



STATE OF DELAWARE

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June 20, 2018

To: The Chair and Members of the Commission

From: Pamela Knotts, Regulatory Policy Administrator *PK*

Subject: IN THE MATTER OF THE REQUEST FOR PROPOSALS AND THE REVIEW AND APPROVAL OF ANY PROPOSED CONTRACT(S) FOR THE PURCHASE OF WIND-GENERATED RENEWABLE ENERGY CREDITS BY DELMARVA POWER & LIGHT COMPANY (FILED NOVEMBER 1, 2016, REVISED JUNE 14, 2018) PSC DOCKET NO. 16-1031

Background:

On April 29, 2014, Exelon Corporation (“Exelon”) and Pepco Holdings, Inc. (“PHI”) executed an Agreement and Plan of Merger, and on July 18, 2014, an Amended and Restated Agreement and Plan of Merger was executed. On June 18, 2014, Exelon, PHI, Delmarva Power & Light Company (“Delmarva”), and other related entities (collectively, the “Joint Applicants”) filed an application (the “Merger Application”) (Docket No. 14-193) requesting the Delaware Public Service Commission’s (“Commission”) approval of the proposed Merger of Exelon and PHI. In Order No. 8746, dated June 2, 2015, and Order No. 9032, dated February 23, 2017, the Commission approved the Amended Settlement Agreement and the Merger. Paragraph 84¹ of the

¹ Paragraph 84 of the Merger Settlement Agreement provides as follows: “For the purpose of meeting the renewable portfolio standards under current law, Delmarva Power will issue a competitive request for proposals (“RFP(s)”) to purchase wind Renewable Energy Credits (“RECs”) on commercially reasonable terms in three tranches: (1) the first for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the compliance years 2017-2018 for a term of 10 to 15 years; (2) the second for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the compliance years 2019-2020 for a term of 10 to 15 years; and (3) the third for RECs from one or more renewable generating facilities with an aggregate capacity of up to 40 MW (nameplate) beginning in the compliance years 2023-2024 for a term of 10 to 15 years. The Settling Parties agree that if circumstances or conditions change (including but not limited to a material change in the projected load of Delmarva Power such that fewer RECs are required, or a substantial change in the cost of RECs through the spot market such that additional spot-market purchases in lieu of long-term contract purchases would be prudent), they will work in good faith with each other and present any proposed modification to the Commission as may be warranted by those changed conditions. The primary factor under the RFP bid process will be price, and all costs associated with the REC agreement(s) will flow through the Renewable Portfolio Compliance Rate surcharge currently in place to assure complete and timely cost recovery by Delmarva Power. Delmarva Power, with the concurrence of the Renewable Energy Task Force, shall file any such RFP pursuant

Amended Merger Settlement Agreement obligates Delmarva to issue competitive requests for proposals (“RFP”) to purchase wind Renewable Energy Credits (“RECs”) from one or more wind renewable generating facilities of up to 40 MW in each of three tranches. On December 1, 2016, the Commission approved Order No. 8990, which opened the docket and approved the first tranche and the RFP for RECs from one or more wind renewable generating facilities of up to 40 MW.

The Tranche 1 RFP was issued on February 17, 2017, and Delmarva picked the lowest bidder. However, no contract was executed because the bidder, notwithstanding extensive negotiations, could not obtain the required contract security.

Because Tranche 1 procured no REC’s, Delmarva decided to include in Tranche 2 an option for bidders to propose RECs from wind-generating facilities of up to 40 MW and an additional 40 MW for a total of up to 80 MW.

Tranche 2 RFP:

On June 14, 2018, Delmarva filed its *Request to Approve the Tranche 2 Request for Proposals for the Purchase of Wind-Generated Renewable Energy Credits* (“Application”) and requested expedited treatment. The Application states Delmarva issued its Tranche 2 RFP on April 18, 2018, mistakenly without Commission or Renewable Energy Taskforce (“RETF”) approval, and requests Commission approval of the Tranche 2 RFP. The Application provides that Delmarva made the following revisions² to its previously approved Tranche 1 RFP:³

- 1) §1. Introduction - Tranche 2 includes an option for bidders to provide RECs from one or more renewable generating facilities with each bid limited to 40 MW with an aggregate capacity of up to 80 MW beginning in compliance year 2019-2020 with a commencement date of June 1, 2019.
- 2) §2. Schedule and §3. Schedule Overview - the RFP was updated for current dates.
- 3) §5.1 Proposal Requirements - was amended to allow bidders to submit more than one proposal for a generating facility provided that each proposal pertains to a different portion of that facility.
- 4) §8. Credit Support - the contract security provisions have been modified to include more options for providing the required contract security. Bidders will be required to post the applicable amount of credit support as set for in the Environmental Attribute Purchase Agreement.

Delmarva also supported its Application with RETF’s June 12, 2018 email memorializing the “*Confirmation of Approval of the RFP.*” The RETF voted unanimously to approve the RFP for Tranche 2 on June 12, 2018.

Staff Review of the Request for Approval of Tranche 2 RFP:

Staff has reviewed Delmarva’s request for approval of the Application. As noted, Delmarva issued the Tranche 2 RFP on April 18, 2018, mistakenly without Commission or RETF approval. Delmarva now asks the Commission to approve the Tranche 2 RFP. In Docket No. 16-1031, Order No. 8990, the Commission approved the issuance of the Tranche 1 RFP for RECs

to this paragraph with the Commission for its review and required approval prior to issuance. Any proposed contract(s) resulting from the RFP shall also be submitted to the Commission for final review and approval before execution.”

² Attachment B to Delmarva’s June 14, 2018 Application (“Attachment B”).

³ Order No. 8990 (Dec. 1, 2016).

from wind-generating facilities of up to 40 MW. As the Tranche 1 contract was not executed, Tranche 2 includes RECs from wind-generating facilities of up to 40 MW from the prior tranche and includes an additional up to 40 MW, for an aggregate capacity of up to 80 MW, with a term of 10-15 years beginning in compliance years 2019-2020. The primary factor governing the RFP bid process will be price, although non-price factors⁴ will also be evaluated.

Any proposed contracts resulting from the RFP must be presented to the Commission for final review and approval before execution.

Recommendation:

Staff supports Delmarva's Application for the request to approve the Tranche 2 Request for Proposals for the Purchase of Wind-Generated Renewable Energy Credits for the following reasons: (1) it is consistent with Paragraph 84 of the Amended Settlement Agreement approved in Order No. 8746, dated June 2, 2015, and Order No. 9032, dated February 23, 2017, in which the Commission deemed the Amended Settlement Agreement to be in the public interest;⁵ (2) although the Tranche 2 RFP is revised as detailed above, it is based on the RFP as approved in Order No. 8990; and (3) the RETF approved the Tranche 2 RFP at the June 12th meeting, which was held in a public forum. Staff supports the changes to the RFP as included in the Application and respectfully recommends that the Commission approve the Application.

⁴ Attachment B, § 7.1 Evaluation.

⁵ Order No. 9032 (Feb. 23, 2017) at ¶ 98.