

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

IN THE MATTER OF THE APPLICATION)
OF DELMARVA POWER & LIGHT COMPANY,)
EXELON CORPORATION,)
PEPCO HOLDINGS, INC., PURPLE)
ACQUISITION CORPORATION, EXELON) PSC Docket No. 14-193
ENERGY DELIVERY COMPANY, LLC AND)
NEW SPECIAL PURPOSE ENTITY FOR)
APPROVALS UNDER THE PROVISIONS OF)
26 *DEL. C.* §§ 215 and 1016)
(Filed June 18, 2014)

ORDER NO. 8952

WHEREAS, on June 18, 2014, Delmarva Power & Light Company ("Delmarva Power"), Exelon Corporation ("Exelon"), Pepco Holdings, Inc. ("PHI"), Purple Acquisition Corporation, Exelon Energy Delivery Company, LLC ("EEDC"), and Special Purpose Entity ("SPE") (collectively, the "Joint Applicants") filed an application (the "Application") seeking approvals under 26 *Del. C.* §§ 215 and 1016 for a change of control of Delmarva Power to be effected by a merger of PHI with a wholly owned subsidiary of Exelon (the "Merger"); and

WHEREAS, on April 7, 2015, the Joint Applicants, the Delaware Public Service Commission Staff ("Staff"), the Delaware Division of the Public Advocate (the "Public Advocate"), and intervenors Delaware Department of Natural Resources and Environmental Control ("DNREC"), the Delaware Sustainable Energy Utility (the "SEU"), Mid-Atlantic Renewable Energy Coalition ("MAREC"), and the Clean Air Council ("CAC") (collectively, the "Settling Parties") entered into an Amended Settlement Agreement (the "Amended Settlement Agreement") and

requested that the Commission approve the Merger and the Amended Settlement Agreement; and

WHEREAS, on June 2, 2015, the Commission adopted Order No. 8746 approving the Merger and the Amended Settlement Agreement; and

WHEREAS, the Settling Parties negotiated a "most favored nation" ("MFN") provision, included in paragraphs 103 through 105 of the Amended Settlement Agreement, pursuant to which the Joint Applicants agreed to provide additional benefits in the State of Delaware if greater financial or other specified benefits were ordered or agreed to by the Joint Applicants in connection with approval of the Merger in other jurisdictions; and

WHEREAS, on March 23, 2016, the Public Service Commission of the District of Columbia granted approval of the proposed Merger, which provided the final required regulatory approval for the Merger to proceed; and

WHEREAS, on March 23, 2016, the Merger was closed; and

WHEREAS, the parties (including all of the Settling Parties) have jointly proposed that, in addition to the payment and allocation of additional financial benefits to be provided in Delaware in connection with the Merger, the non-financial conditions identified in Exhibit A attached hereto should be ordered as a modification of the Amended Settlement Agreement in order to provide comparable benefits and protections with respect to the Merger as were ordered by the District of Columbia Public Service Commission; and

WHEREAS, the Commission having heard from the parties at its regularly-scheduled October 6, 2016 meeting and having considered and

deliberated on whether the non-financial conditions should be included as additions to the Amended Settlement Agreement;

AND NOW, THEREFORE, ON OCTOBER 6, 2016 BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS, IT IS HEREBY ORDERED AS FOLLOWS:

1. That adoption of these non-financial conditions will provide Delmarva Power ratepayers with comparable benefits and protections with respect to the Merger as were ordered by PHI's other state regulatory jurisdictions.

2. That the non-financial conditions identified and set forth in Exhibit A (attached hereto) are approved.

3. 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:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

Exhibit A

Local Presence in Delaware

1. Exelon will include the State of Delaware among the locations of Exelon's Board of Directors meetings and Exelon's annual stockholder meetings. This paragraph revises and supersedes paragraph 14 of the Amended Settlement Agreement.

2. The Exelon Executive Committee will include the State of Delaware among the locations of its meetings. This paragraph revises and supersedes paragraph 15 of the Amended Settlement Agreement.

