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

ORDER AND OPINION

November 26, 2024

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, Order No. 22328

Before the Commission:

Emile C. Thompson, Chairman
Richard A. Beverly, Commissioner
Ted Trabue, Commissioner

Appearances: Kimberly A. Curry, Anne C. Bancroft, Dennis P. Jamouneau, Taylor W. Beckham, Kunle Z. Adeyemo for Potomac Electric Power Company; Sandra Mattavous-Frye, Karen R. Sistrunk, Laurence C. Daniels, Ankush Nayar, Knia Tanner, Kintéshia S. Scott for the Office of the People's Counsel for the District of Columbia; Frann G. Francis and Excetral K. Caldwell for the Apartment and Office Building Association of Metropolitan Washington; Brian R. Caldwell and Argatonia D. Weatherington for the District of Columbia Government; Michael R. Engleman, Robert C. Fallon, Marc Battle, Barbara Mitchell for District of Columbia Water and Sewer Authority; Kristi Singleton and Kelly Y. Burnell for the U.S. General Services Administration.

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APPENDICES:

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. By this Order, a majority of the Public Service Commission of the District of Columbia ("Commission") approves a modified version of the Potomac Electric Power Company's ("Pepco" or "Company") Multiyear Rate Plan ("MRP") application as an extended pilot program (hereinafter referred to as "Modified MRP Extended Pilot"). This decision represents the Commission's second approval of an alternative form of regulation ("AFOR") for public utilities under our purview as prescribed by D.C. Code § 34-1504(d).[1] The Modified MRP Extended Pilot will enable the Commission and the Parties to consider further lessons learned, improve the MRP process, and facilitate the adoption of regulations for MRP and other AFOR applications.

2. In *Formal Case No. 1139*, the Commission expressed an intention to explore whether an alternative to the traditional "cost of service" ratemaking should be implemented in the District of Columbia ("District") to encourage service improvements, management innovation, operational efficiencies, and less frequent rate increase requests. Given the expenses of traditional utility regulation, as well as the deployment of distributed energy resources ("DERs") and grid modernization efforts in the District, the Commission indicated that it would allow Pepco to include in its next rate case a request for AFORs, including an MRP proposal emphasizing that "our focus in considering any alternative mechanism will include a review of the benefits that accrue to customers as opposed to solely focusing on the utility."[2]

3. In *Formal Case No. 1156*, the Commission approved a modified version of Pepco's Enhanced Multiyear Rate Plan, or the Modified EMRP, as an 18-month pilot program through the end of CY 2022 ("*Formal Case No. 1156* Modified EMRP Pilot") after determining that the Modified EMRP met the requirements prescribed by D.C. Code § 34-1504(d)(2).[3] The Commission found that the *Formal Case No. 1156* Modified EMRP Pilot struck the appropriate balance between Pepco, its shareholders, customers, and District citizens.[4]

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1 D.C. Code § 34-1504(d) (2024) provides:

> (1) Notwithstanding any other provision of law, the Commission may regulate the regulated services of the electric company through alternative forms of regulation.
> (2) The Commission may adopt an alternative form of regulation if the Commission finds that the alternative form of regulation: (A) Protects consumers; (B) Ensures the quality, availability, and reliability of regulated electric services; and (C) Is in the interest of the public, including shareholders of the electric company.
> (3) Alternative forms of regulation may include: (A) Price regulation, including price freezes or caps; (B) Revenue regulation; (C) Ranges of authorized return; (D) Rate of return; (E) Categories of services; and (F) Price-indexing.

2 *Formal Case No. 1139*, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service* ("*Formal Case No. 1139*"), Order No. 18846, ¶ 594, rel. July 25, 2017 ("Order No. 18846").

3 *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* ("*Formal Case No. 1156*"), Order No. 20755, rel. June 8, 2021 ("Order No. 20755").

4 *Formal Case No. 1156*, Order No. 20755, ¶ 143.

4. On April 13, 2023, Pepco filed an application, which it calls "Climate Ready Pathway" ("MRP Application"), for approval to increase rates by implementing a second MRP for its electric distribution service in the District from Calendar Years ("CY") 2024 through 2026.[5] Pepco indicates that the $190.7 million revenue requirement requested in its MRP Application is driven by $116 million in revenue deficiency, which includes a requested return on equity ("ROE") of 10.5%.[6] Pepco subsequently updated its MRP revenue requirement, reducing the total to $186.5 million.[7]

5. The Commission has reviewed all evidence and testimony presented, including the comments received at the public hearings held on March 27, 2024, April 2, 2024, and April 23, 2024, in reaching its decision. Based on the record, the Commission approves a *Formal Case No. 1176* Modified MRP Extended Pilot, which authorizes Pepco to increase its electric distribution rates during a two-year term as provided in Table 1 below:

Table 1: Net Revenue Increases

	Pepco Original MRP Rate Increase Application[8] (millions) (effective February 15, 2024)	**Pepco Updated MRP Rate Increase[9] (millions) (effective February 15, 2024)**	**Pepco Modified MRP Rate Increase Authorized (millions) (effective January 1, 2025)**	**Monthly Bill Impact for Average Residential Customer (annualized)**
2024	$116.4	$116.3		
2025	$36.9	$34.4	$99.7	$7.54
2026	$37.4	$35.8	$23.7	$3.80
Total	**$190.7**	**$186.5**	**$123.4**	**$11.34 (equates to an 11.7% increase in the total bill as of 2026)**

6. This Order approves a modified MRP for a period of two years with a revenue requirement of $99.7 million in 2025 and $23.7 million in 2026, for a cumulative revenue requirement increase of $123.4 million over two years. This represents a 35% reduction in the revenue requirement from Pepco's original $190.7 million three-year MRP proposal for 2024-2026. This equates to a monthly bill impact for the average residential customer of $7.54 and $3.80 in the two years, respectively, or $11.34 over two years. This bill impact includes an increase in the monthly residential customer charge of $1.00 in 2025 and $1.00 in 2026. As a result of the

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5 *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 ("MRP Application").

6 Pepco (B) (Leming Direct) at I and 4.

7 Pepco (3B) (Leming Rebuttal) at ii and 2.

8 Pepco (B) (Leming Direct) at i.

9 Pepco (3B) (Leming Rebuttal) at 2:13.

class allocation approved in this Order, the residential class revenue allocation will increase, somewhat shifting the cost allocation burden from non-residential customers to residential customers to allow a balanced approach to class revenue allocation that considers gradualism in moving rates toward cost causation and equitable treatment for all customer classes. In *Formal Case No. 1156*, the Commission acknowledged the uncertainty of the impact of the COVID-19 pandemic on the local economy in limiting the allocation of the revenue increase to residential customers. With the easing of the pandemic, the Commission has decided to resume its effort to reduce the subsidization of the residential class by commercial customers. Rates will go into effect on January 1, 2025.

7. Our reduction to Pepco's proposed revenue requirement is due to the following:

a. An ROE of 9.50% for 2025 and 2026 (Pepco requested an ROE of 10.5%);

b. An authorized Rate of Return ("ROR") of 7.28% for 2025 (Pepco requested an ROR of 7.78%) and 7.29% for 2026 (Pepco requested an ROR of 7.79%);

c. A downward adjustment of Pepco's proposed 2025 capital expenditures by $77 million or 19% and a downward adjustment of Pepco's proposed 2026 capital expenditures by $134 million or 40%, for a total reduction of $211 million;

d. A downward adjustment of Pepco's original proposed Net Rate Base of $3,236.6 million in 2025 and $3,416.3 million in 2026[10] to the Commission approved Net Rate Base of $3,228.5 million in 2025 and $3,302.9 million in 2026;

e. A downward adjustment of Pepco's proposed 2025 operations and maintenance ("O&M") expenditures by $9.7 million and Pepco's proposed 2026 O&M expenditures by $10 million, for a total reduction of $19.7 million over the MRP; and

f. A downward adjustment of Pepco's depreciation rates using the Handy Whitman index for computing net salvage rather than Pepco's proposed 2.5% inflation rate, thereby decreasing the 2025 revenue requirement by $11.25 million and the 2026 revenue requirement by $11.03 million, for a total reduction of $22.28 million over the two year MRP.

8. Additional modifications to Pepco's MRP Application include:

a. An automatic rate credit is to be issued to ratepayers for any over-earning (above the authorized ROE of 9.5%) by the Company at the end of the 2-year MRP period.

b. Establishing a separate line item on bills for the Bill Stabilization Adjustment ("BSA") surcharge, an annual BSA reconciliation filing, and establishing BSA class revenue targets;

c. Establishing a BSA Working Group to discuss future decoupling mechanism improvements;

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10 Pepco (B)-1 (Leming Direct) at page 1 of 23.

d. A requirement that Pepco write off and reduce the existing BSA GT-LV deferral balance by $15.3 million due to Pepco's prior BSA demand billing determinant error;

e. Removal and placement of $39.7 million from the existing GT-LV BSA deferral balance due to COVID-19-related lost energy sales into a regulatory asset to be recovered over 10 years with a carrying charge at the cost-of-debt;

f. A requirement that Pepco continue making the quarterly ROR compliance filings as directed in Order No. 20755;

g. A requirement that Pepco make a compliance filing providing an updated filing on capital additions (by project) and O&M expenses projections (by FERC account) for 2023 and 2024 by March 1, 2025; and

h. The establishment of a formal MRP Lessons Learned proceeding, including the creation of a Lessons Learned Working Group to evaluate the overall performance and effectiveness of the *Formal Case No. 1176* Modified MRP Extended Pilot and a requirement that Pepco undergo a two-phase management audit conducted by an independent auditor as follows: Phase 1: Audit of 2023 and 2024 actual expenditures as contained in the Reconciliation Filings; and Phase 2: an Audit of 2025 and 2026 actual expenditures in Annual Information Filing and Final Reconciliation Filing. Pepco will be precluded from filing another MRP application until the Lessons Learned proceeding concludes with a Commission Order on Pepco's Lessons Learned filing and responsive comments.

9. We are cognizant that any increase in distribution rates can significantly impact the lives of District residents, particularly low-income customers and senior citizens on fixed incomes. However, the Commission has established several programs to assist these customers, including the Residential Aid Discount Program ("RAD"), the Arrearage Management Program ("AMP"), and the Senior Citizens and Disabled Resident Credit. The Commission is convening the Utility Discount Program Education ("UDPE") Working Group to develop recommendations for possible expansion of the RAD program.

10. The Commission is convinced that the *Formal Case No. 1176* Modified MRP Extended Pilot being adopted today appropriately balances the interests of Pepco and its shareholders, customers, and District residents. The Commission recognizes that Pepco expects to incur capital improvement costs of nearly $1,575 million from 2023-2026, which will require market financing.[11] These capital improvements have been and continue to be made to improve the quality, availability, and reliability of electric service to consumers in the District. Because of its endeavors, Pepco is entitled to recover the necessary and prudent investments it has made and will invest in the distribution system. The Company must maintain its current investment-grade credit rating to secure financing to fund improvements at favorable interest rates, especially in uncertain capital market conditions. The Commission believes adopting the *Formal Case No. 1176* Modified MRP Extended Pilot will strengthen Pepco's credit profile and help retain its current

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[11] PEPCO (H) Cantler Direct Page ii.

investment-grade credit rating. A strong credit rating provides Pepco with financial flexibility and the opportunity to obtain capital at an optimal overall cost, thereby enabling the continued financing of significant investment projects underway, such as DC PLUG and Capital Grid, including rebuilt and upgraded Harvard Substation and new Mount Vernon Substation, which affect the quality, availability, and reliability of electric service in the District. These investments benefit customers because, among other things, they improve system resiliency,help maintain top decile reliability, and support the District's clean energy goals.

11. The MRP Lesson Learned process outlined in this Order will require extensive review and discussion before it concludes. Pepco requested an increase in the revenue requirement through an MRP Application, and we subsequently directed Pepco to file a traditional historic test year cost-of-service rate case. Additionally, we requested that all Parties file information on lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot.[12] Acknowledging the Commission's consideration of these requests has taken over 19 months, and we do not believe our decision on the Company's second MRP Application should be further delayed until we have completed the *Formal Case No. 1176* Lessons Learned process.

12. We reaffirm the Commission's commitment to supporting the District's clean energy and climate goals and using all available regulatory authority to ensure that Pepco's reliability continues or improves in all areas of the District and that rates remain just and reasonable. Our decision also includes prohibition from Pepco filing a new MRP application until the *Formal Case No. 1176* Modified MRP Extended Pilot lessons learned process has concluded and the Commission has issued a decision on the Company's Lessons Learned assessment. Finally, we believe the *Formal Case No. 1176* Modified MRP Extended Pilot we are adopting today strikes the appropriate regulatory balance and results in just and reasonable rates for all Pepco customers. The Commission finds that the *Formal Case No. 1176* Modified MRP Extended Pilot protects consumers, ensures the quality, availability, and reliability of regulated electric services, and is in the public interest, including Pepco's shareholders.[13]

II. BACKGROUND

13. On April 13, 2023, Pepco filed an application, which it calls "Climate Ready Pathway," for approval to increase rates by implementing an MRP for its electric distribution service in the District from 2024 through 2026.[14] Pepco indicated that the \$190.7 million revenue requirement requested in its MRP Application is driven by \$116 million in revenue deficiency,

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[12] In approving expenditures for any work plan or project for the two-year MRP period, the Commission has examined and approved the forecasted projects in *Formal Case No. 1176*, as Ordered herein, as reasonable. During the reconciliation process and the Phase 1 and 2 audits, the Commission will examine the whether the actual costs were excessive and whether the programs were executed effectively. This does not prevent the parties from raising prudency objections at this time either.

[13] D.C. Code § 34-1504 (d)(2) (2024).

[14] *Formal Case No. 1176*, MRP Application.

which includes a requested ROE of 10.5%.[15] Subsequently, Pepco updated its MRP revenue requirement, reducing the total to $186.5 million.[16]

14. On May 5, 2023, a Public Notice of Pepco's application was published in the *D.C. Register,* directing petitions for intervention.[17] On May 31, 2023, the Commission issued Order No. 21630, scheduling a Status Conference to discuss a consensus procedural schedule and address any other preliminary matters or issues identified by parties.[18] The Commission, in Order No. 21630, also granted intervenor status to the District of Columbia Government ("DCG"), the U.S. General Services Administration ("GSA"), the District of Columbia Water and Sewer Authority ("DC Water"), and the Apartment and Office Building Association of Metropolitan Washington ("AOBA").[19] The Office of the People's Counsel for the District of Columbia ("OPC") is a party as of right.[20] Commission Staff convened a Status Conference on June 13, 2023.[21]

15. Pepco indicates that the primary drivers for the proposed $116.3 million MRP revenue requirement for 2024 are $41 million for 2024 rate base and operating expense growth, $29 million for the 2023 stay-out provision, $26 million as a result of an increase in ROE to 10.5%, $11 million for depreciation study rates, and $9 million for other costs.[22]

16. On July 28, 2023, by Order No. 21886, the Commission directed Pepco to file supplemental testimony with accompanying exhibits that explain in quantitative and qualitative terms the benefit of, problems identified, and lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot approved in Order No. 20775.[23] The Commission further directed Pepco to file supplemental testimony and exhibits along with supporting schedules to support a traditional one-year rate case for the test period Calendar Year 2023, and directed the intervenors to file direct testimony responding to Pepco's supplementary testimony and adopted a procedural schedule.[24] On August 9, 2023, Pepco filed a Motion for an Enlargement of Time to address the directives in

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15 Pepco (B) (Leming Direct) at 7: Table 2.

16 Pepco (3B) (Leming Rebuttal) at ii and 2:13-14.

17 70 *D.C Reg.* 006728-006732 (May 5, 2023).

