMP plus $0.50/MWh (adjusted by the GDPIPD). There is also a minimum energy purchase requirement of 1,000,000 MWh per year (if the wind plant is in commercial operation), with a payment due to Conectiv of $1.00/MWh in 2008, adjusted annually with changes in the GDPIPD.[5]

IV. The STAFF REPORT AND THE STATE AGENCIES' DISCUSSION AND FINDINGS.

A. The Staff Report.

25. Staff observed that the proposal outlined in the Bluewater Term sheet is not the same project proposed by Bluewater in its initial bid received and previously reviewed by the IC. First, Staff expressed concern that Bluewater used the negotiations to dramatically escalate the potential cost of the project to Delmarva SOS ratepayers rather than enhancing its proposal with a reduction in price. (Staff Report at 2.) Second, the Bluewater Term Sheet raised prices for the provision of services to Delmarva, which was compounded annually by a 2.5% pricing escalator for inflation. *Id.* While Bluewater's original bid employed a fixed payment rate for energy, capacity, and RECs, the Bluewater Term Sheet included an asymmetrical energy price adjustment provision to track changes in the commodity indices and currency

[5] *See* IC Assessment at 6 for a detailed explanation regarding calculation of the GDPIPD.

exchange rates.[6] *Id.* at 14. Finally, the Bluewater Term Sheet delayed the project in-service date by one year, which exacerbated the ratepayer's exposure to the price risk associated with the wind project. *Id.* at 2.

26. Staff determined that the net consequence of the foregoing modifications to the original bid was a drastic increase in the price impact for Delmarva's SOS ratepayers. Specifically, the IC concluded that as of October 29, 2007, the price impact – with the pricing escalator - for customers using a conservatively low price adjustment is $11.71/MWh compared to $6.23/MWh for Bluewater's original bid proposal. *Id.* at 17-18. However, Staff observed that the price impact rises above $55/MWh (*i.e.* more than $1.7 billion over the original Bluewater bid on a net present value basis) where historical escalation of the commodities and exchange rate indices are utilized with a two-year delay in financial closing. *Id.* at 15.

27. Staff recommended that the State Agencies decline to direct PPAs based on any of the long-term generation proposals outlined in the Term Sheets, including the backup arrangements. Staff expressed its desire to be part of the effort to pioneer offshore wind power to take control of Delaware's energy future. *Id.* at 23. However, Staff determined that the current Bluewater proposal was not in the public interest and was inconsistent with the underlying principles of the EURCSA. *Id.* Because approval of the Bluewater project is a predicate to the backup arrangements, Staff further recommended that the State

[6] Bluewater eliminated the price adjustment provision after submission of the Staff Report on November 6, 2007.

Agencies deny both NRG’s and Conectiv’s proposals under the Term Sheets. *Id.* at 24.

28. In reaching this recommendation, Staff considered the underlying goals of the EURCSA. The EURCSA seeks to ensure that Delaware’s energy future is comprised of dependable energy sources, a reliable power system, and reasonably priced, stable energy prices. Staff reasoned that approval of Bluewater’s revised project was not in the public interest because:

- The revised project, which includes a commercially unreasonable pricing escalator, imposes significant additional risk as well as cost on Delmarva’s SOS ratepayers;

- Bluewater shifts the project’s risk associated with cost increases during construction to Delmarva SOS ratepayers, and thus, the ratepayers – *not* Bluewater – assume full responsibility for any losses incurred with project delay and/or failure;

- The delayed timing of the revised project results in additional cost and exacerbates the price risk;

- Staff expected that the negotiations would yield a lower price for the wind project, on a per customer kWh basis, but rather the negotiations resulted in a more expensive, less favorable project than the original bid proposal; and

- Other jurisdictions, such as New York and Texas, have determined that offshore wind facilities are not an acceptable solution to energy needs based on unreasonable expense and uncertainty with regard to project viability.

Id. at 4. Accordingly, Staff determined that the current Bluewater proposal did not achieve the greatest long-term system benefits in the most cost-effective manner, which is the cornerstone tenet of the EURCSA. *Id.* at 24.

