

DEPARTMENT OF ENERGY AND  
ENVIRONMENTAL PROTECTION

PUBLIC UTILITIES REGULATORY  
AUTHORITY

GOVERNOR'S EXECUTIVE ORDER  
NUMBER 59: DEEP AND PURA  
JOINT PROCEEDING

DOCKET NO. 17-07-32 - DEEP AND  
PURA JOINT PROCEEDING TO  
IMPLEMENT THE GOVERNOR'S  
EXECUTIVE ORDER NUMBER 59

NOTICE OF REQUEST FOR WRITTEN COMMENTS

(April 11, 2018)

The Department of Energy and Environmental Protection (DEEP) and the Public Utilities Regulatory Authority (PURA) opened the above-captioned uncontested proceedings for administrative purposes jointly to conduct a study and produce a report in accordance with the directives of Executive Order Number 59 issued by Governor Malloy on July 25, 2017 (Executive Order). These proceedings also address the requirement of June Special Session Public Act 17-3, *An Act Concerning Zero Carbon Solicitation and Procurement* (the Act), Section 1(b) and (c), to conduct an appraisal regarding nuclear power generating facilities and determine whether a solicitation process for nuclear power generating facilities shall be conducted pursuant to the Act.

On February 1, 2018, DEEP and PURA issued the *Resource Assessment, Appraisal, and Determination Pursuant to Executive Order No. 59 and Public Act 17-3; Determination Pursuant to Public Act 17-3* (Determination). The Determination concluded that while the Millstone Nuclear Units are estimated to be profitable under expected market revenues through 2035, incomplete responses to data requests and lack of audited operational data and costs rendered uncertain the state's assessment of the financial viability of Millstone Nuclear Units. In recognition of the significant value the Millstone Nuclear Units and other existing or new zero-emission generating resources provide to Connecticut and the region, DEEP and PURA DEEP and PURA concluded that pursuant to the Act, DEEP should conduct a procurement or procurements for new and existing zero-emission generating facilities. For the purposes of the Request for Proposals (RFP) under the Act, DEEP anticipates that it will utilize a process similar to those in prior and pending RFPs pursuant to Public Acts 13-303 and 15-107, including the issuance of a draft RFP and opportunities for comment on RFP issues such as schedule, eligibility, and evaluation criteria, etc. In the Determination, DEEP and PURA indicated that an existing resource may seek to be evaluated in any procurement conducted pursuant to the Determination as an "existing resource confirmed at risk." Determination, p. 42.

DEEP and PURA jointly conducted the Resource Assessment that initiated this proceeding. DEEP and PURA have separate roles with respect to the issuance of the RFP and selection of proposals (DEEP), and the review and approval of contracts that may result from selection (PURA). For purposes of efficiency, as discussed in the proposal below, if requested by an eligible resource, DEEP and PURA will conduct

discovery on “at risk” status in a PURA proceeding, in which DEEP will participate as a party. This approach will enable both agencies to reach separate conclusions about “at risk” status—as appropriate to their independent roles—based on a common evidentiary record. Any “at risk” proceeding will be timed to run in parallel with the RFP process, with appropriate sequencing to ensure fair and competitive bidding in the RFP.

Accordingly, DEEP and PURA now seek written comments on the following proposed procedure and criteria for evaluating whether an existing resource<sup>1</sup> is confirmed “at risk.”<sup>2</sup> It bears repeating that all other issues germane to DEEP’s development of the draft RFP will be handled by DEEP through an RFP proceeding that DEEP will initiate separately and subsequently.

### **PROPOSED PROCEDURE FOR EXISTING RESOURCES SEEKING “AT RISK” STATUS**

1. No later than May 18, 2018, an eligible resource, as defined below, may petition PURA to initiate a proceeding to determine that the resource is an “existing resource confirmed at risk.” If PURA receives such a petition, PURA will open a proceeding to consider the petition. DEEP will independently evaluate the information submitted, as a party in the PURA proceeding, and submit in the PURA proceeding its independent recommendation regarding the “at risk” status of any petitioning resource. In order to develop a record, such proceeding shall be conducted in a docket opened by PURA for the purpose of: (1) determining the “at risk” status of petitioning eligible resources; and (subsequently) (2) evaluating any contract(s) resulting from selection by DEEP through the RFP conducted pursuant to § 1(2)(d) of the Act.
2. Any existing resources not deemed an “existing resource confirmed at risk” will be included in the base case of DEEP’s evaluation in any RFP issued by DEEP

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<sup>1</sup> For the purpose of this evaluation, “existing resource” shall mean a generation resource that has delivered electricity to the New England Control Area on or before January 1, 2018.

<sup>2</sup> As stated in the Determination, if DEEP and PURA conclude that a resource is not profitable and will likely retire without ratepayer support, then the resource may be deemed an “existing resource confirmed at risk.”

pursuant to the Act, subject to reasonable assumptions regarding anticipated resource retirements.

