

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1325 G STREET N.W., SUITE 800
WASHINGTON, D.C. 20005**

ORDER

August 3, 2022

FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF COLUMBIA,
Order No. 21413

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) approves the executed Renewable Energy Purchase Agreement (“Agreement”) filed by the Potomac Electric Power Company (“Pepco”) on July 25, 2022, for the bundled sale of energy, renewable energy credits (“RECs”), and capacity.¹

II. BACKGROUND

2. By Order No. 19897, the Commission established “a pilot program to procure renewable energy through long-term power purchase agreements (‘PPA’) for electricity generated by solar or wind power facilities located within the PJM Interconnection region (‘PJM’) with a target quantity of five (5) percent of the [Standard Offer Service (‘SOS’)] load.”² By Order No. 20715, the Commission amended Chapter 41 of Title 15 of the District of Columbia Municipal Regulations to integrate long-term renewable energy PPAs into the District’s SOS procurement portfolio.³ The Commission noted that this introduction of long-term renewable energy PPAs into the SOS procurement portfolio would preserve “the environmental quality, including effects on global climate change and the District’s public climate commitments.”⁴ Moreover, the Commission observed that, while the Commission was starting small with a target quantity of five (5) percent of SOS load, it was taking direct action to reduce greenhouse gas (“GHG”) emissions by promoting the construction of new renewable energy generation within PJM.⁵ To facilitate the

¹ *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia (“Formal Case No. 1017”),* Potomac Electric Power Company’s Renewable Energy Purchase Agreement, filed July 25, 2022 (“Agreement”).

² *Formal Case No. 1017,* Order No. 19897, ¶ 1, rel. April 12, 2019.

³ *See RM41-2020-02, In the Matter of 15 DCMR Chapter 41-District of Columbia Standard Offer Service Rules,* Order No. 20715, rel. March 23, 2021.

⁴ Order No. 19897, ¶ 22. Under the District of Columbia Official Code, “In supervising and regulating utility or energy companies, the Commission shall consider the public safety, the economy of the District, the conservation of natural resources, and *the preservation of environmental quality, including effects on global climate change and the District’s public climate commitments.*” D.C. Code § 34-808.02 (2019) (emphasis added).

⁵ Order No. 19897, ¶ 33. The Commission indicated that it wanted to monitor the impact of the five (5) percent SOS PPA on ratepayers before increasing the target quantity.

establishment of this pilot program, the Commission directed that a planning meeting be scheduled and that the SOS Working Group produce, by July 31, 2019, a draft request for proposals (“RFP”) for long-term renewable energy PPAs, including the RECs associated with the energy and draft revised SOS rules, if required, to accommodate this change in the SOS procurement portfolio.⁶

3. On July 31, 2019, Pepco, on behalf of the SOS Working Group, filed a draft RFP.⁷ By Order No. 20327, the Commission directed Pepco, as the SOS Administrator, to act as the counterparty to the long-term renewable energy PPA and file a revised RFP and draft PPA to procure the renewable energy.⁸ On May 21, 2020, Pepco filed the revised RFP and draft PPA.⁹ Pepco filed updated versions of these documents on September 23, 2020, based on input from the SOS Working Group¹⁰ and Commission Staff during the formative and early stages of this initiative.¹¹

4. By Order No. 20636, the Commission approved Pepco’s RFP and draft PPA.¹² Pepco issued the RFP and draft PPA on October 15, 2020.¹³ The RFP solicited proposals for renewable energy and environmental attributes, including RECs.¹⁴ The RFP required initial proposals to provide the following: (1) a facility located in the PJM region; (2) a facility at least 10 MW in size; (3) a 15- or 20-year term; (4) evidence of the bidders’ (or their affiliates’) experience in the operation or development of onshore wind or solar electricity generating assets; (5) a delivery schedule of onshore wind or solar energy generation; (6) the current status of site control efforts and a detailed plan to achieve full site control; (7) the proposed interconnection of the facility and what rights the bidder has acquired for interconnection; (8) identities of the parties that will have the responsibility to develop, finance, construct, and operate the facility; (9) a single, fixed price for the entire term or a price with a fixed annual escalation through the entire term; (10)

⁶ Order No. 19897, ¶ 35.