29. Despite the recommendation regarding the Term Sheets, Staff continued to advocate the portfolio approach to energy planning. *Id.*

Accordingly, Staff recommended that the State Agencies conduct further consideration of Bluewater's proposal under the current RFP process under specific parameters that address the risk and pricing concerns raised in the Staff Report. *Id.* Moreover, Staff recommended that the State Agencies continue to review portfolio energy supply options, including proposals offered by Bluewater, NRG, and Conectiv, in the ongoing IRP process. *Id.*

B. Comments Regarding the Staff Report and the Merits of the Term Sheets.

1. Delmarva

30. Delmarva agreed with the Staff Report's conclusion that the proposed Bluewater project is inconsistent with the plain language of the EURCSA, which requires the State Agencies to consider proposals that "result in the greatest long-term system benefits … in the most cost-effective manner." (DP&L Comments at 4.) Accordingly, Delmarva recommended that the State Agencies reject the Bluewater Term Sheet whether supported by either natural gas backup arrangement and terminate all PPA negotiations immediately for several reasons.[7] First, Delmarva argued that Delmarva's SOS customer supply rates would increase substantially with execution of a PPA with Bluewater despite removal of the commodities and currency pricing escalators. *Id.* at 20. Delmarva reasoned that both consultants retained by Delmarva to analyze the Term Sheets concluded that the Bluewater proposal would

[7]Delmarva argued that Bluewater had no motivation to improve on its original bid during negotiations because it is a sole source provider. Delmarva contended that Bluewater's refusal to provide a bid at any size other than the maximum level of 300 MW and retention of benefits related to the sale of RECs demonstrated the disadvantage of sole source negotiations. (DP&L Comments at 32-33.)

cause SOS customer supply rates to increase substantially over market prices. *Id.* at 20-21. ICF International ("ICF") concluded that the Bluewater proposal – without the pricing escalators – renders the wind project $1.7 billion above market cost over the 25-year contract term, which requires the typical SOS customer to pay $16.74 per month more for electricity. *Id.* Similarly, Pace determined that the current Bluewater proposal is $2 billion over market cost over the contract term, which translates into a $22 increase in the typical SOS customer's monthly electric bill. *Id.*[8] ICF concluded that the costs of the wind project rise even higher when combined with a backup facility: (1) an additional $100 million for a combination with Conectiv; and (2) an additional $900 million for a combination with NRG. *Id.* at 22.

31. Delmarva offered a cost comparison of a recently abandoned offshore wind facility in Long Island, New York in support of its argument regarding price risk. *Id.* at 21. Delmarva observed that the 144 MW project was cancelled due to its high cost where its costs were $5.75 per customer, per month above market for approximately one million Long Island Power Authority ("LIPA") customers. (*Id.*; *see also* Pace Report at 7-9.) Delmarva observed that the much higher per customer price burden imposed by the Bluewater project will be borne completely by Delmarva's SOS customers consisting primarily of residential and small commercial customers who represent only 28% of

[8]Delmarva observed that removal of the pricing escalators from the IC's analysis results in a $1.3 billion above-market cost for the Bluewater proposal. (DP&L Comments at 21.)

the electricity consumed in Delaware.[9] (DP&L Comments at 39.) Delmarva contended that removal of the pricing escalator only exposes the SOS customers to other types of risk. (*Id.* at 27; *see also* Pace Report at 13-20.) For instance, Delmarva observed that non-quantifiable PJM penalties and costs related to negative LMPs could cost SOS customers up to an additional $1 million per year. (DP&L Comments at 31.) Finally, Delmarva emphasized that the price risk of the Bluewater project is exacerbated by the delayed in-service date carrying a long-lead time as well as project viability risk associated with anticipated MMS regulations and manufacturing problems with Vestas' wind turbines. *Id.* at 28-29, 34.

