

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

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

ORDER NO. 7661

This 22nd day of September, 2009, the Commission determines and Orders the following:

1. The "Electric Utility Retail Customer Supply Act of 2006" ("the Act") directs Delmarva Power & Light Company ("DP&L") to file an "Integrated Resource Plan" ("IRP") with the Commission, the Delaware Energy Office (the "Energy Office"), the Controller General, and the Director of the Office of Management and Budget (collectively, the "State Agencies").¹ The Act requires DP&L to systematically evaluate all available supply options (including procurement, generation, transmission, conservation, and load management) over a ten-year planning period.² The Act further directs DP&L to craft an IRP comprised of the appropriate mix of such resources that will be utilized to meet the needs of its Standard Offer Service ("SOS")

¹ See 26 Del. C. 1007(c) (as amended by 75 Del. Laws ch. 242 § 6 (2006)).

² Id.

customers, at the lowest reasonable cost and without sacrificing adequate reliability.³

2. The Act confers on the Commission the authority to "promulgate any rules and regulations it deems necessary to accomplish the development of IRPs by DP&L."⁴

3. On December 1, 2006, DP&L filed its initial IRP. In Order No. 7122 (January 23, 2007), the Commission opened this Docket to perform its oversight and review of the integrated resource planning process. By Order No. 7263 (August 21, 2007), the Commission opened PSC Regulation Docket No. 60 to consider the development of rules and regulations to accomplish integrated resource planning for DP&L's SOS customers. The Commission further invited the State Agencies to participate and comment on the development of rules and regulations governing the development of IRPs.⁵

4. On or before August 1, 2006, as part of its IRP, DP&L 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.

5. The Act authorized the Commission and 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:

³ See 26 Del. C. §§ 1001, 1007(c)(1)(as amended by 75 Del. Laws. Ch. 242 § 6 (2006)).

⁴ 26 Del. C. § 1007(c)(1)c. (as amended by 75 Del. Laws. Ch. 242 § 6 (2006)).

⁵ See id.

- 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
- 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).

6. The Act specifically directed the Commission, in conjunction with 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).

7. Following the Act's mandate, DP&L filed its proposed RFP on August 1, 2006. On August 8, 2006, the Commission opened PSC Docket No. 06-241 to perform its oversight and review tasks as set forth in the Act. (PSC Order No. 7003.)⁶ In October 2006, the Commission and the Energy Office adopted a "big funnel" approach and developed the criteria to be included in DP&L's RFP that would guide evaluation of the potential bids. On December 21, 2006, Conectiv Energy Services, Inc. submitted a primary and alternate bid for a 180 MW combined cycle

⁶For 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).

gas turbine ("CCGT") located at its Hay Road site in Edgemoor, Delaware. The following day, Bluewater Wind LLC ("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 Energy, Inc. 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.

8. By Order No. 7199 (May 22, 2007), the State Agencies accepted Staff's proposed energy supply portfolio and directed DP&L to negotiate in good faith with Bluewater Wind LLC ("Bluewater") for a long-term power purchase agreement ("PPA") for the provision of wind power. (See PSC Order No. 7199 (May 22, 2007) at ¶¶ 51, 55). On November 20, 2007, the State Agencies convened to consider the merits of Term Sheets outlining the proposed PPA between Bluewater and DP&L as well as the backup generation arrangements. By Order No. 7328 (Dec. 4, 2007), the State Agencies disaggregated the Bluewater proposal from the backup arrangements and directed DP&L and Bluewater to continue negotiating toward a final PPA for the procurement of offshore wind power. (See PSC Order No. 7328 (Dec. 4, 2007) at ¶ 61). The State Agencies further established a December 10, 2007 deadline for the completion of the negotiations. (*Id.* at ¶ 59). Pursuant to Order No. 7328, DP&L provided the State Agencies with a form PPA (the "Form PPA") on December 10, 2007. When the Form PPA was considered by

the State Agencies on December 18, 2007, the State Agencies unanimously voted to table the matter because there was not a consensus to approve the Form PPA in its then-present form. (See December 18, 2007 Tr. at 2308-2310).⁷

9. Following the suspension of PSC Docket No. 06-241, Delmarva filed an updated IRP on March 5, 2008. DP&L revised the originally filed IRP twice thereafter on May 15, 2008 and November 5, 2008. The most recent revision of the IRP presents an overall set of portfolio supply options, including:

- Purchased power from existing or new facilities, including renewable resources.
- Utility ownership of or contract for output from natural gas-fired facilities.
- Energy efficiency resulting from implementation of programs developed by the Sustainable Energy Utility.
- Demand response from DP&L direct load control, large customer participation in PJM demand response programs, and Advanced Metering Infrastructure-enabled dynamic pricing savings.
- Transmission resources under consideration allow for provision of supply side resources and maintenance of reliability needs.

