

**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 OF DELMARVA POWER &) PSC DOCKET NO. 15-0889
LIGHT COMPANY)
(FILED APRIL 1, 2015,)
SUPPLEMENTED SEPTEMBER 2, 2015;)
SUPPLEMENTED AMENDED)
SEPTEMBER 4, 2015))

ORDER NO. 8795

AND NOW, this 22th day of September, 2015:

WHEREAS, in October 2005, the Delaware Public Service Commission (the "Commission") approved a Request for Proposal ("RFP") process for Delmarva Power & Light Company ("Delmarva") to procure supply from the wholesale electric market for resale to its Standard Offer Service ("SOS") customers, in accordance with the Electric Utility Restructuring Act of 1999 (the "Act");¹ and

WHEREAS, in April 2006, the General Assembly revised certain of the Act's SOS provisions but carried forward the RFP process established for procuring at least 30% of Delmarva's overall SOS load;² and

WHEREAS, after each of the first two SOS procurement years, the Commission changed the RFP process and the framework for public disclosure of the results;³ and

¹See PSC Order No. 6746 (Oct. 11, 2005).

²See 26 Del. C. §1007(c)(1)a, added by the "Electric Utility Retail Customer Supply Act of 2006," 75 Del. Laws ch. 242 (April 6, 2006).

³See PSC Order Nos. 7053 (Oct. 17, 2006) and 7284 (Sept. 18, 2007).

WHEREAS, in September 2008, the Commission approved Delmarva's request to remove the obligation of wholesale suppliers to provide Renewable Energy Credits ("RECs") from the Full Requirements Service Agreement ("FSA");⁴ and

WHEREAS, in October 2008, pursuant to 26 *Del. C.* §1007(c)(1) and its continuing jurisdiction, the Commission approved Delmarva's request to utilize a reverse auction process conducted by World Energy Solutions Inc. ("World Energy") in its next annual SOS procurement process;⁵ and

WHEREAS, Delmarva has conducted its annual SOS procurements using the reverse auction for all supply contracts since those commencing on June 1, 2009;⁶ and

⁴ See Order No. 7432 (Aug. 19, 2008). The Commission modified the SOS procurement rules to add language to relieve the wholesale suppliers from the requirement to provide RECs and solar renewable energy credits to meet Delaware's Renewable Energy Portfolio Standards Act's obligations and to excuse them from compliance with any other federal or state requirements for SOS that are met by the wind contracts.

⁵ See Order No. 7461 (Oct. 7, 2008). The original RFP format was a simple sealed bid process in which bidders had one chance to submit bids for any or all available blocks without knowing other bids, the idea being that bidders would be forced to submit their best price. In contrast, the new reverse auction format relies upon bidders' awareness of other bidders' actions in an attempt to drive prices down. A starting price for each block is set prior to the submission of bids, and a separate auction is conducted for each available block. The auctions open simultaneously, and bidders may submit as many bids as they like on each block as long as each bid is below the starting price.

⁶ The procurement was conducted in two "tranches" and secured three-year supply contracts for one-third of the residential SOS load and one-year contracts for 100% of the load for other "fixed price" types of service. Staff and the Commission's consultant observed and evaluated the procurement of each tranche.

WHEREAS, on October 6, 2009, September 21, 2010, September 20, 2011, September 18, 2012, September 26, 2013, and September 30, 2014, the Commission approved additional changes to the procurement process;⁷ and

WHEREAS, on September 2, 2015, and on September 4, 2015, Delmarva filed documents (the "Filing")⁸ with the Commission seeking Commission approval of proposed changes to the upcoming Delaware 2016 SOS procurement cycle and procurement process. The Filing includes the following five exhibits: Exhibit 1 has the 2016 SOS Procurement Improvement Process proposals and is attached to this Order as **Attachment "A"**; Exhibit 2 is the redlined "Proposed 2016 Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware" ("RFP") and is attached to this Order as **Attachment "B"**; Exhibit 3 is the clean version of the RFP and is attached to this Order as **Attachment "C"**; Exhibit 4 is the redlined version of the "Proposed 2016 Full Requirements Service Agreement ("FSA") and is attached to this Order as **Attachment "D"**; and Exhibit 5 is the clean version of the FSA and is attached to this Order as **Attachment "E"**. In the Filing, Delmarva requests that the Commission approve the following changes to the SOS procurement process: 1) In the RFP,