32. Second, Delmarva argued that Bluewater's Term Sheet provides minimal price stability. Delmarva reasoned that Bluewater's project requires SOS customers to take on a level of price rise in every hour of every day because the wind blows intermittently. *Id.* at 24-25. As a result of the intermittent nature of wind, 58% of the power from the hybrid proposal is priced at market rates minimizing the price stability generated from the wind project. (Tr. at 2206.) After employing nine different scenarios of future market prices, ICF calculated that the Bluewater proposal, as a standalone, reduces price variability by approximately 40 percent. (DP&L Comments at 24-25.) ICF further determined that addition of either backup facility only

[9]Delmarva recognized that the EURCSA, 26 *Del. C.* § 1010(c), authorizes the Commission to employ a non-bypassable charge to spread the cost of the wind project to Delmarva's entire customer base. (Tr. at 2228.) However, Delmarva argued that a non-bypassable charge does not eliminate the unfair cost burden borne by Delmarva's customers because the charge does not apply to the customers of municipal utilities and other unregulated energy providers – who will also benefit from the offshore wind farm. *Id.* at 2229.

reduces the SOS customers' exposure to price volatility by an additional one percent. *Id.*

33. Finally, Delmarva argued that less costly onshore wind resources are available within the PJM region. In its analysis, ICF examined the potential cost to serve SOS customers where Delmarva limits its renewable energy purchases to onshore wind resources. *Id.* at 35-36. ICF concluded that the incremental cost for Delmarva SOS customers for onshore wind is $0.81 – *i.e.* a 0.6% increase compared to a 9.2% increase in monthly bills for offshore wind power. *Id.* Delmarva contended that the smaller size of onshore wind projects – typically 65 MW or less – provides a better fit with Delmarva's SOS load. *Id.* at 38. Pace projected that costs for the Bluewater proposal are $11/month higher per customer than onshore wind resources available in PJM-West. (Pace Report at 7-9.) Delmarva further asserted that an onshore wind facility could be online by 2010, which is four years prior to the earliest guaranteed initial delivery date provided under the Bluewater Term Sheet. (DP&L Comments at 39.)

34. In addition to its recommendation regarding the Term Sheets, Delmarva recommended that the State Agencies permit Delmarva to move forward with review of portfolio energy supply options in the IRP process. First, Delmarva argued that a competitive Green energy-only auction as part of the IRP process will procure energy at prices consistent with the dictates of the EURCSA. *Id.* at 42. Delmarva reasoned that the OMB developed an innovative and successful competitive bidding process using a live internet "reverse auction" that would require energy providers to bid down the offered price

against other competitive bidders. *Id.* at 43. Delmarva also observed that the Commission's bidding procedure resulted in a 5% reduction in bid prices over the previous year's auction. *Id.* at 43-46. Second, Delmarva argued that the IRP docket presents an opportunity to explore the issues and options surrounding reliability in Southern Delaware including the contingency plans related to the retirement of two Indian River generating units. *Id.* at 50.

35. Finally, Delmarva recommended that the State Agencies give full support to the Sustainable Energy Utility's ("SEU") energy efficiency initiatives. *Id.* at 48. In support of this recommendation, Delmarva argued that conservation programs are far more cost-effective than procurement of new generation. *Id.* at 49.

2. Bluewater.

36. In response to the Staff Report, Bluewater removed the commodity and currency pricing escalator from its Term Sheet and specifically contended that the pricing escalator was not designed as a mechanism to garner profits.[10] Bluewater argued that removal of the pricing escalator lowers the hybrid proposal price to within $0.53/MWh of Bluewater's original bid proposal – a marginal increase within the range contemplated by PSC Order No. 7199. (Bluewater Comments at 25-

[10]Bluewater argued that the Bluewater Term Sheet included the controversial pricing escalator for three reasons. First, Bluewater's discussions with turbine suppliers and other contractors revealed that they would seek the same type of price adjustments and rarely ever lowered prices when commodity prices decline. Second, Bluewater concluded that the likelihood of commodity prices and exchange rates affecting construction costs beyond manageable levels was not significant. Finally, Bluewater determined that the pricing escalator impact would extend to all power markets and not change the relative competitiveness of wind power. (Bluewater Comments at 23-24.)

26.) In support of this contention, Bluewater reasoned that the cost impact to SOS customers of the Bluewater project – absent the pricing escalators - was $6.76/MWh and $8.92/MWh expressed in 2007 levelized dollars for the Bluewater/Conectiv and Bluewater/NRG hybrids, respectively. *Id.* Bluewater further reasoned that its consultant, Energy Security Analysis, Inc. ("ESAI"), concluded that in a high fuel forecast where fuel prices increase by 30%, the Bluewater/NRG hybrid and Bluewater/Conectiv hybrid providing savings below market (in 2007 levelized dollars) over the life of the project of $1.404 and $1.297 billion, respectively. (ESAI Report at 40-41.) In light of the foregoing decline in the price of Bluewater's proposal with removal of the pricing escalator, Bluewater recommended that the State Agencies direct the parties to continue negotiation towards a PPA that offers the "best price" to consumers for clean, renewable energy. (Bluewater Comments at 27.)

