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DOCKET NO. D-2000-044-3

DELAWARE RIVER BASIN COMMISSION

**Marcus Hook Energy, L.P.
Marcus Hook Energy Center**

**Surface Water Withdrawal and Electric Generating Facility Consumptive Use
Marcus Hook Borough, Delaware County, Pennsylvania and
New Castle County, Delaware**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on September 3, 2025, for renewal of an electric cogeneration facility and its associated water withdrawal and consumptive use (Application). The Project was approved by the Commission via Docket D-2000-44-2 on February 11, 2009. The surface water withdrawal was approved by the Delaware Department of Natural Resources (DNREC) on June 23, 2004 (Allocation No. 04-0004).

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The New Castle County Planning Commission and the Delaware County Planning Commission have been notified of pending action on this docket. A public hearing on this project was held by the DRBC on November 4, 2026.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to renew the approval of an existing 750 megawatt (MW) electric and steam cogenerating facility including an allocation 11 mgd of surface water from the Energy Transfer Marcus Hook Terminal Intake RW-7 for cooling and steam generation.
2. **Location.** The project is located at the Marcus Hook Terminal along the Delaware River in Marcus Hook Borough, Delaware County, Pennsylvania. Part of the Marcus Hook Terminal property extends into New Castle County, Delaware. The generating facility is located on a 20-acre site that includes approximately two acres in New Castle County, Delaware. The docket holder leases the site from Energy Transfer.

Water supply for the Marcus Hook Energy Center is supplied by Intake RW-7, owned by Energy Transfer. The intake is located on the Delaware River in New Castle County, Delaware at River Mile 78.5 in Water Quality Zone 5.

Specific location information has been withheld for security reasons.

3. **Area Served.** The project water usage serves the 750 MW electric cogeneration facility, that supplies electric power to the Pennsylvania-New Jersey-Maryland power grid via a nearby connection and steam and boiler water to the Marcus Hook Terminal. The area served is outlined on a map entitled Figure 1, Marcus Hook Energy Center, USGS Map, dated July 2019 submitted with the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The Marcus Hook Energy Center is a nominal 750 MW combined cycle cogeneration facility on a parcel under a lease agreement with Energy Transfer Partners. The power generating facility primarily uses natural gas for fuel but can also use refinery gas as a back-up. The Facility provides power to the regional Pennsylvania-New Jersey-Maryland (PJM) power pool and up to 1,000,000 pounds per hour of steam to the Marcus Hook Terminal.

Cooling water for the plant is provided by Energy Transfer's Intake RW-7 on the Delaware River, which can provide up to 11 mgd of surface water. This water is clarified, filtered and demineralized via reverse osmosis prior to its use in the cogeneration facility's steam generators and cooling tower. Based on water use data submitted to the Commission, during the last 5 years, the quantity of water supplied from the RW-7 intake to the facility ranged from approximately 73 million gallons per month (mgm) to 255 mgm and averaged 159 mgm. Consumptive use ranged from approximately 60 to 87 percent. The docket holder requests approval of the previously approved allocation of 11 mgd.

5. **Facilities.** The existing power generating facilities include 3 General Electric 7FA dry low-NOx combustion turbines, 3 supplementary fired heat recovery steam generators (HSRGs), a steam turbine and 4 back-up boilers. The power generating facilities primarily use natural gas for fuel, but the HSRGs and boilers can also use refinery gas as a back-up. Ancillary facilities include power switching equipment, station transformers, a makeup water pre-treatment system, wastewater treatment/pumping equipment, and a closed cycle mechanical draft cooling tower. The facility utilizes Delaware River intake water for cooling tower makeup water. A description of Intake RW-7 is contained in DRBC Docket No. D-1967-240-3.

The existing project intake owned by Energy Transfer has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY	USE	YEAR CONSTRUCTED
RW-7	Delaware River	22,200 gpm total (5,000 gpm – Marcus Hook Terminal Pumps) (17,200 gpm - Marcus Hook Energy Center Pumps)	Regular	1968

The total amount of water that is diverted from Intake RW-7 to the Marcus Hook Energy Center is metered.

Consumptive use is calculated by subtracting the metered amount of water discharged through Outfall No. 001 from the total amount of water diverted to the Energy facility from Intake RW-7.