3. In order to be eligible to petition PURA for a determination that it is an “existing resource confirmed at risk,” a resource must:
  - a. Be an existing resource that has delivered electricity to the ISO New England grid in the past;
  - b. Be one of the following generating resource types:
    - i. An eligible nuclear power generating facility, as defined in the Act,  
or
    - ii. Hydropower not eligible to receive Class I Renewable Energy Credits as defined by Connecticut General Statutes § 16-1;
  - c. Have a nameplate capacity of no less than 2 MW, consistent with past requirements in prior DEEP grid-scale procurements by DEEP.
4. An eligible resource may seek protective treatment of information submitted to PURA, provided such petitioner clearly identifies which Freedom of Information Act exemption applies to the specific content. Any such request should be accompanied by: (1) a motion for protective order providing a precise description of the information to be protected and clearly substantiating the need for protection; (2) a sworn affidavit attesting to the confidential nature of the information and the potential for harm if such information is disclosed to the public; (3) where possible, a public version with all confidential information redacted of any document for which protection is sought; and (4) a draft protective order for PURA to sign.
  - a. DEEP, PURA, and the Office of Consumer Counsel (OCC) shall have access to materials subject to a protective order.
  - b. Materials subject to a protective order may be reviewed in closed hearings open to DEEP, PURA, OCC and the petitioning resource’s representatives.
    - i. Subject to consent from the petitioning resource, representatives of governmental entities from Maine, Massachusetts, New Hampshire, Rhode Island, or Vermont may petition PURA to be designated as an observer in these sessions.

5. PURA will issue an interim decision on each eligible resource’s request to be deemed an “existing resource confirmed at risk.” The determination of an existing resource’s “at risk” status will be issued only after bids are submitted in the procurement conducted by DEEP pursuant to § 1(2)(d) of the Act.
6. Following issuance of the “at risk” determination, PURA will suspend the docket, but will reopen the docket for the purpose of reviewing any contract entered into with a resource selected in the procurement conducted by DEEP pursuant to § 1(2)(d) of the Act.

**Preliminary Timeline:**

<b>Action</b>	<b>Preliminary Timeframe</b>
PURA initiates “at risk” proceeding	April 2018
DEEP initiates RFP proceeding	Before May 1, 2018
Bids due in DEEP’s RFP proceeding	September 2018
PURA issues interim determination regarding “at risk” resources and suspends docket	October 2018
DEEP selects winning bidders	Late 2018 – early 2019
Contracts submitted to PURA	Mid – late 2019

**GENERAL COMMENTS**

1. Please provide any comments on the proposed process for evaluating whether an eligible resource is an “existing resource confirmed at risk.”
2. Please provide any comments on the proposed limitations on eligible resources seeking to be designated as “existing resources confirmed at risk.”
3. Please provide comments on what information DEEP and PURA should request from an eligible resource seeking to be designated an “existing resource confirmed at risk.”
4. Please provide any other information or analysis that will assist DEEP and PURA in developing the procedure and criteria for determining whether an existing resource is “at risk.”

Parties seeking to submit comments in response to this Notice should file their comments on or before **4:00 p.m. EPT on Wednesday, April 11, 2018**. All correspondence and written comments submitted to DEEP and PURA, including emails, will be posted on the DEEP and PURA websites.

Any filings made in these proceedings shall be submitted to both DEEP and PURA through their respective online filing systems in accordance with the processes explained below. All documents submitted in these proceedings should contain the above caption referencing both proceedings and should be filed in both proceedings.

When filing documents with DEEP, documents may be filed electronically on DEEP's website or submitted to [DEEP.EnergyBureau@ct.gov](mailto:DEEP.EnergyBureau@ct.gov). Persons filing electronically for the first time will be required to register prior to submission. Please create your account at least 24 hours in advance to ensure timely filing. If you have a problem with the electronic web filing system, you can contact the DEEP IT help desk at 860-424-4169 or at [DEEP.Helpdesk@ct.gov](mailto:DEEP.Helpdesk@ct.gov). All materials submitted by stakeholders in this proceeding will be posted on the DEEP website. Any questions can be directed to Debra Morrell at (860) 827-2688 and/or via e-mail at [DEEP.EnergyBureau@ct.gov](mailto:DEEP.EnergyBureau@ct.gov).

PURA encourages electronic submission of all filings through the Web Filing Account Management System at <http://www.ct.gov/pura/>. Persons filing electronically must create an account through the Authority's website under Docket Services (Make a Web Filing). Once registered, you may proceed to the Docket Database Web Filing System to log on and submit your filing. The date and time of filing shall be the date and time the Authority first receives a complete electronic version or the paper version and the required number of paper copies. If a complete electronic version of the filing is submitted through the Authority's Web Filing System, only one paper version of the filing is generally required. For exceptionally voluminous or complex filings, the Authority reserves the right to request additional paper copies. If a complete electronic version of the filing is not web filed, submit an original and one copy.

Additional information is available at DEEP's website: [www.ct.gov/deep/energyfilings](http://www.ct.gov/deep/energyfilings) and PURA's website: <http://www.ct.gov/pura>. The DEEP case coordinator assigned to this proceeding is Debra Morrell, who can be reached at (860) 827-2688 or via e-mail at [DEEP.EnergyBureau@ct.gov](mailto:DEEP.EnergyBureau@ct.gov). The PURA case coordinator assigned to this proceeding is Laura Lupoli, who can be reached at (860) 827-2631 or via e-mail at [Laura.Lupoli@ct.gov](mailto:Laura.Lupoli@ct.gov).

The Connecticut Department of Energy and Environmental Protection is an Affirmative Action and Equal Opportunity Employer that is committed to complying with the Americans with Disabilities Act. To request an accommodation, contact us at (860) 418-5910 or [deep.accommodations@ct.gov](mailto:deep.accommodations@ct.gov).

Dated at New Britain, Connecticut, this 4th day of April, 2018.