37. Procedurally, Bluewater recommended that the State Agencies direct Staff and the IC to participate directly in the ongoing negotiations[11] for several reasons. First, although Bluewater recognized that Delmarva negotiated in good faith, it asserted that Delmarva sought to significantly increase risk to Bluewater over its original bid during negotiations. (Tr. at 2192.) In support of this contention Bluewater reasoned that Delmarva sought to force Bluewater into a contract structure that increased price significantly by refusing to consider a project size greater than 300 MW and imposing

[11]Bluewater characterized the continued negotiations as a drafting exercise not a re-negotiation of terms. (Tr. at 2195.)

certain PJM charges on the project. (Bluewater Comments at 13.) Moreover, Bluewater reasoned that the Term Sheet subjects Bluewater to a termination fee that is 300% higher and delay damages that are 700% higher than that provided for in the final RFP. *Id.* at 14-15. Second, Bluewater argued that Delmarva would not protect its ratepayers because it is an unregulated for-profit monopoly in the SOS market with ample incentive to favor its shareholders at the expense of ratepayers. *Id.* at 18. Bluewater asserted that Delmarva's attempt to shut down the RFP docket demonstrated favor to its shareholders because the State Agencies are not empowered to demand action on behalf of the ratepayers in the IRP process. *Id.* at 19-20.

3. <u>NRG</u>.

38. NRG argued that its proposal in the Term Sheet is the optimal wind-firming solution for Delmarva's SOS ratepayers, and that its proposal was not properly evaluated in the Staff Report.[12] First and foremost, NRG argued that its project was significantly undervalued by the IC's failure to a use a dispatch model that employed hourly wind production forecasts and hourly market energy prices. (NRG Comments at 9.) NRG observed that the IC's utilization of a 24x12 production profile method unrealistically assumed that the wind farm is never projected to produce zero energy. *Id.* Therefore, NRG argued that the IC did not value NRG's lower heat rate because the

[12]NRG described the following enhancements that were not identified during negotiations and in the Staff Report: (1) revised capacity payment rate of $13.70 kW per month; (2) revised gas capacity supplement of $2.99 kW per month; (3) adjustment of NRG's deliveries as if actual amount of wind delivery was the day-ahead amount; and (4) development of a schedule of protocols to minimize all imbalance charges. (NRG Comments at 7-8.)

IC performed a "sensitivity" based only on a 10% increase in wind energy production despite the risk of unproven technology. Id. at 13-14. Unlike Conectiv's 195 MW project, NRG asserted that its 300 MW natural-gas facility is capable of providing the wind farm's full energy requirement at anytime. *Id.* at 10. In light of the IC's failure to use an hourly 8670 wind production profile, NRG concluded that the Staff Report failed to accurately model the NRG proposal's superior price hedge against unforeseen real time market energy price swings. *Id.* at 14-15.

39. Second, NRG argued that the IC did not properly analyze the higher fuel and interconnection costs associated with Conectiv's Term Sheet. NRG observed that Conectiv's proposed facility is fueled by both natural gas and diesel, while NRG's facility uses solely natural gas. *Id.* at 12. Accordingly, NRG asserted that Conectiv's facility creates additional carbon emissions by burning 25% more fuel than NRG's facility. *Id.* at 15. NRG further asserted that its natural gas-fired facility becomes increasingly economic if oil prices remain high or continue to escalate. *Id.* at 12-13. With regard to interconnection costs, NRG contended that Delmarva's interconnection costs utilized by the IC are inaccurate because these figures were based on siting of Conectiv's project near Bridgeville, a site over which Conectiv has no control. *Id.* Finally, NRG argued that the Staff Report did not credit NRG's proposal for the reliability improvements facilitated by the new ESNG pipeline. Id. at 16. According to NRG, its combined-cycle proposal, when properly evaluated in the context of the EURCSA and the wind project's likely

performance, provides the greatest long-term system benefits in the most cost-effective manner.