Employment and Workforce Reporting

3. For at least five (5) years after Merger close, Exelon shall not permit a net reduction, due to involuntary attrition as a result of the Merger integration process, in the employment levels at Delmarva Power's utility operations in the Delaware. For purposes of this paragraph, "involuntary attrition" includes transfer-or-quit offers where the employee decides to quit or retire rather than being transferred to a work location outside of the Delaware. This paragraph revises and supersedes paragraph 3 of the Amended Settlement Agreement.

4. Delmarva Power shall, on an annual basis for the first five (5) years after Merger close, file a report with the Commission by April 1, beginning in 2017, regarding employment levels at Delmarva Power during the prior calendar year. The reports shall detail any job losses - including whether the attrition was involuntary or voluntary - as well as any job gains, delineated using an industry-accepted categorization method such as by SAIC code.

Supplier and Workforce Diversity Reporting

5. Delmarva Power shall continue its commitments to supplier and workforce diversity. Delmarva Power shall, on an annual basis for the first three (3) years following consummation of the Merger, file a report with the Commission by April 1, beginning in 2017, outlining its efforts to promote supplier and workforce diversity during the prior calendar year.

Economic Benefits Reporting

6. For each of the first five (5) years after Merger close, Delmarva Power will submit an annual report detailing the economic benefits of the Merger for the State of Delaware. The report will detail the methodology used to calculate the benefits and the specific description of the benefits.

Development of an Arrearage Management Program

7. Delmarva Power will work with Staff, the Public Advocate and other interested stakeholders to develop in good faith a mutually agreeable Arrearage Management Program ("AMP") for low-income customers in arrears, which would include the provision of credits or matching payments for customers who make timely payments on their current bills, with such discussions to be initiated no later than sixty (60) days after the Commission's approval of this condition, and with the understanding that the parties will seek to reach agreement within six (6) months after the Commission's approval of this condition and that any agreement regarding the adoption of an AMP would be submitted to the Commission for its review and approval.

Integration, Cost Accounting and Synergy Savings

8. The Joint Applicants agree that Delmarva Power shall track and account for Merger-related savings, and the cost to achieve those savings, in its first base rate case after the closing of the Merger, and if applicable, in each of its base rate cases filed within a three-year period following Merger close. Delmarva Power will flow all synergy savings allocable to Delaware customers through the normal ratemaking process. Furthermore, the Joint Applicants agree to provide the Commission an update regarding Delmarva Power integration efforts six (6) months after the consummation of the Merger and every six months thereafter for a period of two years post-Merger close. This paragraph revises and supersedes the requirements of paragraph 86 of the Amended Settlement Agreement.

9. Delmarva Power will amortize the costs to achieve synergy savings ("CTA") over a five-year period of time commencing with the effective date of the first Delmarva Power base rate case filed after Merger close. To the extent CTA are incurred after the first rate case, such CTA will be amortized over a five-year period commencing with the effective date of the first rate case after such costs are incurred. Delmarva Power shall not recover CTA in a Delmarva Power rate case in an amount greater than the synergy savings that Delmarva Power demonstrates for the applicable test year.

10. In each of Delmarva Power's base rate cases filed within five (5) years after closing of the Merger, Delmarva Power shall provide, in addition to the information otherwise required to be provided with Delmarva Power's minimum filing requirements, the following information with respect to charges to Delmarva Power from Exelon, Exelon Business Services Company ("EBSC") or any other affiliate that supplies service to Delmarva Power after the Merger: (a) The Cost Allocation Manual(s) in effect and used to allocate costs to Delmarva Power and Delmarva Power's Delaware operations; (b) The service agreement(s) in effect between Delmarva Power and Exelon, EBSC, and any other affiliate that charges costs to Delmarva Power; (c) An exhibit separately stating the costs that are directly assigned

or allocated to Delmarva Power and Delmarva Power's Delaware operations for the test year and for each year post-Merger, by entity charging the costs, including: (i) Total amount of direct charged costs and total amount of allocated costs to Delmarva Power and to Delmarva Power's State of Delaware operations; (ii) Total amount of direct charged costs and total amount of allocated costs included in Delmarva Power's rate base and in Delmarva Power's rate base for the State of Delaware; and (iii) Total amount of direct charged costs and total amount of allocated costs included in Delmarva Power's operating and maintenance expenses and in Delmarva Power's operating and maintenance expenses for the State of Delaware.