6. Other. Process wastewater consisting primarily of cooling tower blowdown is discharged to the Delaware River through the docket holder's Outfall No. 001. The discharge was most recently approved by DRBC Docket No. D-2008-021 CP-4 on September 10, 2025. The PADEP issued NPDES Permit No. PA0244449 for this discharge.

Sanitary wastewater is conveyed for treatment at the Delaware County Regional Water Quality Control Authority (DELCORA) Western Regional Wastewater Treatment Plant (WWTP). The DELCORA WWTP was most recently approved by DRBC via Docket No. D-1992-018 CP-4 on March 13, 2019.

B. FINDINGS

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

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive

use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The docket holder shall implement the DMCP upon direction by the Executive Director. (see Section C. DECISION condition C.3.).

The docket holder submitted an updated drought management plan as part of the DRBC renewal application. The original plan was approved by the Commission in a letter dated December 22, 2004. The plan details the procedures and operations to be used to offset consumptive use through releases at Merrill Creek. Since the time of the original approval, the DRBC has required that DMCP's contain additional information as outlined above. The docket holder shall submit a revised DMPC containing additional information within 6 months of the approval date of this docket.

2. Surface Water Charges

The docket holder shall pay for surface water use in accordance with Basin Regulations-Water Supply Charges 18 C.F.R. Part 420. See Section C. DECISION condition C.2.

3. Consumptive Use

The docket holder reports that consumptive use at the cogenerating facility ranges from 75 to 80 percent of the total water used. The allocation of 11 mgd represents a maximum consumptive use of 8.8 mgd.

4. Consumptive Use Replacement Plan

Resolution No. 2018-5 requires that certain electric generating or cogenerating facilities develop or acquire sources of replacement water for use during critical hydrologic conditions as a condition of approval. The Project is subject to the consumptive use requirement as it a generating facility designed to consumptively use in excess of 100,000 gallons per day (gpd) of water during any 30-day period and the primary source of water is surface water located upstream of River Mile 38. The following provision from Resolution No. 2018-5 is included as Condition C.6. in Section C. DECISION:

“For the duration of a critical hydrologic condition as announced by the Commission, on a daily basis the docket holder shall cause to be released from a replacement water source approved by the Commission an amount of water equal to the amount consumptively used by the docketed facility, multiplied by the applicable relative effect factor, if assigned. For the duration of such critical hydrologic condition, the docket holder shall operate its facility only at a level commensurate with the amount of replacement water it is capable of causing to be released.”

The docket holder utilizes Merrill Creek as its replacement source.

As described in the State of New Jersey Board of Public Utilities Decision and Order (Docket No. EF01030142), dated November 8, 2001, the docket holder entered into an agreement with Jersey Central Power & Light Company to sublet a portion of JCP&L's ownership interest in the Merrill Creek Reservoir for consumptive use makeup requirements. As approved by the DRBC, the Merrill Creek Reservoir, located on Merrill Creek in Harmony Township, Warren County, New Jersey, provides supplemental storage from which releases are made during drought conditions to compensate for freshwater equivalent consumptive use of designated steam electric and combined cycle generating units owned by members of the Delaware River Basin Electric Utilities Group.

By letter of May 10, 2002, the Merrill Creek owners group authorized the DRBC to include the Marcus hook 750 as a designated unit in table a of DRBC docket D-77-110 CP as amended. Subsequently the DRBC approved docket D-77-110 CP (Amendment 14) which formally added Marcus Hook 750 as a designated unit. The Marcus Hook LP MH750 unit remains included in Attachment 2, Exhibit III, as a "Designated Unit" in DRBC Docket No. D-1977-110 CP-19, approved on September 13, 2018. Under the terms of the title agreement, JCP&L allocates 620-acre feet or approximately 202 million gallons per year to the docket holder as well as such additional capacity not being used by JCP&L if required. The agreement is for the period through December 31, 2032.

Prior to any change to the approved replacement source described above, the docket holder must submit a Consumptive Use Replacement Plan in accordance with Resolution No. 2018-5 to the Commission and receive written approval from the DRBC Executive Director (see Section C. DECISION Condition C.10.).