40. Alternatively, if the State Agencies decide to move forward with a peaking facility as the wind–firming power source, NRG contended that it is prepared to submit a revised bid for such a facility on substantially the same terms and conditions set forth in the Conectiv Term Sheet. *Id.* at 8-9. However, NRG argued that it could offer a peaking solution on a more attractive basis because its project would be sited at its existing Indian River facility. *Id.*

4. Conectiv.

41. Conectiv recommended that the State Agencies deny approval of the Bluewater project because other less costly options are available to achieve the same environmental benefits or greater benefits at the same cost. In support of the recommendation, Conectiv argued that the Pace Report demonstrated that onshore wind available from PJM is less costly and provides the same amount of energy as Bluewater’s offshore wind proposal. (CESI Comments at 3-5.) Conectiv further argued that a shorter construction schedule and developed technology that offers competition in pricing are additional advantages of onshore wind resources. *Id.*

42. Conectiv argued that its backup generation facility should be selected if the Bluewater proposal goes forward.[13] In support of this argument, Conectiv asserted that its proposal, like NRG’s Term

[13]In the event that the Bluewater proposal does not go forward, Conectiv maintained that its proposal under the Term Sheet is the most cost-effective option if the State Agencies wish to move forward with new gas-fired generation in Sussex County or wind-firming power in the future. (CESI Comments at 9.)

Sheet, meets the energy requirement from the market to provide a price hedge during hours when LMP exceeds the operating costs of the backup generators' respective facilities. Id. at 6. However, Conectiv argued that its proposal accomplishes satisfaction of the wind-firming energy requirement at a better price. Conectiv asserted that NRG's capacity charge is higher than Conectiv's by $29,437,200 per year. *Id.* Moreover, Conectiv reasoned that the IC concluded that NRG's proposal would increase costs to ratepayers by a net present value ("NPV") of $21 million, while Conectiv's proposal would reduce costs by a NPV of $53 million. *Id.* at 7-8. Conectiv emphasized that NRG's proposal has a major contingency – construction of a new natural gas pipeline by 2013. *Id.* at 8. At the same time, Conectiv rebutted the IC's conclusion that siting issues are a major concern with its project by explaining that it holds an option to purchase property near Delmar, Delaware. *Id.*

5. <u>The Division of the Public Advocate</u>.

43. The Division of the Public Advocate ("the DPA") recommended that the State Agencies reject the hybrid proposals outlined in the Term Sheets because they are not in the public interest.[14] (DPA Comments at xiv.) The DPA's consultant, The Columbia Group, acknowledged that Delaware renewable energy should be a part of

[14]The DPA criticized Staff's hybrid proposal outlined in its May 2, 2007 report on the ground that it deviated from the EURCSA's "lowest reasonable cost" standard. The DPA further argued that the negotiations were not designed to meet this statutory standard and expressed concern regarding the Staff Report's assertion that the Bluewater Term Sheet has little relationship to the original bid. The DPA noted that Bluewater's President Peter Mandelstam stated on the record that costs would rise with the attendant reduction in size of the wind project at the May 8, 2007 hearing. (DPA Comments at viii-xii.)

Delaware's future but found that the Term Sheets present an unacceptably high per kWh cost to SOS customers, burden SOS customers with considerable price, reliability, and timing risks, and provide minimal price stability for the future. *Id.* at 10-15. The Columbia Group further observed that the current Term Sheets offer duplicative primary energy generation services and thereby mitigate some of the environmental benefits of the renewable wind power. *Id.* at 13. The Columbia Group cited cancellation of a proposed offshore wind facility in Long Island, New York as evidence that Bluewater's proposal imposes considerable expense on the SOS ratepayers.[15] *Id.* at 19-20. However, the DPA agreed that removal of the pricing escalators from Bluewater's Term Sheet made the project more attractive. (Tr. at 2260.) The DPA did not object to continuation of negotiations for procurement of wind power at a reasonable price. Id. at 2261.