⁷ See Order No. 7670 (Oct. 6, 2009), Order No. 7846 (Sept. 21, 2010), and Order No. 8038 (Sept. 20, 2011). Order No. 8216 (Sept. 18, 2012) changed the RFP procurement amounts and dates, revised certain sections to allow execution by electronic signatures, revised the World Energy Solutions Supplier Agreement, and revised the FSA to include: language allowing certain documents to be executed by electronic signatures, the new version of the PJM's Declaration of Authority, and updated the Sample PJM Invoice. Order No. 8460 (September 26, 2013) changed the RFP to reflect current procurement amounts and dates, updated the World Energy Solution Supplier Agreement, and revised the FSA to include an amended Declaration of Authority if PJM requires such document and documentation required by PJM to support market administration.

⁸ This Filing was not labeled in any particular way, but qualifies as an application under 26 Del. Admin. C. §1001-1.2.

Delmarva's first proposal (RFP §2.4, and throughout) modifies the form of its RFP to replace all references in the RFP to World Energy Solutions, Inc. with EnerNOC, which acquired World Energy Solutions, Inc. 2) Delmarva's second proposal (RFP §3.1) eliminates the eligibility requirement that the applicant be registered with NERC/ReliabilityFirst Corporation as the Purchasing Selling Entity (PSE)⁹. The second proposal also changes the RFP to clarify the requirements for establishing an applicant's pre-bid creditworthiness by including language that the applicant's or its guarantor's unsecured senior long-term debt must be currently rated by at least two of the three credit rating agencies. It also clarifies the criteria for determining creditworthiness of an applicant, its parent or its Guarantor and for determining the maximum amount of unsecured credit to be extended, and establishes a requirement for creditworthiness collateral if the applicant relies on a parent or other entity as Guarantor to establish creditworthiness, including the deadlines and requirements if the applicant elects to post a Letter of Credit or cash for its creditworthiness collateral (RFP §3.5). 3) The third proposal (RFP §6) details the bidding schedule for the upcoming procurement year. 4) The fourth proposal (FSA Article 1) clarifies definitions in the FSA. 5) The FSA was changed in the fifth proposal (FSA Article 4.6) to reflect the change in the PJM Settlement point to nodal pricing. 6) The sixth proposal (FSA Article 4.9 and Exhibit D) assigns buyer's and seller's responsibilities with regard to PJM's Billing Line Item Transfers. 7) The seventh proposal (FSA, Exhibit I)

⁹ FERC Docket No. RR15-4-000, which approved NERC's risk-based registration initiative, eliminated the PSE registration category.

deleted the Declaration of Authority to reflect the change in PJM's requirements; and

WHEREAS, pursuant to 26 Del. C. §1007(c)(1)a., the Commission is specifically authorized to modify the SOS procurement process;¹⁰ and

WHEREAS, Staff has reviewed the Filing and finds no issues with Delmarva's proposed revisions to the FSA and RFP; and

WHEREAS, Delmarva held a SOS Procurement Improvement Process webcast and meeting for all interested stakeholders on August 6, 2015 and requested any proposed modifications to the FSA or RFP; and

WHEREAS, Delmarva received some proposed modifications to the RFP; and

WHEREAS, Delmarva reached a consensus agreement on the proposed language modifications, which are reflected in the respective documents filed with the Commission; and

WHEREAS, the Commission noted this docket on its calendar and no objections to the proposed revisions to the FSA and RFP have been received by the Commission;

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. The Commission hereby approves Delmarva's proposed changes in the SOS procurement process, including those set forth in the revised "2016 Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware" dated September 30, 2015, which is

¹⁰26 Del. C. §1007(c)(1)a. provides, in pertinent part, the following: "At least 30 percent of the resource mix of DP&L shall be purchases made through the regional wholesale market via a bid procurement or auction process held by DP&L. Such process shall be overseen by the Commission *subject to the procurement process approved in PSC Docket #04-391 as may be modified by future Commission action.*" (Emphasis added)

attached as Attachment "C", and those set forth in the revised "Full Requirements Service Agreement", which is attached as Attachment "E".

2. The Commission reserves the jurisdiction and authority to enter such further Orders as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary