

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

**ORDER**

**July 10, 2024**

**FORMAL CASE NO. 1176, IN THE MATTER OF THE APPLICATION OF THE  
POTOMAC ELECTRIC POWER COMPANY FOR AUTHORITY TO IMPLEMENT A  
MULTIYEAR RATE PLAN FOR ELECTRIC DISTRIBUTION SERVICE IN THE  
DISTRICT OF COLUMBIA, Order No. 22015**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) grants, in part, the Apartment and Office Building Association of Metropolitan Washington’s (“AOBA”) Motion for Clarification and Extension of Time and amends the procedural schedule accordingly.

**II. BACKGROUND**

2. On April 13, 2023, the Potomac Electric Power Company (“Pepco”) filed its application for approval to increase rates through the implementation of a Multiyear Rate Plan (“MRP”), also referred to as the “Climate Ready Pathway,” for its electric distribution service in the District of Columbia for the years 2024 through 2026.<sup>1</sup> In Order No. 22013, the Commission, among other things, directed Pepco to supplement its rate of return (“ROR”) within seven (7) days of the order.<sup>2</sup> In addition, the Commission set forth a discovery schedule related to the supplemental information, which required Parties to submit discovery requests to Pepco by July 11, 2024, with responses due by July 18, 2024.<sup>3</sup> The Commission also scheduled a legislative-style hearing for July 30, 2024, where the Parties are to present oral arguments on any outstanding motions and other relevant issues that the Parties believe are fundamental to the Commission’s decisions in this proceeding. The Order directed the filing of briefs by July 23, 2024, with a page limit of no more than 30 pages identifying the issues to be discussed, including arguments and references to testimony.<sup>4</sup>

---

<sup>1</sup> *Formal Case No. 1176, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia* (“*Formal Case No. 1176*”), Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia, filed April 13, 2023.

<sup>2</sup> *Formal Case No. 1176*, Order No. 22013, ¶ 37, rel. June 28, 2024 (“*Order No. 22013*”).

<sup>3</sup> *Formal Case No. 1176*, Order No. 22013, ¶ 30.

<sup>4</sup> *Formal Case No. 1176*, Order No. 22013, ¶ 38.

3. On July 3, 2024, AOBA filed a motion for clarification and extension of time.<sup>5</sup> On July 5, 2024, Pepco filed the supplemental ROR filing and a response in opposition to AOBA's Motion.<sup>6</sup> The Office of the People's Counsel for the District of Columbia, the District of Columbia Government, and the United States General Services Administration support AOBA's Motion, while the District of Columbia Water and Sewer Authority takes no position on the Motion.<sup>7</sup>

### III. DISCUSSION

4. AOBA seeks clarification that "the Commission did not intend to adopt one day for the review of and discovery on the supplemental information to be provided by Pepco on July 10, 2024."<sup>8</sup> In addition, AOBA requests that "the Commission modify and extend the deadline for discovery on the supplemental information to be submitted by Pepco."<sup>9</sup> According to AOBA, Pepco's supplemental information is complex and requires AOBA to expend resources to review and prepare informed discovery. AOBA states it is "entitled to a full and fair opportunity to test – or discover – the accuracy of any substantiation for the supplemental information to be provided by Pepco."<sup>10</sup> According to AOBA, case law supports its extension and discovery request. Specifically, AOBA cites the Commission's treatment of motions for summary judgment, noting that the Commission has adopted the settled construction that provides Parties with a full opportunity to conduct discovery unless the discovery sought appears irrelevant or would be wholly speculative.<sup>11</sup> AOBA argues that the discovery is not irrelevant, as it seeks to conduct limited discovery, for the specific information mandated by the Commission, and that this discovery would not be speculative as AOBA does not seek to expand the scope of the proceeding. Consequently, AOBA seeks additional time to review and conduct discovery on Pepco's supplemental information.<sup>12</sup>

---

<sup>5</sup> *Formal Case No. 1176*, Apartment and Office Building Association of Metropolitan Washington's ("AOBA") Motion for Clarification and Extension of Time, filed July 3, 2024 ("AOBA Motion").

<sup>6</sup> *Formal Case No. 1176*, Potomac Electric Power Company's Response in Opposition to AOBA's Motion for Clarification and Extension of Time, filed July 5, 2024 ("Pepco Response").

<sup>7</sup> *Formal Case No. 1176*, United States General Services Administration Letter in Support of AOBA's Motion for Clarification and Extension of Time, filed July 8, 2024, *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia Email in Support of AOBA's Motion for Clarification and Extension of Time, filed July 9, 2024, *Formal Case No. 1176*, District of Columbia Government Email in Support of AOBA's Motion for Clarification and Extension of Time, filed July 9, 2024, *Formal Case No. 1176*, District of Columbia Water and Sewer Authority Email on AOBA's Motion for Clarification and Extension of Time, filed July 9, 2024.

<sup>8</sup> AOBA Motion at 4.

<sup>9</sup> AOBA Motion at 4-5.

<sup>10</sup> AOBA Motion at 5.

<sup>11</sup> AOBA Motion at 5 (citing *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia*, Order No. 20272, ¶ 20 n.42, rel. December 20, 2019).

<sup>12</sup> AOBA Motion at 6.

5. AOBA asserts that the Commission's imposed August 9, 2024, deadline to file briefs violates its due process rights. AOBA claims that the deadlines are unduly burdensome because AOBA does not have the resources or personnel available for preparing and submitting a post-hearing brief while simultaneously conducting discovery, preparing and submitting a pre-hearing brief, and preparing for oral argument.<sup>13</sup> AOBA indicates that the July 30, 2024, legislative-style hearing date can remain the same but recommends the following procedural schedule:

July 5, 2024: Pepco Supplemental Information  
July 16, 2024: Data Requests on Supplemental Information  
July 22, 2024: Pepco Responses to Data Requests  
July 26, 2024: Pre-Hearing Briefs  
July 30, 2024: Legislative-Style Hearing  
September 10, 2024: Post-Legislative Style Hearing Briefs

6. Finally, AOBA states that no party will be prejudiced by the granting of its Motion. AOBA avers that public interest demands the extension of the procedural schedule to provide the Parties with a full and fair opportunity to assess Pepco's MRP.<sup>14</sup>

7. Pepco argues that AOBA's request to move the date for the submission of pre-hearing briefs to July 26, 2024, would be unreasonable because the Commission and the parties would only have one full business day to review the briefs and prepare for the legislative-style hearing on July 30, 2024.<sup>15</sup> According to Pepco, AOBA's request would alter the careful balance struck by the Commission in Order No. 22013 and would result in an unreasonably short period for the Commission and parties to prepare for the hearing on July 30, 2024.<sup>16</sup>

8. Pepco also argues that AOBA's Motion is premised on the mistaken belief that Pepco will file the supplemental information on July 10, 2024, whereas Pepco will file the information on July 5, 2024.<sup>17</sup> Therefore, according to Pepco, the supposed timing issue that AOBA presents to justify its request does not exist and the schedule established in Order No. 22013 should not be disturbed.<sup>18</sup> Lastly, Pepco asserts there is no rationale for requiring an additional month to prepare and submit its brief following the July 30, 2024, legislative-style hearing.<sup>19</sup> Pepco states that the Commission did not initially provide for the submission of post-hearing briefs when it issued the June 13, 2024, Notice for the legislative-style hearing and that in Order No. 22013, the Commission

---

<sup>13</sup> AOBA Motion at 6-7.

<sup>14</sup> AOBA Motion at 7.

<sup>15</sup> Pepco Response at 2.

<sup>16</sup> Pepco Response at 2.

<sup>17</sup> Pepco Response at 2.

<sup>18</sup> Pepco Response at 2.

<sup>19</sup> Pepco Response at 2.

allowed parties to file post-hearing briefs by August 9, 2024.<sup>20</sup> Pepco argues that this schedule is not unduly burdensome and that there is no compelling basis for extending such briefing by over a month as requested by AOBA.<sup>21</sup>

#### IV. DECISION

9. The Commission has broad authority in managing its docket. Generally, the Commission will grant a request of this nature if good cause is shown.<sup>22</sup> The Commission did not intend to provide Parties one day to review and seek discovery on Pepco's supplemental ROR filing. The supplemental filing was intended to be due on July 5, 2024, and Pepco made the supplemental ROR filing on July 5, 2024. The Commission believes AOBA has shown good cause for granting an extension but not as AOBA fully seeks. We have shortened the time AOBA seeks to conduct discovery by one (1) day or until July 15, 2024. Pepco's responses will be due on July 19, 2024. We will require that the pre-hearing briefs be filed on July 24, 2024, and we will extend the time for parties to file post-hearing briefs by three weeks with a revised date of August 30, 2024. The Commission believes the schedule we adopt below is reasonable and will allow all Parties sufficient time to conduct and complete discovery, prepare pre-and post-hearing briefs, and prepare for the legislative-style hearing on July 30, 2024. Accordingly, the Commission finds good cause and grants AOBA's Motion to extend the time in part, and adopts the following schedule:

July 5, 2024: Pepco Supplemental Information Due

July 15, 2024: Data Requests on Supplemental Information Due

July 19, 2024: Pepco Responses to Data Requests Due

July 24, 2024: Pre-Hearing Briefs Due

July 30, 2024: Legislative-Style Hearing

August 12, 2024: Conformed Testimony and Exhibits Due

August 21, 2024: Admission of Stipulated Testimony, Exhibits, Data Requests, and Data Responses

August 30, 2024: Post-Legislative Style Hearing Briefs Due

---

<sup>20</sup> Pepco Response at 2-3.

<sup>21</sup> Pepco Response at 3.

<sup>22</sup> See, e.g., *Formal Case No. 1175, In the Matter of Washington Gas Light Company's Application for Approval of PROJECTpipes 3 Plan*, Order No. 21573, ¶ 10 n.16, rel. February 17, 2023.

**THEREFORE, IT IS ORDERED THAT:**

10. The Apartment and Office Building Association of Metropolitan Washington's Motion for Clarification and Extension of Time is **GRANTED, in part**; and

11. The Commission **ADOPTS** the procedural schedule set forth in paragraph 9.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION**

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive, flowing style.

**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**

COMMISSION ACTION

**FORMAL CASE NO. 1176, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR AUTHORITY TO IMPLEMENT A MULTIYEAR RATE PLAN FOR ELECTRIC DISTRIBUTION SERVICE IN THE DISTRICT OF COLUMBIA,**

Date 7/10/24 Formal Case No. 1176 Tariff No. \_\_\_\_\_ Order No. 22015

	Approved Initial & Date	Dissent Initial & Date	Abstain Initial & Date
Chairman Emile Thompson	<u>ET/CL 7/10/24</u>	_____	_____
Commissioner Richard A. Beverly	<u>RB/CL 7/10/24</u>	_____	_____
Commissioner Ted Trabue	<u>TT/CL 7/10/24</u>	_____	_____

Certification of Action

C. Lipscombe  
General/Deputy General Counsel

Stephan Jaksch  
OGC Counsel/Staff