

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

IN THE MATTER OF THE REQUEST FOR )  
PROPOSALS AND THE REVIEW AND )  
APPROVAL OF ANY PROPOSED )  
CONTRACT(S) FOR THE PURCHASE OF ) PSC DOCKET NO. 16-1031  
WIND-GENERATED RENEWABLE ENERGY )  
CREDITS BY DELMARVA POWER & LIGHT )  
COMPANY (FILED APRIL 6, 2022) )

**ORDER NO. 10157**

**AND NOW**, this 14<sup>th</sup> day of December 2022, the Delaware Public Service Commission (“Commission”) determines and orders the following:

**WHEREAS**, by Order No. 8746 (June 2, 2015) in Docket No. 14-193, the Commission approved the merger of Exelon Corporation and Pepco Holdings, Inc. (“Merger”) and the resulting change of control of Delmarva Power & Light Company (“Delmarva”), pursuant to 26 *Del. C.* §§ 215 and 1016; and

**WHEREAS**, in approving the Merger, the Commission adopted the terms of the Amended Settlement Agreement reached by the parties to Docket No. 14-193; and

**WHEREAS**, the Amended Settlement Agreement obligates Delmarva to issue competitive requests for proposals (“RFPs”) to purchase wind Renewable Energy Credits (“RECs”) on commercially reasonable terms in three tranches, with the concurrence of the Renewable Energy Task Force (“RETF”), but did not require Delmarva to make an award or negotiate a contract for Wind RECs;<sup>1</sup> and

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<sup>1</sup> The Amended Settlement Agreement, at paragraph 84, provides:

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

**WHEREAS**, by PSC Order No. 8990 (Dec. 1, 2016) the Commission approved the Tranche 1 RFP but the RFP did not result in a contract since the bidder failed to provide the necessary credit assurance; and

**WHEREAS**, for the Tranche 2 RFP, the Commission issued Order No. 9353 in this docket, which approved a contract with Avangrid for wind RECs beginning June 2019; and

**WHEREAS**, on April 6, 2022, Delmarva filed a Request for Approval of the Tranche 3 RFP, which was substantively the same as the Tranche 2 RFP, including the following terms:

- a. Purchase Delaware-compliant wind RECs for RPS Compliance Year beginning in June 2023 at a fixed price for 10 to 15 years;
- b. Seeking 40 MW of Name Plate Capacity plus an optional additional 40 MW to meet the Tranche 3 merger commitment plus the Tranche 1 shortfall;
- c. RECs can be sourced from existing or proposed facilities. The Tranche 3 RFP allows up to three years to achieve commercial operation and has a provision to provide spot market RECs while in construction;
- d. Delmarva will retain an Independent Evaluator to assist in the RFP evaluation process and provide award recommendations; and

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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 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.

- e. Acceptance of any proposals will be at Delmarva's sole discretion, will require an executed Environmental Attribute Purchase Agreement and will be subject to Commission approval; and

**WHEREAS**, at its March 2, 2022 meeting, the RETF provided the required concurrence of the Tranche 3 RFP;<sup>2</sup> and

**WHEREAS**, in Order No. 10012 dated April 20, 2022, the Commission approved Delmarva's application to issue the Tranche 3 RFP with a procedural schedule that would allow for a properly noticed public comment period, intervention deadline, and an evidentiary hearing; and

**WHEREAS**, on December 5, 2022, Delmarva filed its *Independent Evaluator Report for Delmarva Power's Solicitation for Wind Renewable Energy Credits*, dated August 23, 2022 by ICF Resources, LLC ("ICF"); and

**WHEREAS**, ICF and Delmarva determined that the Tranche 3 RFP met the requirements of paragraph 84 of the Amended Settlement Agreement, as adopted by Order No. 8746 (June 2, 2015) in Docket No. 14-193, but resulted in no compliant bids to fulfil the RFP;

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

1. That the Commission finds Delmarva's Tranche 3 RFP for wind-generated RECs met the requirements of paragraph 84 of the Amended Settlement Agreement as adopted by Order No. 8746.

2. That based on the information in the *Independent Evaluator Report for Delmarva Power Solicitation for Wind Renewable Energy Credits*, dated August 23, 2022 that Delmarva has satisfied the merger commitment of paragraph 84 in the Amended Settlement Agreement.

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<sup>2</sup> See email from Thomas Noyes to Dawn Crompton dated March 29, 2022 ("Attachment A" to Delmarva's Request for Approval).

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:**

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Dallas Winslow, Chairman

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Joann Conaway, Commissioner

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Harold Gray, Commissioner

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Manubhai "Mike" Karia, Commissioner

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Kim F. Drexler, Commissioner

ATTEST:

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Donna Nickerson, Secretary