

DOCKET NO. D-2011-003 CP-2

DELAWARE RIVER BASIN COMMISSION

Covanta Delaware Valley, LP
Electric Generating or Cogenerating Consumptive Use
Chester City, Delaware County, Pennsylvania

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on July 13, 2020 for renewal of the electric generating or cogenerating consumptive use allocation of water provided by the Chester Water Authority (CWA) and Delaware County Regional Water Quality Control Authority (DELCORA) wastewater treatment plant (WWTP) to the Covanta Delaware Valley Resource Recovery Facility (DVRRF).

The Application was reviewed for continuation of this project in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Delaware County Planning Department has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on February 10, 2021.

A. DESCRIPTION

1. **Purpose.** The purpose of this project is to renew the approval of the docket holder's DVRRF, which derives energy from waste, and the consumptive use allocation for the facility of up to 62.372 mgm of water provided by the DELCORA WWTP and CWA.
2. **Location.** The DVRRF is located in Chester City, Delaware County, Pennsylvania as follows:

Specific location information has been withheld for security reasons.

3. **Area Served.** Electricity produced by the DVRRF is used for in-plant needs and to supply the Pennsylvania-Jersey-Maryland (PJM) grid. Water supplied to DVRRF from DELCORA and CWA is for use in the cooling processes on-site. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.
4. **Design Criteria.** The docket holder shall continue to operate the DVRRF, which is an energy-from-waste facility. The DVRRF converts municipal solid waste and Pennsylvania Department of Environmental Protection (PADEP) permitted residual waste into electricity that is used for in-plant needs and sale to outside utilities. The docket holder will also continue to accept water from CWA via an existing pipeline for potable and non-potable use.

The docket holder has an influent pipeline from DELCORA's treated wastewater pipeline and an interconnection with CWA. Influent from DELCORA is the primary source of water and the interconnection with CWA will be used to supplement the facility's water needs. The total 10-year expected average and maximum monthly cooling water demands from CWA and DELCORA are 54.529 mgm and 62.372 mgm, respectively, for the DVRRF. The docket holder does not expect an increase in water use over the next ten (10) years. Nearly 100% of the water supplied and used by the docket holder is estimated to be consumptively used. The subsidiary allocation of 62.372 mgm should be sufficient to meet the future demands of DVRRF.

5. Facilities. The existing DVRRF consists of six (6) rotary combustors (resulting in six identical combustion trains), a 90-megawatt capacity turbine-generator, a tipping hall, a cooling tower, a reverse osmosis (RO) system, a chemical storage building, a residue handling building, and an electrical substation. Each of the six combustor trains has air pollution control equipment to scrub acid gases out of flue gas and capture flue gas particulates.

DELCORA's outfall pipeline is connected to the south end of the docket holder's cooling tower via a gravity fed system. DELCORA effluent reuse water will be sent through the onsite RO units with pre-filters for removal of particulate and chlorides.

Water supplied to DVRRF from the influent pipeline from DELCORA's WWTP and CWA are metered.

6. Other. Wastewater from the DVRRF will continue to be conveyed to the DELCORA WWTP located adjacent to the DVRRF property. The DELCORA WWTP was most recently approved by the Commission via Docket No. D-1992-018 CP-4 on March 13, 2019. The discharge is permitted by the PADEP in NPDES Permit No. PA0027103 A-1. The treatment facility has adequate capacity to continue to receive wastewater from the DVRRF.

7. Relationship to the Comprehensive Plan. The project import of water from the CWA was included into the Comprehensive Plan in Docket No. D-1965-032 on April 28, 1965. The importation allocation was increased from 25 to 30 mgd in Docket No. D-1965-032 CP (REV) on December 29, 1965. The importation allocation was then increased from 30 to 60 mgd in Docket No. D-1969-060 CP on May 28, 1969. The CWA service area was then expanded in Docket No. D-1984-055 CP, which was approved on August 2, 1989. The project was previously included in the Comprehensive Plan by the Commission in Docket No. D-2011-003 CP-1 on July 13, 2011. Issuance of this docket will continue the DVRRF in the Comprehensive Plan.

B. FINDINGS

1. Drought Management and Contingency Plans (DMCPs) for Water Withdrawal greater than 1 mgd

The docket holder shall implement the DMCP submitted on December 9, 2016 and approved by DRBC on July 17, 2017 upon direction by the Executive Director (see Section C. DECISION Condition C.8.).

2. Consumptive Use

The docket holder estimates that the project withdrawals, used for the purpose of cooling associated with power generation, result in a consumptive use of nearly one hundred percent (100%) of the total water use.