44. Procedurally, the DPA argued that the State Agencies should consider the proposed PPAs in the IRP process instead of the RFP process because there is no evidence of a need to immediately stabilize prices. (DPA comments at xiii.) The DPA further clarified that further consideration of portfolio supply options must afford Delaware consumers the opportunity to lower their energy bills and consider the potential to curb load growth. *Id.* at xiv. The DPA observed that Delaware's goal of reducing greenhouse gas emissions can be pursued through the SEU energy efficiency program, the Renewable

[15]The Columbia Group noted that the current Bluewater Term sheet does not provide the State Agencies with sufficient oversight and approval authority over the proposed wind project. (DPA Comments at 18.)

Energy Portfolio Standard ("RPS"), the RGGI, and the Green Energy Fund. *Id.* at xv.

45. In the event that the State Agencies go forward with finalization of a Bluewater-Delmarva PPA, the DPA argued that the proposal must be revised. *Id.* at xv-xvi. The DPA contended that the Bluewater PPA must constitute a full requirements firm power agreement and contain "most favored customer" and "competitive pricing" clauses to account for future technology advances. *Id.*

6. <u>Constellation Energy Commodities Group, Inc</u>.

46. Constellation Energy Commodities Group, Inc. ("Constellation") urged the State Agencies to reject all three Term Sheets. (Constellation Comments at 4.) Constellation argued that the need for long-term PPAs is vastly overstated in light of the recent implementation of forward capacity markets in several regions, included PJM. *Id.* at 5. Constellation noted that it is currently engaged in bilateral purchase agreements with renewable and traditional generators without the need for a traditional rate base from which to recover the cost of those purchases. *Id.* Constellation further argued that stranded costs resulting from the implementation of the Public Utility Regulatory Policies Act demonstrate the risk of locking ratepayers into a long-term contra*ct.* Finally, Constellation contended that the EURCSA does not *require* the use of a PPA to procure energy. *Id.* at 6.

47. Second, Constellation recommended that the State Agencies rely primarily on supply options procured through the existing SOS bidding process. *Id.* at 7. Constellation contended that any proposal

requiring Delmarva to actively manage a portfolio of resources is inefficient. *Id.* In support of this contention, Constellation observed that wholesale suppliers – not utilities and consultants – provide the most cost-effective method of SOS supply management for utility load. *Id.* at 7-8. These suppliers pass on savings achieved from their sophisticated risk management skills in the form of a more competitive bid for full requirements SOS products. *Id.* Moreover, wholesale suppliers utilize a portfolio to manage risk that includes gas, coal, nuclear, futures, swaps, derivative products, and other hedging instruments. *Id.*

7. Jeremy Firestone/Willet Kempton.

48. Dr. Firestone and Dr. Kempton urged the State Agencies to take any steps necessary to finalize a Bluewater-Delmarva PPA. (Firestone/Kempton 11/12/07 Comments at 1. They argued that the State Agencies should direct Bluewater and Delmarva to continue negotiations. *Id.* In support of this recommendation, they argued that the wind deal is more economic for consumers than it was in May 2007 because the premium for the wind project decreased from a NPV of $493 million to $271 million. *Id.* They further observed that the consumer price index has increased by 6.5% since 2005 while the Bluewater Term Sheet's 2.5% inflation escalator results in a 5.06% increase over the same period. *Id.* at 6. While Dr. Firestone was critical of the calculations in the Staff Report and the remaining consultant reports, he emphasized that the statistics were unreliable and insignificant to the State Agencies' decision because a common set of assumptions was not utilized. (Tr. at 2169, 2175.)

49. Dr. Firestone and Dr. Kempton disagreed with Delmarva's proposal to engage in a competitive bidding process for renewable energy for several reasons. First and foremost, they argued that EURCSA requires "in-state" generation, and accordingly, precludes consideration of regional onshore wind resources. *Id.* at 2174. Second, they emphasized that land-based wind is not cheaper than the Bluewater offshore proposal with a natural gas backup provider. *Id.* at 2173. Specifically, they contended that Washington Gas Energy Services offers to serve Delaware SOS consumers 25% of their energy needs with onshore wind at a price of $0.122/kWh, while the current price for offshore wind in Bluewater's proposal is $0.115/kWh. (Firestone/Kempton 11/12/07 Comments at 2.)