18 *Formal Case No. 1176*, Order No. 21630, rel. May 31, 2023 ("Order No. 21630").

19 *Formal Case No. 1176*, Order No. 21630, ¶ 1.

20 *See* D.C. Code § 34-804 (d)(1) (2024) (OPC is a party as of right in any Commission investigation, evaluation, or reevaluation concerning any public utility operating in the District of Columbia.). In this case, the Direct Testimony of OPC, Pepco, or an intervenor is designated (for example) as "OPC ( ) (name of Witness)." Rebuttal Testimony is cited as "Pepco (3-) (name of Witness)."

21 *Formal Case No. 1176*, Scheduling Conference Transcript, filed June 17, 2023.
23 *Formal Case No. 1176*, Order No. 21886, rel. July 28, 2023 ("Order No. 21886").
23 *Formal Case No. 1176*, Order No. 21886, rel. July 28, 2023 ("Order No. 21886").

24 *Formal Case No. 1176*, Order No. 21886, ¶ 1.

Order No. 21886.[25] OPC filed a response in opposition to Pepco's Motion for an Enlargement of Time on August 21, 2023.[26]

17. On August 28, 2023, OPC, with the support of AOBA and DCG, filed a Request for Reconsideration of Order No. 21886, arguing that Order No. 21886 failed to establish a process that is limited to review of a traditional one-year rate case, erred by inexplicably departing from precedent and establishing a truncated procedural schedule for review of alternative forms of ratemaking, violated parties' due process rights and erred in finding that the Parties can simultaneously assess a traditional one-year rate case and the Modified EMRP Pilot and Pepco's request to approve a second MRP filing, and erred in finding that the assessment of the Modified EMRP Pilot will be conducted in the first instance by the Company in supplemental testimony.[27] On January 16, 2024, the District of Columbia Court of Appeals ordered that OPC's Petition for Review be dismissed.[28] By Order No. 21955, the Commission denied OPC's Motion for Limited Stay.[29]

18. Pepco filed a traditional historic test year cost of service rate application ("TTY"), as directed by the Commission in Order No. 21886.[30] According to Pepco, it expects to earn a ROR of 5.07% on its fully adjusted rate base for the 12 months ended December 31, 2023, and an adjusted return on equity of 5.37%, resulting in a revenue requirement deficiency of $108.2 million based on Pepco's proposed ROR of 7.66% and an ROE of 10.5%.[31] The TTY comprises actual data from January 1 to June 30, 2023, and forecast data from July 1 to December 31, 2023.[32] Pepco filed voluntary Responses to the Company's October 16, 2023, Traditional Test Year Compliance Filing.[33]

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[25] *Formal Case No. 1176*, Potomac Electric Power Company's Motion for an Enlargement of Time, filed August 9, 2023.

[26] *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia Response to Potomac Electric Power Company's Motion for an Enlargement of Time, filed August 21, 2023.

[27] *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia Request for Reconsideration of Order No. 21886, filed August 28, 2023.

[28] D.C. Court of Appeals Dismissal Order, *Office of the People's Counsel v. Public Service Comm'n*, No. 23-AA-0959 (January 16, 2024).

[29] *Formal Case No. 1176*, Order No. 21955, rel. February 9, 2024.

[30] *Formal Case No. 1176*, Pepco's Testimonies and Exhibits for the Traditional Test Year Compliance Filing, filed October 16, 2023.

[31] Pepco (2B) (Leming Additional Supplemental Direct) at 5:8-13 and (2B)-1 at 1.

[32] Pepco (3A) (O'Donnell Supplemental Direct) at 2:4-10.

[33] *Formal Case No. 1176*, Pepco's Voluntary Responses to October 16, 2023 Traditional Test Year Compliance Filing, filed October 19, 2023.

19. OPC, AOBA, DCG, DC Water, and GSA filed direct testimony and exhibits.[34] Pepco and GSA filed rebuttal testimony and exhibits.[35] OPC and DCG filed surrebuttal testimony.[36]

20. By Order No. 21976, the Commission granted an OPC's Motion for Enlargement of Time and adopted a new procedural schedule.[37] The Commission convened three community hearings on March 27, 2024, April 2, 2024, and April 3, 2024.[38]

21. By Order No. 22013, the Commission granted OPC's Motion for Leave to Reply, denied the Motion to Dismiss or, In the Alternative, Motion for Summary Disposition of OPC, DCG, and AOBA filed on March 12, 2024, and denied in part, and granted in part the Motion to Dismiss or, In the Alternative, Motion for Summary Disposition of the OPC and AOBA, filed June 10, 2024.[39] Summary judgment may be granted if the pleadings, depositions, answers to interrogatories, and admissions show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.[40] Both Joint Motions alleged that there are no genuine issues of material fact in dispute and requested that the Commission grant summary judgment in favor of the movants. The Commission denied both motions after determining that any dispositive motion necessarily raises issues of first impression that is more appropriately decided after it has a more complete record. We indicated that the Commission had not decided on any issue of policy or law that undergird the motions, so the Parties were free to argue their case as they would have if no dispositive motion had been filed.[41] The Commission further indicated that it would convene a legislative-style hearing on July 30, 2024, to allow the Parties to present oral arguments before the Commissioners regarding matters raised in the two Joint Motions and other relevant legal and policy issues that the Parties believe are fundamental to

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34 *Formal Case No. 1176*, OPC's Direct Testimony of Witnesses and Supporting Exhibits, filed January 12, 2024; *Formal Case No. 1176*, AOBA's Direct Testimony of Bruce Oliver and Timothy Oliver, filed January 12, 2024; and *Formal Case No. 1176*, DCG's Direct Testimony of Courtney Lane and Supporting Exhibits, filed January 12, 2024.

35 *Formal Case No. 1176*, GSA's Rebuttal Testimony of Dr. Dennis Goins, filed February 27, 2024; *Formal Case No. 1176*, Pepco's Rebuttal Testimony, filed February 27, 2024.

36 *Formal Case No. 1176*, OPC's Surrebuttal Testimony, filed April 22, 2024, and *Formal Case No. 1176*, DCG's Surrebuttal Testimony, filed April 22, 2024.

37 *Formal Case No. 1176*, Order No. 21976, rel. April 1, 2024.

38 *Formal Case No. 1176*, Transcript of March 27, 2024, Community Hearing, filed April 1, 2024. *Formal Case No. 1176,* Transcript of April 1, 2024, Community Hearing, filed April 5, 2024. *Formal Case No. 1176*, Transcript of April 3, 2024, Community Hearing, filed April 10, 2024.

39 *Formal Case No. 1176*, Order No. 22013, ¶ 28.

40 S*ee Nader v. de Toledano*, 408 A.2d 31, 41 (D.C. 1979) (citations omitted) and *Formal Case No. 1051*, *In the Matter of the Investigation of Verizon Washington DC, Inc.'s Weather Forecast Service*, Order No. 14157, ¶ 11, December 21, 2006.

41 *Formal Case No. 1176*, Order No. 22013, ¶ 28.

the Commission's decisions in this proceeding.[42] The Commission is not required to hold an evidentiary hearing where no material facts are in dispute or where the disposition of claims turns on the inferences and legal conclusions to be derived from facts already established and not a determination of facts.[43] The Commission denied OPC's Motion to Suspend the Procedural Schedule and directed the Parties to appear at a legislative-style hearing on July 30, 2024.[44]

22. On July 24, 2024, OPC, Pepco, AOBA, and DCG filed pre-hearing briefs while GSA filed a letter.[45] The Commission held the legislative-style hearing on July 30, 2024.[46] GSA, Pepco, OPC, and AOBA filed their post-legislative-style hearing briefs on August 30, 2024, and DCG filed its post-legislative-style hearing brief on September 3, 2024.[47] OPC filed a Motion to Exclude the Atrium Economics Audit Report on September 17, 2024, and on September 27, 2024, Pepco filed a Response in Opposition to OPC's Motion.

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42 *Formal Case No. 1176*, Order No. 22013, ¶ 30.