11. Delmarva Power shall promptly notify the Commission, Staff and the Public Advocate if it receives notice that the United States Securities and Exchange Commission (the "SEC"), the Federal Energy Regulatory Commission (the "FERC"), or the state regulatory commission in any state in which an affiliate utility company operates has initiated an audit of EBSC or PHI Service Company ("PHISCo"). Delmarva Power shall provide copies of the portions of all audit reports highlighting the findings and recommendations and ordered changes to the General Service Agreement ("GSA") pertaining directly or indirectly to EBSC or PHISCo's determinations of direct billings and cost allocations to its affiliate utility companies, as well as any sections addressing Delmarva Power. If after review of such material, Staff or the Public Advocate reasonably determines that review of the remainder of such audit report is warranted, Delmarva Power shall make the complete report available for review in a Delmarva Power office in the State of Delaware or at the Commission, subject to appropriate conditions to protect confidential or proprietary information.

12. Delmarva Power shall promptly notify the Commission, Staff and the Public Advocate if it receives notice that the SEC, the FERC, or any state regulatory commission in which an affiliate utility company operates has issued a specific decision affecting EBSC or PHISCo, including a rulemaking, pertaining directly or indirectly to EBSC or PHISCo's determinations of direct billings and cost allocations to its affiliate utility companies.

13. Delmarva Power shall promptly file with the Commission, for informational purposes, any modifications to the GSA, including changes in methods or formulae used to allocate costs at the same time it makes a filing with the FERC. Delmarva Power's filing of modifications to the GSA shall be made at least thirty (30) days before such modifications become effective. Staff and the Public Advocate shall have the right to review the GSA and related cost allocations in Delmarva Power's future base rate cases in the State of Delaware, in conjunction with future competitive service audits, in response to any changes in the Commission's affiliate relations standards, and for other good cause shown.

14. Exelon agrees that any costs to migrate from PHI's Solution One SAP system to an Oracle-based system prior to the conclusion of the life of the asset will not be recovered in Delmarva Power's distribution customer rates. The new "SolutionOne" SAP billing system platform will be in use for its expected useful life. If, for any reason, the use of the "SolutionOne" SAP billing system platform is terminated before the end of this expected useful life, ratepayers shall not be responsible for any un-depreciated costs or lease payment obligations remaining after the date upon which use is terminated. This paragraph revises and supersedes paragraph 93 of the Amended Settlement Agreement.

Tax Indemnity

15. Although the Joint Applicants do not anticipate any adverse impact from the Merger on the utilization of Delmarva Power's net operating loss carry-forwards, Exelon will agree to indemnify Delmarva Power for any liability for income taxes in excess of liabilities of Delmarva Power as a standalone entity. In addition, Exelon shall indemnify Delmarva Power for any liability for federal or local income taxes (including interest and penalties related thereto, if any) in excess of Delmarva Power's standalone liability for federal or local income taxes (including interest and penalties related thereto, if any) for any period during which Delmarva Power is included in a consolidated group with Exelon. Under applicable law, following the Merger, Delmarva Power will have no liability for federal or local income taxes (including interest and penalties related thereto, if any) of Exelon or any other subsidiary of Exelon for any period during which Delmarva Power was not included in a consolidated group with Exelon (*i.e.*, any period before the Merger). Exelon will take no action to cause Delmarva Power to have any liability for federal or local income taxes (including interest and penalties related thereto, if any) of Exelon or any other subsidiary of Exelon for any period during which Delmarva Power was not included in a consolidated group with Exelon for purposes of filing federal or local income tax returns. If Delmarva Power is included in a consolidated group with Exelon for purposes of filing federal or local income tax returns and the rating for Exelon's senior unsecured long-term public debt securities, without third-party credit enhancement, is downgraded to a rating that indicates "substantial risks" (below B3 by Moody's or B- by S&P or Fitch) by at least two of the three major credit rating agencies, the Commission may, after investigation and hearing, require Exelon to deliver to Delmarva Power collateral of the type and amount determined by the Commission pursuant to the hearing to secure Exelon's tax indemnity to Delmarva Power if the Commission finds that such collateral is necessary for the protection of Delmarva Power's interests under Exelon's tax indemnity. Delmarva Power shall be required to surrender or release such collateral security to Exelon (1) promptly after the rating of Exelon's senior unsecured long term public debt, without third-party credit enhancement, is restored to a rating above "substantial risks" (at or above B3 by Moody's or B- by S&P or Fitch) by at least two of the three major credit rating agencies, or (2) if and when Delmarva Power is determined by a body of