5. Other Findings

The DNREC water allocation is valid for a period of 30 years from date of issue, with review every five years. The DNREC Permit (Allocation No. 04-0004) lists the withdrawals from the RW-7 intake as FPLE-1 and FPLE-2 corresponding to the pump IDs in the RW-7 Pump House. The listed capacity of these pumps is 8,600 gpm, each.

The docket holder upgraded Intake RW-7 by the installation vertical screening designed to minimize fish impingement and decrease intake velocity to less than 0.5 feet per second. The screen design was approved by the DRBC Executive Director on November 6, 2002. The approval required the docket holder to submit a yearly evaluation of the screen condition during the first three years of operation and every three years thereafter. The approval included a commitment that the screening is replaced, repaired or upgraded when necessary. The last screen inspection and repair occurred on December 10, 2024. The docket holder shall continue to submit a report of the screen evaluation and any note any replacement, repair or upgrades made at least every three years (see Section C. DECISION Condition C.4.).

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

The project as approved herein does not impair or conflict with the Comprehensive Plan.

C. DECISION

Effective on the approval date for Docket No. D-2000-040-3 below, Docket No. D-2000-044-2 is terminated and replaced by Docket No. D-2000-044-3. The project and appurtenant facilities as described 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 shall be metered by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted for surface water withdrawals by the designated agency (DNREC) if maintenance of the 5 percent performance is not technically feasible or economically practicable. Meters or other methods of measurement shall be subject to approval and inspection by the DNREC as to the type, method, installation, maintenance, calibration, reading and accuracy. A record of biweekly withdrawals shall be maintained, and monthly totals shall be reported to the DNREC 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 in accordance with *Basin Regulations – Water Supply Charges 18 C.F.R. Part 420*.
3. The docket holder shall prepare and submit a revised DMCP to the Commission within 6 months of docket approval. The docket holder shall implement the DMCP upon direction by the Executive Director.
4. The docket holder shall evaluate the RW-7 screen mesh and replace, repair or upgrade the screen as necessary and submit a report of the findings to the Commission at least every three years. The next evaluation shall occur prior to December 10, 2027.

Other Conditions

5. During any month, the project diversion via the RW-7 intake shall not exceed the maximum rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
RW-7	7,639 gpm	341 mg

* Based on a 24-Hour Average

6. This approval shall expire on the expiration date set forth below unless prior thereto the docket holder has applied to the Commission to renew or extend this approval.
7. 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 C.F.R. 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 DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. If the docket holder has not applied to renew the docket or the DRBC is unable to reissue the docket before the expiration date below, the terms and conditions of the current docket will remain fully effective and enforceable pending the renewal of the docket.
8. For the duration of a critical hydrologic condition as announced by the Commission, on a daily basis the docket holder shall cause to be released from a replacement water source approved by the Commission an amount of water equal to the amount consumptively used by the facility, multiplied by the applicable relative effect factor, if assigned. For the duration of such critical hydrologic condition, the docket holder shall operate its facility only at a level commensurate with the amount of replacement water it is capable of causing to be released.
9. Prior to any change of the approved replacement source or consumptive use allocation described in facility's CURP, the docket holder shall submit a Consumptive Use Replacement Plan in accordance with Resolution No. 2018-5 to the Commission and receive written approval from the DRBC Executive Director.
10. The surface water intake, facility and operational records shall be available at all times for inspection by the DRBC.
11. The surface water intake shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.
12. 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).
13. The docket holder shall implement to the satisfaction of the DNREC, a drought or other water supply emergency plan.
14. 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 *Water Quality Regulations* of the Commission.
15. 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.

16. 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*.

17. 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).

18. 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).

19. The docket holder shall request a name change 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 C.F.R. 401.43).

20. 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 to ensure the proper control, use and management of the water resources of the Basin.

21. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at the docket holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement, or mitigation.

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. For the duration of any drought emergency declared by either Delaware or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those nonessential uses specified by the Governor of Delaware, to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.
24. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e or receive written confirmation from the Executive Director of the DRBC that the new service area complies with a DRBC approved NPSPCP.
25. 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:

EXPIRATION DATE: December 3, 2036