⁷ *Formal Case No. 1017*, Potomac Electric Power Company’s Response to Order No. 19897, filed July 31, 2019.

⁸ *Formal Case No. 1017*, Order No. 20327, ¶¶ 1, 39, 44, 48, 50, rel. April 9, 2020.

⁹ *Formal Case No. 1017*, Potomac Electric Power Company’s 2020 Solicitation for New Photovoltaic Solar and Onshore Wind Power Supply Generation and Renewable Energy Purchase Agreement, filed May 21, 2020.

¹⁰ The Commission appreciates the robust participation of the SOS Working Group and all stakeholders that contributed to this initiative, including the Office of the People’s Counsel, Department of Energy and Environment, Apartment and Office Building Association of Metropolitan Washington, Sierra Club, Pepco, WGL, NRG Retail Northeast, PJM, American Wind Energy Association, Flywheel Government Solutions for Orsted, Mid-Atlantic Renewable Energy Association, Danish Embassy, Exelon/Constellation, Maryland-DC-Delaware-Virginia Solar Energy Industries Association, Community Energy, and Open Road Renewables.

¹¹ *Formal Case No. 1017*, Potomac Electric Power Company’s 2020 Solicitation for New Photovoltaic Solar and Onshore Wind Power Supply Generation and Renewable Energy Purchase Agreement, filed September 23, 2020 (“Pepco’s RFP and Draft PPA”).

¹² *Formal Case No. 1017*, Order No. 20636, ¶¶ 1, 5, rel. October 1, 2020.

¹³ Pepco’s RFP.

¹⁴ Pepco’s RFP at 1.

pricing that is not contingent on future receipt of any state and/or federal tax credits or other incentives; (11) for solar facilities, an availability guarantee of 90% during the first contract year and 95% in all other contract years; and (12) for onshore wind facilities, an availability guarantee of 90% for the entire term.¹⁵

5. In response to the RFP, Pepco received several proposals, including the proposal that is the subject of the Agreement being approved herein (“Subject Proposal”). Pepco, Commission Staff, and the Commission’s Independent Monitor (the Commission’s consultant hired to monitor and evaluate the RFP process for fairness)¹⁶ evaluated these proposals. Through this evaluation, Pepco, Commission Staff, and the Independent Monitor ultimately selected the Subject Proposal for negotiations based on substantial compliance with the above RFP requirements and price and non-price factors, with price being the primary factor.¹⁷

6. In May 2021, Pepco indicated that it was in negotiations regarding the required PPA and that it would submit the final PPA when executed.¹⁸ Thereafter, Pepco filed monthly updates and provided weekly updates to Commission Staff and the Independent Monitor regarding the status of the negotiations.¹⁹ Pepco filed the executed Agreement on July 25, 2022.²⁰

III. DISCUSSION

7. The Agreement, made with [CONFIDENTIAL], which covers the sale of energy, RECs, and capacity, is for a term of 15 years and for approximately five (5) percent of SOS load (approximately 154,000 MWh per year, which equates to 73 MW, or roughly 29%, of the solar project’s 250 MW total nameplate capacity).²¹ The solar project is located in the PJM region. The

¹⁵ See Pepco’s RFP.

¹⁶ Pepco’s RFP states:

An Independent Evaluator (“IE”) will be selected by the Commission to monitor and evaluate the RFP process. The IE will be required to report and certify that the solicitation process was fair to all qualified Bidders and provide a report to the Commission on the evaluation process. As part of its evaluation, the IE shall perform market benchmarking analyses for both energy and RECs, which shall be included in the evaluation report. Pepco, in consultation with the IE, will determine the short list of bidders to negotiate with, and the selection of executed agreements to submit to the Commission for approval. The IE should also provide advice to Pepco during contract negotiations. Pepco’s RFP at 10.

¹⁷ See Pepco’s RFP at 8-9.