3. Consumptive Use Replacement Plan (CURP)

The energy from waste facility will continue to consumptively use up to 62.372 mgm of water provided by their existing influent pipeline with DELCORA and an interconnection with CWA. Influent from DELCORA is the primary source of water for industrial cooling and processes and the interconnection with CWA is used to supplement the facility's water needs.

In its DMCP, submitted on December 9, 2016 and approved by DRBC on July 17, 2017, the docket holder identified that it will utilize water from CWA as its consumptive use replacement source during a Commission declared critical hydrologic condition. The CWA interconnection qualifies for a replacement source as it is supplied by a source located outside of the DRB. As directed by the DRBC, for the duration of a critical hydrologic condition the docket holder shall implement its CURP contained within its DMCP and utilize only water from the CWA for electric generating or cogenerating purposes (see Section C. DECISION Condition C.9).

4. Surface Water Charges

The docket holder shall pay for surface water use (all water supplied from the DELCORA WWTP) in accordance with Administrative Manual – Part III Basin Regulations – Water Supply Charges 18 CFR Part 420, (see Section C. DECISION Condition C.2.).

5. Other Findings

The project is designed to conform to the requirements of the *Water Code (WC)* and *Water Quality Regulations (WQR)* of the DRBC.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

C. DECISION

Effective on the approval date for Docket No. D-2011-003 CP-2 below, the project described in Docket No. D-2011-003 CP-1 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2011-003 CP-2; Docket No. D-2011-003 CP-1 is terminated and replaced by Docket No. D-2011-003 CP-2; and the project and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in the Comprehensive Plan. The project and appurtenant facilities as described in in Section A.4. (Design Criteria) and A.5. (Facilities) are approved subject to the following conditions, pursuant to Section 3.8 of the *Compact*:

Monitoring and Reporting

1. The project withdrawals from the DELCORA WWTP effluent pipeline shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

2. The docket holder shall pay for surface water use (all water supplied from the DELCORA WWTP) in accordance with *Administrative Manual – Part III Basin Regulations – Water Supply Charges 18 CFR Part 420*.

3. The docket holder shall implement to the satisfaction of the Bureau of Watershed Management, PADEP, a continuous program to encourage water conservation in all types of use within the facilities served by this docket approval. The docket holder will report to the Bureau of Watershed Management, PADEP, on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

4. The docket holder shall continue to implement its Water Conservation Plan as approved by PADEP and shall report to the PADEP on actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

Other Conditions

5. During any month, the docket holder may accept up to 54.529 million gallons of water from the CWA. The docket holder may also accept up to 62.372 mgm of effluent water from the DELCORA WWTP. Additionally, the combined water supplied to the DVRRF from both the DELCORA WWTP and CWA shall not exceed 62.372 mgm.

6. The docket holder is responsible for timely submittal to the DRBC of a docket renewal application on the appropriate application form including the appropriate docket application filing fee (see 18 CFR 401.43) at least 6 months in advance of the docket expiration date set forth below. The docket holder will be subject to late filed renewal surcharges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below, the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

7. During any month, consumptive use may not exceed 62.372 mgd for use at the electric generating facility.

8. The docket holder shall implement the DMCP submitted on December 9, 2016 and approved by DRBC on July 17, 2017 upon direction by the Executive Director.

9. As directed by the DRBC, for the duration of a critical hydrologic condition the docket holder shall implement its CURP contained within its DMCP and utilize only water from the CWA for electric generating or cogenerating purposes.

10. The DVRRF and operational records shall be available at all times for inspection by the DRBC.

11. The DVRRF shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.

12. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

13. No water service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

14. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

15. No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *WQR* of the Commission.

16. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

17. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond

those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

18. The docket holder shall be subject to applicable DRBC regulatory program fees, in accordance with duly adopted DRBC resolutions and/or regulations. (see 18 CFR 401.43).

19. This approval is transferable by request to the DRBC Executive Director provided that the project purpose and area served approved by the Commission in this docket will not be materially altered because of the change in project ownership. The request shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.43).

20. The docket holder shall request a name change of the entity to which this approval is issued if the name of the entity to which this approval is issued changes its name. The request for name change shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.43).

21. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

22. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

23. Renewal of this docket does not resolve violations, if any, by the docket holder that may have occurred prior to this renewal or that may be ongoing ("prior or ongoing violations") of provisions of the *Delaware River Basin Compact* ("*Compact*") or of any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the *Compact*. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the *Compact*, for any and all such prior or ongoing violations.

24. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the *Rules of Practice and Procedure*. In accordance with Section 15.1(p) of the *Delaware River Basin Compact*, cases and controversies arising under the *Compact* are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE: March 10, 2021

EXPIRATION DATE: March 10, 2031