Although the IRP illustrates that a managed portfolio can provide least cost power and reduce risk to consumers, DP&L does not select specific resources.

⁷ On June 23, 2008, Bluewater and DP&L executed a negotiated PPA ("the Final PPA") pursuant to which DP&L would purchase energy, capacity, and a specified quantity of renewable energy credits ("RECs") and other "environmental attributes" produced by 200 MW of installed capacity from a facility to be constructed off the coast of Rehoboth Beach - a reduction in contract size from the December 18, 2007 Form PPA of approximately fifty percent. The Final PPA was approved by the Commission on September 5, 2008. (Order No. 7440)

10. On April 2, 2009, Synapse Energy Economics, Inc. ("Synapse") issued its report analyzing DP&L's IRP on behalf of Staff. Synapse recommended that the Commission accept the IRP on the following conditions:

- Procurement of all cost effective energy efficiency and implementation of direct load control programs.
- Establishment of clear guidelines, targets, and a procurement plan for the proposed Portfolio Working Group.
- Development of a detailed managed portfolio plan.
- Analysis of natural gas-fired resource options, capacity price risk, and the economics of additional renewable supply in portfolio.
- Conducting power flow reliability modeling to determine the extent and timing of transmission or generation needs in the event of transmission uncertainties.
- Provision of a forecast of supply rates for 2010 through 2015.
- Reporting requirements.

11. Other Parties filed comments to Delmarva's IRP on May 14, 2009, all of which alleged certain deficiencies in Delmarva's filing and that it did not meet the relevant statutory requirements.⁸

12. Following the publication of Staff's report, the parties engaged in discovery leading up to a workshop on July 28, 2009.

13. On August 18, 2009, by Order No. 7628 the Commission promulgated revised proposed regulations (the "IRP Regulations") to govern DP&L's development of its IRPs for its SOS customers as authorized by the Act. The revisions in the IRP Regulations relate to

⁸ Those filing comments were the Division of the Public Advocate ("Public Advocate"), Department of Natural Resources and Environmental Control ("DNREC"), and Dr. Jeremy Firestone.

the consideration of externalities in IRP development and the definition of several terms, including "brownfield or industrial site," "environmental benefit," and "environmental impact." Under the IRP Regulations, the term "externalities" is defined as:

[T]he social, health, environmental and/or welfare costs or benefits of energy which result from the production, delivery or reduction in use through efficiency improvements, and which are external to the transaction between the supplier (including the supplier of efficiency improvements) and the wholesale or retail customer. Externalities should be quantified and expressed in monetary terms where possible. Those externalities that cannot be quantified and expressed in monetary terms shall nonetheless be qualitatively considered.

14. Paragraph 6.1.4 of the IRP Regulations requires DP&L to evaluate environmental benefits and externalities associated with utilization of specific methods of energy and consider any reliable, relevant peer reviewed published research and scientific and/or medical studies commonly available, including life cycle analyses. Moreover, Paragraph 6.1.5 provides that an IRP's satisfaction of Delaware's Renewable Energy Portfolio Standards or other environmental regulations - alone - does not automatically fulfill DP&L's obligations to address externalities.

15. With regard to the revised definitions in the IRP Regulations, "brownfield or industrial site" is defined to conform with Delaware's Hazardous Substance Cleanup Act, 7 Del. C. §9103. Under Paragraph 2.0, "environmental impact" means:

[T]he result of an action, outcome or activity related to the IRP, on natural and physical resources including, but not limited to wetlands, sea levels, fisheries, air quality, water quality and quantity, public health, climate impacts, land masses, and ground water.

Paragraph 2.0 further provides that "environmental benefit" means:

[T]he positive environmental impact minus the negative environmental impact attained by specific action including, but not limited to, energy generation and distribution, transmission service, conservation, customer-sited generation, [demand response], or [demand side management].

The foregoing definitions incorporated input from Delaware's Department of Natural Resources and Environmental Control ("DNREC").