¹⁸ Formal Case No. 1017, Potomac Electric Power Company’s Letter, filed May 3, 2021.

¹⁹ Formal Case No. 1017, Potomac Electric Power Company’s Letter, filed July 25, 2022 (“Pepco’s July Letter”).

²⁰ Pepco’s July Letter at 1.

²¹ Pepco’s July Letter at 1. Other offtakers will acquire the remaining 177 MW share of the 250 MW total nameplate capacity.

Agreement also includes an initial contract price of [CONFIDENTIAL] per MWh.²² Further, the Agreement contains certain price escalators to address specific market risks that could increase the cost of solar modules, supply chain events, changes in tariffs, and changes in law, all of which could impact the cost of the solar project.²³ The price escalators are only effective during the time period after the Agreement's execution date but before the solar project's commercial operation date, and the Agreement contains a price cap of [CONFIDENTIAL] per MWh to limit potential price increases to customers. The Agreement also provides for damages if the renewable energy generator does not provide the contracted-for supply during the term of the Agreement.²⁴ The Commission anticipates that renewable energy from the Agreement will begin to serve the target quantity of five (5) percent of SOS load in December 2024.

8. Based on present market conditions and a December 2024 commercial operation date, the Commission currently expects the net impact on SOS customer rates to be minimal once the full annualized effect of the Agreement is fully incorporated into SOS rates. Based on the levelized fixed and bundled price per MWh reflected in the Agreement, these costs will displace five (5) percent of the traditional annual costs for wholesale full requirements service for SOS customers. Any additional load-following expenses associated with the delivery of 154,000 MWhs of intermittent renewable energy from the solar project will also be reflected in total SOS rates. The Commission expects that any net impact on SOS rates will be proportionately shared across all SOS sales within each SOS customer class. Further, consistent with Section 4103 of the Commission's SOS rules, parties will have an opportunity to comment on the proposed retail rates for SOS that will not only reflect the weighted average prices of the winning bids for the 95% share of SOS load but also the impact of incorporating the costs related to the five (5) percent Agreement into overall SOS rates.²⁵

9. Pursuant to Order Nos. 20327 and 20636 and Pepco's RFP, Pepco, as the SOS Administrator, was required to procure a target quantity of five (5) percent of SOS load through a long-term (15- or 20-year) PPA for renewable energy and environmental attributes, including RECs (which will count toward the requirement to meet the District's Renewable Energy Portfolio Standard for the SOS program).²⁶ The Commission finds that the Agreement satisfies these requirements because the Agreement, which covers the sale of energy, RECs, and capacity, is for a term of 15 years and for approximately five (5) percent of SOS load (approximately 154,000 MWh per year).²⁷ While the RFP did not request capacity, we believe that approval of such a bundled deal that includes energy, RECs, and capacity is advantageous because Pepco, as the SOS

²² *Formal Case No. 1017*, Potomac Electric Power Company's Confidential Summary of Renewable Energy Purchase Agreement at 1, filed July 25, 2022 ("Pepco's Confidential Summary"); Pepco's July Letter at 1.

²³ Pepco's July Letter at 1-2.

²⁴ Pepco's Confidential Summary at 1; Pepco's July Letter at 2.

²⁵ 15 DCMR § 4103.3 (2021).

²⁶ Order No. 20327, ¶¶ 1, 39, 44, 48, 50; Order No. 20636, ¶¶ 1, 5; *see* Pepco's RFP.

²⁷ Pepco's July Letter at 1.

Administrator, would otherwise still be required to procure capacity outside of the Agreement from PJM wholesale markets.²⁸

10. The Commission further finds that the negotiated Agreement is reasonable. As previously mentioned, the Commission hired an Independent Monitor to monitor and evaluate the RFP process for fairness. The Independent Monitor certified that the solicitation process was fair, reasonable, and open to all qualified bidders and that Pepco's evaluation and selection process was fair and justified. The Independent Monitor also observed Pepco's negotiations regarding the Agreement and found that the negotiations were arms-length and that there was no self-dealing by Pepco, Pepco Holdings, Exelon, Exelon Generation, or their affiliates. Further, the Agreement poses minimal risk to ratepayers and will facilitate the Commission's SOS procurement portfolio in establishing reasonable SOS rates. As part of its evaluation, the Independent Monitor performed a market benchmarking analysis and found the initial contract price in the Agreement to be reasonable when compared with the prices in the market benchmarking analysis. While the Agreement contains certain price escalators, which are triggered by specific market events (i.e., increases in the cost of solar modules, supply chain events, changes in tariffs, and changes in law), the Independent Monitor found that such provisions are becoming more common due to volatility in the PPA market, and any triggering market event would likely cause prices in the PPA market to also increase. The Agreement's price cap also limits any potential price increases to customers. Thus, the Independent Monitor concluded that the final terms of the Agreement were reasonable and reflected market conditions.

11. Finally, approval of the Agreement is in the public interest. As previously discussed in Order No. 19897, integrating long-term renewable energy PPAs into the District's SOS procurement portfolio preserves "the environmental quality, including effects on global climate change and the District's public climate commitments."²⁹ Using PPAs in this manner is also "consistent with Clean Energy DC, the District of Columbia Climate and Energy Action Plan's goal of a 50 percent reduction in [GHG] emissions by 2032."³⁰ Finally, the Commission concludes that approval of this Agreement advances the District's goal to reduce GHG emissions. The Commission notes that it endeavors to continue furthering the District's energy and climate goals by exploring the expansion of the percentage of SOS load served by renewable energy PPAs in the near term.

IV. DECISION

12. The Commission determines that the executed Agreement complies with the Commission's prior orders regarding Pepco's procurement of a target quantity of five (5) percent of SOS load through a long-term renewable energy PPA. The provisions of the Agreement are reasonable and customary for long-term renewable energy PPAs and include a package of prudent ratepayer protections. The key terms and conditions, including pricing, fall within the range of reasonableness based on our Independent Monitor's market benchmarking analysis. Thus, the

²⁸ 15 DCMR § 4112.2 (b) (2021).

²⁹ Order No. 19897, ¶ 22.

³⁰ Order No. 19897, ¶ 22.

Commission finds that approval of the Agreement is in the public interest. Therefore, the Commission approves the Agreement and directs Pepco to integrate the Agreement into Pepco's procurement of wholesale full requirements service for the SOS program, consistent with the Commission's SOS rules that appeared in the District of Columbia Register ("*D.C. Register*") on April 2, 2021. As the Commission has noted in prior decisions, to continue facilitating the District in achieving its energy and climate goals, we intend to continue exploring the use of PPAs to procure renewable energy for SOS customers.

THEREFORE, IT IS ORDERED THAT:

13. The Commission **APPROVES** the executed Renewable Energy Purchase Agreement filed by the Potomac Electric Power Company on July 25, 2022;

14. The Potomac Electric Power Company **SHALL** integrate the Renewable Energy Purchase Agreement into Pepco's procurement of wholesale full requirements service for the SOS program, consistent with the Commission's SOS rules that appeared in the *D.C. Register* on April 2, 2021;

15. The Potomac Electric Power Company **SHALL** notify the Commission within 30 days of receiving any notifications of changes to the solar project's commercial operation date, changes to the Renewable Energy Purchase Agreement's pricing terms regarding the price cap, developments regarding the execution of other third-party power purchase agreements for the solar project's remaining output, material developments regarding the proceeding for the solar project's application for a certificate of environmental compatibility and public need and any resulting certificate from the relevant authority, material developments regarding the solar project's interconnection process within the PJM Interconnection region, and any other material adverse changes; and

16. Following delivery of renewable energy under the Renewable Energy Purchase Agreement, the Potomac Electric Power Company **SHALL** file with the Commission quarterly reports detailing the costs incurred to procure any components not provided by the Renewable Energy Purchase Agreement, including, but not limited to, the cost of energy (needed to make up for the non-load following nature of renewable energy), the cost of meeting the District of Columbia's Renewable Energy Portfolio Standard, credit and risk, losses and congestion, and ancillary services.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**