State of Delaware

Public Service Commission
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May 10, 2018

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Pamela Knotts, Regulatory Policy Administrator

SUBJECT: IN THE MATTER OF THE APPLICATION OF DELMARVA POWER & LIGHT COMPANY, EXELON CORPORATION, PEPCO HOLDINGS, INC. PURPLE ACQUISITION CORPORTATION, EXELON ENERGY DELIVERY COMPANY, LLC AND NEW SPECIAL PURPOSE ENTITY FOR APPROVAL UNDER THE PROVISIONS OF 26 DEL. C. §§ 215 AND 1016 (FILED JUNE 18, 2014) – PSC DOCKET NO. 14-193

Application:

On December 11, 2017, Delmarva Power & Light Company ("Delmarva" or the "Company") filed an application ("Application") pursuant to the requirements of Paragraph 17 of the Amended Settlement Agreement, Order No. 8746 in PSC Docket No. 14-193 and Paragraph 2 b of Order No. 8970, the most favored nation provision, in PSC Docket No. 14-193 for approval of a plan to distribute these funds for the benefit of Delmarva's low-income customers.

Delmarva asked the Delaware Energy Efficiency Advisory Council ("EEAC") to develop and recommend a plan to distribute the $4 million for the benefit of Delmarva's low income customers consistent with the terms and conditions of the Amended Settlement Agreement and the Most Favored Nation provision which then could be provided to the Commission for their approval. The EEAC established the Low-Income Advisory Committee ("LI Advisory Committee" or the "Committee") in May 2016. The Committee is made up of various stakeholders representing community-based non-profit organizations, faith-based organizations, social service agencies, municipalities, the Delaware Sustainable Energy Utility, Delmarva, Chesapeake Utilities, the Division of the Pubic Advocate ("DPA"), Division of Energy and Climate ("E&C"), EEAC consultants and members of the EEAC[1] and meetings were open to the public. After a year-long process (June 2016 – June 2017) the Committee brought the low-income distribution plan ("LI Distribution Plan") before the EEAC. On June 14, 2017, the EEAC unanimously approved to accept the Committee's recommendations and to recommend it to the Delaware Public Service Commission (the "Commission"). The EEAC also voted unanimously on April 4, 2018 affirming that it recognizes that even though the Commission's orders pertaining to the $4 million merger settlement funds reference low-income energy efficiency *programs*, the EEAC approved the Committee's distribution process or LI Distribution Plan for the merger settlement funds with the clear intent the process will result in new low-income energy efficiency programs.

Description of the LI Distribution Plan:

The LI Advisory Committee examined four primary tasks; identify geographically Delmarva's highest concentrations of low-income customers, identify existing low-income energy efficiency programs, identify gaps in program offerings, and identify the best strategy for distributing the merger settlement funds.

According to the document titled ***The Delaware Energy Efficiency Advisory's Council's Low-Income Settlement Funds Distribution Plan Recommendation to the Delaware Public Service Commission,*** that was filed with the Commission, a general strategy was reached that funds would be made available and distributed to entities that serve low-income households by delivering energy efficiency programs and services on both a large-scale level (i.e. statewide) and a small scale/community-based level or specific geographic area. The LI Advisory Committee, the EEAC, E&C, and Delmarva do not have the resources or the experience to manage a grant making process with the potential for receiving, awarding and managing potentially dozens of community-based proposals, therefore the Committee recommended appointing through a RFP process a foundation or a charitable money manager ("Manager") with the experience to create a competitive grant making process and conduct fund raising for additional low-income energy efficiency funds. If approved, the Request for Proposals will be issued by Delmarva, a Manager will be selected

[1] The Delaware Energy Efficiency Advisory Council's Low-Income Settlement Funds Distribution Plan Recommendation to the Delaware Public Service Commission, pg. 2

by a Grant Application Review Committee which would be formed from members of LI Advisory Committee and may include representatives from the DPA and Commission Staff. The LI Advisory Committee felt it would be impracticable to have the Commission review and approve dozens of individual grant proposals; therefore the reason for asking the Commission to approve the LI Distribution Plan where an experienced Manager will administer a grant making process. A portion of the $4 million in merger settlement funding will be released to the selected Manager at intervals until the entire $4 million is allocated. This special purpose fund will be set up and managed by the Manager which will be restricted to projects that deliver energy efficiency programs and services for low-income Delmarva customers[2]. The Manager will work with the Grant Application Review Committee and receive direct guidance from the LI Advisory Committee and the EEAC for distributing the low-income funds through a competitive grant process that serves both large-scale and small-scale community-based low-income EE programs[3]. The EEAC believes that the Commission needs to approve the actual process before the $4 million can be released. The EEAC is concerned that RFPs cannot be held to first select the Manager and next to select the winning EE projects until the money is available to grant.

The two "guidance" documents, included in the filing, are for reference by potential applicants when developing program proposals and include sample applications representing the level of detail expected from grant applicants. The Manager could use these documents as a template or create similar documents. The Manager will establish an energy efficiency EM&V process that tracks and monitors the energy efficiency performance of all grantee projects. The large-scale grantees will be required to hire an EEAC recommended third-party EM&V evaluator and abide by the EEAC approved EM&V rules. The Manager will be responsible for all tracking and reporting of performance of all the grantees and will ensure that all grantees have acceptable data collection and data storage systems that can be applied to the Delaware statewide database.

At the April 4th 2018 EEAC meeting Delmarva stated that they would conduct the RFP for the Manager and contract with the chosen Manager and disburse the funds.

Staff's Review and Recommendations:

Staff performed a review of the Application and attended many of the meetings of the LI Advisory Committee and the EEAC. The LI Distribution Plan was developed in a public forum and approved unanimously by the EEAC.

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[2]"*Id.*" at 7

[3] "*Id.*"at 6

Staff does not oppose the Company's request that the Commission approve the LI Distribution Plan, but respectfully asks the Commission to consider several recommendations that have been discussed with the parties.

- As part of the statutory directive for collaboration, Staff proposes an appeal process be included. If at any point in the process the DPA, Staff or any other party believes that the grant process will not result in or is not resulting in low-income energy efficiency programs the first appeal step of the collaborative process will be to the EEAC. If the EEAC does not agree, the next appeal step will be to the Commission in the form of a timely petition filed. The Commission would decide if the resulting process/program did not meet the criteria as detailed in the RFP or the Commission orders. If the Commission decides that the process/program did not meet either the criteria or Commission orders the process/program will be amended.

- After the Manager provides an annual report to the EEAC on the Fund and program progress and performance, the Manager or a designee should present to the Commission a summary of the annual report including but not limited to the monies distributed, the low-income EE programs implemented, any accounting of additional low-income EE funds raised and the actual achievements against the performance goals of the programs until the $4 million is spent or five years has lapsed whichever comes first.

Staff respectfully asks the Commission to approve the two recommendations listed above which would help to ensure the $4 million in merger settlement funds are spent appropriately. No further approvals from the Commission would be required.