competent jurisdiction no longer to be liable for federal or local income taxes as a member of a consolidated group with Exelon, other than Delmarva Power's standalone liability for federal or local income taxes (including interest and penalties related thereto, if any), or (3) upon a finding by the Commission, after investigation and hearing upon application of Exelon, that the conditions under which such collateral security was originally required no longer exist. This paragraph revises and supersedes paragraph 90 of the Amended Settlement Agreement.

Corporate Structure

16. PHI will have a board of directors consisting of seven (7) or more people. A majority of the PHI board (4 directors on a board of 7) will be "independent" (as defined by New York Stock Exchange rules). Of the remaining directors, one shall be selected from among the officers or employees of PHI or a PHI subsidiary. At least three (3) PHI board members shall have a residence or principal place of business or employment in the service territory of the PHI utilities, one from Delmarva Power (Delaware), one from Atlantic City Electric Company ("ACE"), and one from Potomac Electric Power Company ("Pepco"). This paragraph revises and supersedes paragraph 11 of the Amended Settlement Agreement.

17. Exelon commits that, following the Merger closing date: (a) Delmarva Power will have a Chief Executive Officer ("CEO"), who may also be the CEO of PHI; (b) the Delmarva Power CEO will be a member of the Exelon Executive Committee, will meet with Exelon's CEO at least monthly, and will have direct and frequent access to the Exelon CEO and other members of Exelon's senior management team; (c) the Delmarva Power CEO will attend meetings of Exelon's Board of Directors; (d) Delmarva Power's CEO will be extended an employment contract for no less than two (2) years; and (e) any officer succeeding Delmarva Power's current CEO as Delmarva Power CEO will be knowledgeable about Delmarva Power's operations in the State of Delaware. In addition, PHI will continue to have a Chief Financial Officer, Treasurer and a number of other officers, and Delmarva Power will maintain appropriate levels of senior management at its Delaware offices.

18. The Regional President of Delmarva Power will have the same capacities and similar responsibilities as he has today. Consistent with those capacities and responsibilities, the Regional President of Delmarva Power will have input into decisions related to rate-case filings and positions on regulatory and legislative issues that affect Delmarva Power. The Delmarva Power CEO will have the authority to make rate case decisions, including the revenue requirement that will be requested in Delmarva Power's rate cases in the State of Delaware, taking into consideration the input of the Regional President of Delmarva Power. The Regional President of Delmarva Power will maintain an office in the State of Delaware.

Safety

19. Exelon is committed to having all of its utilities achieve and maintain first-quartile performance in safety. Consistent therewith, Delmarva Power will file annual reports on its safety performance and safety initiatives with the Commission. Delmarva Power's reporting will include a report by Exelon on its existing safety and cybersecurity policies.

Ring-Fencing Protections

20. Delmarva Power will not incur or assume any debt, including the provision of guarantees or collateral support, related to the Merger or any future Exelon acquisition. This paragraph revises and supersedes paragraph 20 of the Amended Settlement Agreement.

21. Each PHI utility will maintain separate debt and preferred stock, if any, so that none will be responsible for the debts or preferred stock of affiliated companies, and each will maintain its own corporate and debt credit rating as well as ratings for long-term debt and preferred stock, if any. PHI and its subsidiaries will use reasonable efforts to maintain separate credit ratings for their publicly traded securities. PHI will not issue additional long-term debt securities. In particular, PHI shall not rollover or otherwise refinance its currently outstanding long-term debt by issuing new long-term debt. PHI and its utility subsidiaries will use reasonable efforts and prudence to preserve investment grade credit ratings. This paragraph revises and supersedes the requirements of paragraph 36 of the Amended Settlement Agreement.