43 *See Watergate East Inc. v. District of Columbia Public Service Commission*, 662 A.2d 881, 890 (D.C. 1995), *citing Potomac Elec. Power Co. v. Public Serv. Comm'n*, 457 A.2d 776, 789 (D.C.1983). "Even when an agency is required by statute or by the Constitution to provide an oral evidentiary hearing, it need do so only if there exists a dispute concerning a material fact. An oral evidentiary hearing is *never* required if the only disputes involve issues of law or policy," *Watergate East Inc. v. District of Columbia Public Service Commission*, 662 A.2d at 890 *citing* 1 KENNETH C. DAVIS & RICHARD J. PIERCE, JR., ADMINISTRATIVE LAW TREATISE (3d ed. 1994) (emphasis in original).

44 *Formal Case No. 1176*, Order No. 22013, ¶ 30.

45 *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia's Pre-Hearing Brief, filed July 24, 2024; *Formal Case No. 1176*, Potomac Electric Power Company's Limited Brief on Fundamental Issues, filed July 24, 2024; *Formal Case No. 1176*, Apartment and Office Building Association's Limited Brief, filed July 24, 2024; *Formal Case No. 1176*, District of Columbia Government's Limited Pre-Hearing Brief, filed July 24, 2024; *Formal Case No. 1176*, United States General Services Administration Letter, filed July 24, 2024.

46 *Formal Case No. 1176*, Transcript of Legislative Style Hearing, filed August 5, 2024.

47 *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia's Post-Legislative-Style Hearing Brief, filed August 30, 2024; *Formal Case No. 1176*, Potomac Electric Power Company's Post-Legislative-Style Hearing Brief, filed August 30, 2024; *Formal Case No. 1176*, Apartment and Office Building Association's Post-Legislative-Style Hearing Brief, filed August 30, 2024; *Formal Case No. 1176*, District of Columbia Government's Post-Legislative-Style Hearing Brief, filed September 3, 2024; *Formal Case No. 1176*, United States General Services Administration's Post-Legislative-Style Hearing Brief, filed August 30, 2024.

III. PROCEDURAL MATTERS

A. OPC Motion to Exclude the Atrium Economics Audit Report

23. OPC argues that 15 DCMR § 134.1 invokes the application of the Federal Rules of Evidence at formal hearings and when considering information and exhibits to admit into the record.[48] OPC argues further that the Atrium Economics Audit Report ("Atrium Report") is inadmissible hearsay because it is a third-party report consisting entirely of out-of-court statements cited by Pepco further to advance the Company's arguments in its Post-Hearing Brief.[49] OPC also argues that no hearsay exception would allow admission of the Atrium Report.[50] OPC further argues that the admission of the Atrium Report or its contents violates D.C. Code § 2-509 because there has been no opportunity to cross-examine the individuals who prepared the Report.[51]

24. Pepco contends that 15 DCMR § 134.1 is not applicable in this context, and OPC's arguments do not apply because the Atrium Report is a publicly available document that was prepared at the direction of and filed with the Commission in *Formal Case No. 1156* and the Parties were permitted to file comments on it.[52] Pepco argues that the OPC Motion to Exclude seeks to strike portions of Pepco's Post-Hearing Brief in which the Company referred to the Atrium Report. Pepco states that the Commission generally disfavors motions to strike and grants them only when the information presented has no connection to the controversy or under circumstances where striking the information is required in the administration of justice.[53] Pepco asserts that neither circumstance exists here because the Atrium Report is pertinent to the BSA issues presented in this proceeding and was referenced and/or quoted in the testimony of several of the Company's witnesses and Pepco's responses to data requests.[54] Pepco contends that OPC was on notice when the Company's MRP Application and testimony were filed and when Pepco's witnesses referred to and quoted the Atrium Report in their Supplemental Direct Testimony and Rebuttal Testimony.[55] The Company argues that OPC did not seek to strike any of this testimony, and OPC Witness Dismukes discusses certain findings of the Atrium Report and uses the Report's findings

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48 *Formal Case No. 1176*, Office of People's Counsel for the District of Columbia's Motion to Exclude the Atrium Economics Audit Report at 6-7, filed September 17, 2024 ("OPC Motion to Exclude").

