

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

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Public Advocacy Division
Housing and Environmental Justice Section

ELECTRONIC FILING

May 10, 2024

Ms. Brinda Westbrook-Sedgwick
Public Service Commission
Of the District of Columbia Secretary
1325 G Street, N.W., Suite 800
Washington, DC 20005

**Re: GD-2022-01-E – In the Matter of the Complaint and Investigation into the
Potomac Electric Power Company’s Community Renewable Energy Facility
Practices,**
and
**Formal Case No. 1171 – In the Matter of the Investigation into Community
Renewable Energy Facility Practices in the District.**

Dear Ms. Westbrook-Sedgwick:

On behalf of the District of Columbia Government, please find its Comments on the Potomac Electric Power Company’s March 11, 2024 Compliance Filing in the above-captioned proceedings. If you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

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1. For each of the approximately 370 meters, state whether recovery has been requested in Formal Case No. 1176, and if so, how much is being sought;
2. The total amount recovered in rates to-date in both nominal terms and inflation adjusted to 2024 dollars; and
3. The year that the assets would be fully depreciated.³

On March 11, 2024, Pepco submitted the information above in compliance with the Commission's directives.

DCG'S COMMENTS

ITEM NO. 1

According to Pepco's compliance filing, Pepco has not sought recovery of any meter *removal* costs in Formal Case No. 1176. Nor should it. Given that the Commission found Pepco had illegally installed their meters on CREFs in the first instance, Pepco should likewise bear the cost of removing their illegally installed meters (including parts and labor).⁴ The Commission should clarify that Pepco's ability to recover its meter removal costs is not limited to Formal Case No. 1176 only. The Commission should clarify that Pepco is barred from seeking recovery of its meter removal costs in perpetuity.

Moreover, Pepco's response to Item No. 1 does answer the entire question. Pepco does not address cost recovery associated with its illegal *installation* of meters (including parts and labor). In its determination not to assess civil penalties on Pepco for illegally installing meters on CREFs, the Commission clarified that Pepco should not be shielded from "reimbursing ratepayers for costs associated with the installation and removal of Community Renewable Energy Facility ("CREF") meters that were installed contrary to law."⁵ Thus, Pepco should also

³ *Supra*, note 1, ¶ 18.

⁴ FC 1171, Order No. 21600, ¶ 12 (*rel.* April 24, 2023) ("[W]e find that Pepco's actions violate D.C. Code § 34-1518 (b)(5)(H).")

⁵ FC 1171, Order No. 21649, ¶ 1 (*rel.* June 26, 2023). [emphasis added]

be barred from recovering any costs associated with its illegal installation of meters (parts and labor) in perpetuity. As discussed more thoroughly below, to the extent that Pepco has already recovered any portion of its meter installation costs from ratepayers, it should be ordered to reimburse ratepayers for those costs – in an amount adjusted for inflation.

ITEM NO. 2

In its compliance filing, Pepco claims to have recovered in rates \$179,109.18 in nominal terms and \$194,104.68 in 2024 inflation-adjusted terms for its meter installation costs (parts and labor) thus far.⁶ Further, Pepco states that it “will continue to collect about \$5,730.65 per month until the Commission resets rates in FC 1176.”⁷ Not if the Commission stops them.

And the Commission should stop Pepco from “dumping the consequences of the Company’s error onto the backs of ratepayers.”⁸ When it comes to assigning CREF meter costs to ratepayers, the Commission determined that “Pepco must first show that the shift in costs is just and reasonable and that showing has not, and cannot, be made (at least under these circumstances).”⁹ The Commission should direct Pepco to reimburse ratepayers for Pepco’s illegal meter installations, the costs of which the Company unreasonably shifted to ratepayers.

The Commission has discretion on how to reimburse ratepayers for Pepco’s meter installation costs that have already recovered. In an ideal world, reimbursement would occur immediately through a one-time bill credit on ratepayer bills equivalent to the amount each ratepayer contributed to Pepco’s recovery of meter installation costs. But likely the most efficient form of reimbursement would be to order Pepco to immediately cease collecting any meter installation costs from ratepayers (\$5,730.65 per month per Pepco’s compliance filing),

⁶ *Supra* note 2, pg. 1.

⁷ *Id.*

⁸ Order No. 21649, ¶ 9.

⁹ *Id.*

and to then lower any rate increase authorized in Formal Case No. 1176 by an amount equivalent to that collected from ratepayers in inflation adjusted terms (\$194,104.68 per Pepco's compliance filing).

But, the District has serious concerns about the veracity of Pepco's claimed meter installation costs. As highlighted in Commissioner Beverly's concurrence to Order No. 21952, Pepco's metering costs have already been revised downward on multiple occasions. As Commissioner Beverly states, "While the initial cost was claimed to be more than \$800,000 that had been fully recovered in rates, that amount has been revised downward to about \$650,000 of which Pepco now claims only about \$150,000 has been recovered in rates."¹⁰ As Commissioner Beverly further notes, Pepco has not provided any documentation to substantiate any of its meter or associated labor costs. All Pepco has provided thus far are estimates that it has had to revise multiple times and are therefore unreliable.

Having likely read the writing on the wall that the Commission is likely to direct it to return recovered metering costs to ratepayers, Pepco has an obvious incentive to claim that its metering costs are now as low as possible. Indeed, the District and the Office of People's Counsel (OPC) in response to Pepco's 20-day Report jointly recommended that the Commission order Pepco "to provide a detailed accounting of the labor costs associated with installing its meters at CREFs so that ratepayers can be reimbursed for the costs they have paid for Pepco's unlawfully installed meters at CREFs."¹¹ But in the absence of a detailed accounting, the Commission should adopt Pepco's highest cost estimate of \$564,358 in meter costs and \$241,000 in associated labor costs, which Pepco initially provided in its 20-day Report before the

¹⁰ Order No. 21952, Concurring Statement of Commissioner Beverly.

¹¹ FC 1171, DCG & OPC Joint Comments in Response to Pepco's 20-day Report filed Pursuant to Order No. 21600, at pg. 5 (filed May 30, 2023).

Commission issued Order No. 21649 indicating that Pepco's metering costs could not be recovered from ratepayers.

ITEM NO. 3

According to Pepco's compliance filing, the approximately 370 CREF meters will fully depreciate on a variety of dates ranging from November 7, 2024, through April 4, 2037. For the reasons discussed above, Pepco should be denied cost recovery in perpetuity for any undepreciated meter installation costs.

Respectfully submitted,

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May 10, 2024

Attorney for the District of Columbia Government

CERTIFICATE OF SERVICE

I hereby certify on this 10th day of May 2024, that I caused true and correct copies of the District of Columbia Government's Comments on the Potomac Electric Power Company's March 11, 2024 Compliance Filing to be emailed to the following:

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