50. Procedurally, Dr. Firestone and Dr. Kempton argued that the State Agencies should solicit a more engaged mediator for the continuing negotiations and provide extensive public disclosure during the negotiation process. Id. at 2174. They further argued that the State Agencies should defer a decision on the backup generation arrangements until the conclusion of the IRP process. (Firestone/Kempton 11/12/07 Comments at 2.)

8. Alan Muller/Green Delaware.

51. Mr. Muller argued that the RFP process should not be abandoned. (Muller Comments at 6.) Mr. Muller took issue with both the Staff Report and the Pace Report for failure to value the wind project's central environmental and health benefits. *Id.* at 2-4. Moreover, Mr. Muller contended that under the current IRP regulations proposed in PSC Docket No. 60, the IRP process is unlikely to provide

a means of compelling Delmarva to take action on behalf of its SOS ratepayers. *Id.* at 5.

52. Procedurally, Mr. Muller proposed that the State Agencies disaggregate consideration of the backup proposals from consideration of the Bluewater proposal and order public negotiations to finalize a Delmarva-Bluewater PPA. *Id.* at 6. Mr. Muller argued that Delmarva is not capable of negotiating in good faith and adequately representing the public interest. *Id.* at 7.

9. **Former Governor Russell Peterson**.

53. Former Governor Peterson urged the State Agencies to take control of Delaware's energy future by becoming the first state in the nation to generate clean energy from an offshore wind facility. (Tr. at 2120.) He further recommended that Delmarva and Bluewater take all necessary steps to reach a common ground in the PPA negotiations to begin to address the serious threat of global warming. *Id.* at 2121. Governor Peterson observed that the Secretary General of the United Nations characterized global warming as a "defining challenge of our age." *Id.* at 2122. He cited Al Gore's receipt of the Nobel Prize for his efforts in bolstering climate change awareness, actions of Montana's governor, development of a new institute of alternative energy at the University of Delaware, and the Court of Appeals for the Ninth Circuit's rejection of a fuel standard established by the Bush Administration for failure to adequately reduce greenhouse gas emissions as examples of the nation's transition toward green energy in response to the real threat of global warming. *Id.* at 2122-2123.

54. In addition to highlighting the ability of the Bluewater proposal's ability to combat global warming, Former Governor Peterson observed that offshore wind power promises electricity at a stable price and protects Delawareans' health by reducing fossil fuel emissions. *Id.* at 2120. With respect to cost, Governor Peterson asserted that Bluewater's proposal would cost $1.60 per week for the average household in Delaware, and that this premium would decline following implementation of the federal carbon tax. *Id.* at 2121. Accordingly, Former Governor Peterson recommended that the State Agencies direct Delmarva and Bluewater to "get on with the job" of negotiating toward a finalized wind PPA.[16] *Id.* at 2123.

10. <u>Other Public Comment</u>.

55. The members of the public that appeared and spoke at the November 20, 2007 hearing overwhelmingly favored continuation of negotiations to finalize a long-term PPA for the provision of offshore wind power. They expressed concern about the four consultants' utilization of assumptions that did not adequately assess the rising cost of fossil fuels and limited availability of existing out-of-state renewable resources to fulfill every state's RPS. They further cited the clean and price stable nature of wind power as a significant benefit.

[16] State Treasurer Jack Markell and State Representative John Kowalko echoed Governor Peterson's comments and recommended that the State Agencies continue the RFP process. (Tr. at 2124, 2130.)

C. **Staff's Proposed Procedural Path Forward for Future Negotiations**.

56. Following public comment and comment from the participants in PSC Docket No. 06-241 regarding the merits of the Term Sheets, Staff proposed a procedural path forward in the event that the State Agencies' direct parties to go forward with PPA negotiations in lieu of the alternative choice of terminating the RFP process. First, Staff recommended disaggregation of the three proposals so that the State Agencies would first consider the primary long-term PPA between Delmarva and Bluewater. (Tr. at 2266-2267.) Staff proposed consideration of the backup suppliers' PPAs solely if the State Agencies unanimously approved the Bluewater PPA because it is a predicate to the backup generation arrangements. *Id.* at 2270-2271.