22. PHISCo will remain as a subsidiary of PHI and will continue to perform functions and to maintain related assets currently involved in providing services exclusively to the PHI utilities. Other functions that are currently provided by PHISCo, including those that are provided to PHI utilities and to other current PHI subsidiaries, will be transferred to EBSC or another Exelon affiliate in a phased transition over a period of time following the Merger closing. Exelon has filed with the Commission for informational purposes its plan to integrate PHISCo within EBSC and other entities. Exelon will not finalize the implementation of such integration plan until thirty (30) days after it has been filed with the Commission. This paragraph revises and supersedes paragraph 45 of the Amended Settlement Agreement.

23. Delmarva Power shall maintain a rolling 12-month average annual equity ratio of at least 48%. Delmarva Power will not pay dividends to its parent company if, immediately after the dividend payment, its common equity level would fall below 48%, as equity levels are calculated under the ratemaking precedents of the Commission. This paragraph revises and supersedes paragraph 50 of the Amended Settlement Agreement.

24. Exelon shall conduct an analysis of its operational and financial risk to determine the adequacy of existing ring-fencing measures. Exelon shall file this analysis with the Commission no later than the end of the third quarter in 2017.

25. The Joint Applicants agree to implement the ring-fencing and corporate governance measures set out in the Amended Settlement Agreement within 180 days after Merger closing for the purpose of providing protections to customers. Not earlier than five (5) years after the closing of the Merger, the Joint Applicants shall have the right to review these ring-fencing provisions and to make a filing with the Commission requesting authority to modify or terminate those provisions. Notwithstanding such right, the Joint Applicants agree not to proceed with any such modification or termination without first obtaining Commission approval in a written order. In addition, the Joint Applicants recognize that the Commission at any time may initiate its own review or investigation regarding ring-fencing measures (or upon petition by any party) and order modifications that it deems to be appropriate, in the public interest and the best interest of Delmarva Power customers. This paragraph revises and supersedes paragraph 59 of the Amended Settlement Agreement.

Commission Approval of PHI Non-Utility Operations

26. PHI will not initiate or invest in new non-utility operations without first obtaining Commission approval in a written order.

Commission Jurisdiction

27. Delmarva Power will continue to operate within Delaware as an electric and gas public utility subject to the continuing jurisdiction of the Commission pursuant to Title 26 of the Delaware Code and without any reduction in the Commission's existing oversight or authority over Delmarva Power.

28. EEDC's CEO, PHI's CEO, Delmarva Power's CEO, and Delmarva Power's Regional President will annually offer to appear publicly before the Commission to review and provide documentation concerning Delmarva's reliability, safety, and customer service performance and to answer questions about Delmarva's performance in Delaware. The Commission shall not construe this review as approval of any particular Delmarva Power program or expenditure.

Exelon Utility Performance Reporting

29. Exelon and PHI shall file annual across-the-fence reports comparing the performance and status of the utilities within the Exelon family. The reports shall address substantive areas as directed by the Commission and may include subject areas such as reliability, customer service, safety, rate and regulatory matters, interconnections, energy-efficiency and demand-response programs, and

deployment of new technologies, including smart meters and smart grid, automated technologies, microgrids and utility-of-the-future initiatives. The annual reports shall only be filed under separate cover in the event that the across-the-fence comparison is not duplicative of analysis provided in a separate report required by the Commission.

Standard Offer Service

30. Delmarva Power will continue to provide Standard Offer Service ("SOS") to its customers in Delaware consistent with the Delaware Code and Affiliate Code of Conduct. The parties acknowledge that Exelon intends to continue to participate in the SOS auction process. This paragraph revises and supersedes paragraph 94 of the Amended Settlement Agreement.

Development of Renewable Power Generation

31. Exelon shall, by December 31, 2019, develop or assist in the development of five (5) MW of renewable power generation in the State of Delaware. Renewable power may be generated by any eligible energy resource as defined under 26 *Del. C.* § 352(6). Exelon shall sell the output of any renewable generation constructed in fulfillment of this commitment in the market, and shall not seek to recover the costs of this commercial development through Delmarva Power distribution or transmission rates. Exelon shall retain the renewable energy certificates and tax attributes for any renewable projects.

32. Exelon shall provide \$3.0 million of capital to creditworthy governmental entities at market rates for the development of renewable energy projects in the State of Delaware.