16. In light of promulgation of the IRP Regulations requiring DP&L to evaluate externalities, the parties agree that the current IRP does not comply with the Act. In addition, a new procurement proceeding is coming up for SOS customers, and a new load forecast will be generated in the first quarter of 2010. With the evidentiary hearings in this matter now scheduled for October, any Commission decision would not have the benefit of the more current information reflected in the procurement proceeding, as well as in the new load forecast. Thus, the parties to this docket believe that it should be closed. In that regard, Delmarva has agreed to file a new IRP by May 31, 2010 that complies with the IRP Regulations promulgated in PSC Regulation Docket No. 60, and which will incorporate results from the procurement process, as well as the new load forecast. In light of DP&L's forthcoming filing, the parties believe that it is appropriate to conclude this Docket without further evidentiary hearings and regulatory expense.

17. By this Order, the Commission directs DP&L to file a new IRP that complies with the IRP Regulations no later than May 31, 2010 for the Commission's review. At that time, the Commission will initiate a separate proceeding to consider DP&L's new IRP filing. The Commission determines that in light of DP&L's forthcoming filing, it

is in the public interest to close this Docket and consider the future DP&L IRP in a separate proceeding.

18. In connection with the future IRP proceeding, the Commission adopts the schedule set forth in Exhibit "A" attached hereto as a proposed procedural schedule for the filing of a new IRP.. In that regard, Delmarva shall publish notice of the scheduled technical workshops set forth in Exhibit "A" in The News Journal and the Delaware State News at least five (5) days prior to the date of each workshop so that members of the public are advised of those proceedings.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS:

1. That Delmarva Power & Light Company is directed to file an IRP that complies with the IRP Regulations promulgated in PSC Docket No. 60 no later than May 31, 2010.

2. That DP&L shall adhere to the schedule set forth in Exhibit "A", and shall publish notice of all technical workshops at least five days in advance of their schedule date.

3. That, for the reasons stated above, the Docket is closed.

BY ORDER OF THE COMMISSION:

_/s/ Arnetta McRae_____
Chair

_/s/ Joanne T. Conaway_____
Commissioner

_/s/ Jaymes B. Lester_____
Commissioner

PSC Docket No. 07-20, Order No. 7661 Con't

_/s/ Dallas Winslow_____
Commissioner

_/s/ Jeffrey J. Clark_____
Commissioner

ATTEST:

_/s/ Katie Rochester_____
Acting Secretary

EXHIBIT “A”

**DELMARVA POWER & LIGHT COMPANY
 PROPOSED PROCEDURAL SCHEDULE FOR
 NEW IRP TO BE FILED MAY 31, 2010
 PSC DOCKET NO. 07-20**

September 15, 2009	Initial Technical Workshop on load forecast and parameters that should be considered in Delmarva's analysis (Dover) ⁹
October 1, 2009	Initial Technical Workshop on externalities (Dover)
October 22, 2009	Initial Technical Workshop on DSM efforts and energy efficiency plans and how to incorporate into the IRP (Wilmington)
November 5, 2009	Initial Technical Workshop on scenarios that Company plans to model in its IRP (Wilmington)
January 18, 2010	Target completion date for site analysis for potential new generation facility
February 15, 2010	Target completion date for power flow study regarding reliability issues on Delmarva Peninsula
January 12, 13, 14, 2010	First set of public comment sessions to be held on the Company's IRP

<u>TIME</u>	<u>DATE</u>	
7:00 P.M.	Tues. 1/12/10	Carvel State Office Bldg., "Auditorium," Mezzanine Level, 820 French Street, Wilmington, DE
7:00 P.M.	Weds. 1/13/10	Delaware Technical & Community College, Rt. 18 & Seashore Highway, Georgetown, DE
7:00 P.M.	Thurs. 1/14/10	Public Service Commission, 861 Silver Lake Blvd., Dover, DE
May 31, 2010		Delmarva files 2010 IRP ¹⁰

⁹ Efforts should be made to invite members of the public to attend all of the workshops.

TBA

Commission opens docket to consider 2010 IRP

¹⁰ Given the uncertainty around the time requirements needed to prepare an IRP in compliance with the new rules and regulations, Delmarva may request an extension of time for certain elements of the IRP. Delmarva agrees to have an analysis of additional renewable resources completed by May 31, 2010 provided stakeholder input regarding the setting of various parameters associated with the wind resource scenarios are obtained timely.