57. Second, Staff recommended that the State Agencies authorize Professor Hamermesh to engage in a more active role as a third-party "arbitrator" of the continuing Bluewater-Delmarva negotiations. *Id.* at 2263. In this capacity, he would be empowered to resolve all issues between the parties so that a proposed final PPA could be brought before the State Agencies for their review. Although Staff proposed to participate in the negotiations only as an advisor, it suggested that the State Agencies consultant, the IC, should be available to provide technical assistance to Professor Hamermesh to the extent necessary to finalize the PPA. *Id.* at 2268, 2273.

58. Third, Staff proposed limitation of the subject of the negotiations to price, non-conforming terms, and disputed contract terms. *Id.* at 2268. Staff further recommended that the State Agencies preclude the parties from re-negotiating all other previously

submitted undisputed terms. *Id.* Staff proposed development of guidelines to govern the negotiations so that the parties understand the non-conformance issues must be resolved and price must be better than or equal to what was outlined in Bluewater's most recent proposal. *Id.* at 2275.

59. With respect to timing, Staff proposed the following procedural schedule:

November 21, 2007	Delmarva and Bluewater circulate the working draft PPA to Staff.
November 26, 2007	Delmarva and Bluewater provide Staff with an issue sheet outlining all outstanding issues remaining in the PPA negotiations, as well as each party's position regarding each unresolved issue.
December 10, 2007	Delmarva circulates the final Bluewater-Delmarva PPA that resolves all outstanding disputed issues to the State Agencies.
December 18, 2007	State Agencies to consider the final Bluewater-Delmarva PPA for the provision of offshore wind power.

Id. at 2269. Staff asserted the final negotiations would be conducted on this expedited basis to allow the State Agencies to review Bluewater's "best offer" on December 18, 2007 and conclude the RFP process before year-end. *Id.*

D. <u>Discussion of the State Agencies' Decision</u>.

60. Throughout the hearing, the State Agencies observed that Delmarva had engaged in good faith negotiations during the RFP process. (*See* Tr. at 2118, 2185.) The State Agencies determined that Bluewater and Delmarva had ample incentive to negotiate toward the most favorable contractual arrangement for Delmarva's SOS consumers. *Id.* at 2285. Accordingly, the State Agencies directed Bluewater and

Delmarva to continue negotiating a final PPA for the provision of offshore wind power in Delaware. *Id.*

61. The State Agencies further determined that Staff's proposed procedural framework that provides for the State Agencies' consideration of a final Bluewater-Delmarva PPA on December 18, 2007 is appropriate in light of the goal to conclude the RFP process before year-end. *Id.* at 2285-2287, 2290. To assist with their deliberations on December 18, 2007, the State Agencies directed Staff to provide a uniform data set calculated from common assumptions regarding the merits of the finalized Bluewater-Delmarva PPA.[17] *Id.* at 2275-2278.

62. The State Agencies recognized the importance of considering the potential inequity of requiring SOS ratepayers to shoulder the entire cost burden of the offshore wind power purchase agreement. *Id.* at 2288-2289. Accordingly, the State Agencies directed Staff to solicit an expert analysis regarding the implications of execution of a non-bypassable charge across Delmarva's entire customer base. *Id.*

Now, therefore, this 4th day of December, 2007, **IT IS ORDERED**:

1. That, for the reasons stated above, Staff's proposed procedural framework for continued negotiations for a final Bluewater-Delmarva power purchase agreement is hereby adopted and approved.

2. That the Commission and other State Agencies reserve the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

[17] Commissioner Conaway stressed the importance of making an "apples to apples" comparison of the submitted economic analyses. (Tr. at 2278.)

BY ORDER OF THE DELAWARE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE,
THE DELAWARE ENERGY OFFICE,
THE CONTROLLER GENERAL, AND
THE OFFICE OF MANAGEMENT AND BUDGET,

DELAWARE ENERGY OFFICE

/s/ Philip J. Cherry
Philip J. Cherry,
Director of Policy & Planning
Department of Natural Resources &
Environmental Control

THE CONTROLLER GENERAL

/s/ J. Cohan

DIRECTOR OF THE OFFICE OF

BUDGET & MANAGEMENT

/s/ R. Scoglietti

PUBLIC SERVICE 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