49 *Formal Case No. 1176*, OPC Motion to Exclude at 7-8.

50 *Formal Case No. 1176*, OPC Motion to Exclude at 8-10.

51 *Formal Case No. 1176*, OPC Motion to Exclude at 10.

52 *Formal Case No. 1176*, Response of Potomac Electric Power Company in Opposition to OPC's Motion to Exclude the Atrium Economics Audit Report at 2-3, filed September 27, 2024 ("Pepco Response to OPC Motion to Exclude").

53 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 3 (*citing Formal Case No. 1156*, Order No. 20368 at ¶ 8, rel. June 18, 2020; *Formal Case No. 1053*, *Phase II*, Order No. 15320 at ¶ 3, rel. July 1, 2009; *Formal Case No. 1024*, Order No. 13113 at ¶ 10, rel. February 24, 2004.

54 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 3.

55 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 3-4.

for certain BSA deferral balance amounts as the basis for his recommendations.[56] Pepco argues that OPC does not claim that Pepco misquoted or misrepresented the Atrium Report, and the Company's discussion of the Report in its Post Hearing Brief is consistent with the testimony provided by the Company's witnesses and provides a fuller context for the positions they presented.[57] The Company asserts that the Commission should allow the discussion because the Atrium Report is pertinent to the issues regarding the BSA and provides a more fulsome and complete record upon which the Commission can decide BSA issues in this proceeding.[58]

25. Motions to strike pleadings are not favored, and the Commission's practice has been to deny such motions unless the allegations are unrelated to the controversy and may prejudice the other party.[59] While the Atrium Report was not filed in the record in this proceeding, the Parties, including OPC, have presented testimony and pleadings referencing the Report and using it to make recommendations to the Commission.[60] No Party has moved to strike such testimony or pleadings. Instead, OPC seeks to exclude the Atrium Report. Under these circumstances, the Commission is not inclined to exclude a document the Parties' witnesses rely on in their testimony. Accordingly, the OPC Motion to Exclude is denied. The Atrium Report is accepted into the record of this proceeding. Since the Parties' witnesses rely on the Atrium Report, and the Report is relevant to issues in this proceeding, the Commission moves the Report into the evidentiary record of this proceeding.[61]

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56 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 4 (*citing* OPC (A) (Dismukes Direct) at 110-111.

57 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 4.

58 *Formal Case No. 1176*, Pepco Response to OPC Motion to Exclude at 4.

59 *See Formal Case No. 1040*, *In the Matter of the Investigation into Verizon Washington, DC Inc.'s Universal Emergency Number 911 Services Rates in the District of Columbia*, Order No. 15286, rel. June 2, 2009; *Formal Case No. 1053*, Order No. 15258, rel. May 5, 2009; *Formal Case No. 1054*, *In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service*, Order No. 14381, re;. July 20, 2007.

60 *See* Pepco (E) (Bonikowski Direct Testimony) at 59-60; Pepco (2A) (O'Donnell Supplemental Direct Testimony) at 24; Pepco (2B) Leming Supplemental Direct Testimony) at 14; Pepco (2E) (Bonikowski Supplemental Direct Testimony) at 23; Pepco (3A) (O'Donnell Rebuttal) at 4; Pepco (3G) (Barnett) at 17; Pepco (3E) (Bonikowski Rebuttal Testimony) at 10-11, 13-16, 18-31, 33-34; OPC (A) (Dismukes Direct) at 99-102, 110-111, and OPC (A)-19; OPC (B) (Gorman Direct Testimony) at 45; AOBA (A) (B. Oliver Direct) at 6-7, 22, 48, 58-59, 62, and Attachment B.

61 *See Formal Case No.1119, In the Matter of the Joint Application of Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction*, Order No. 1921, rel. July 9, 2015 ("The Commission has powers to take judicial notice of any administrative proceedings and orders we deem relevant to our decision making.").

B. Other Procedural Matters and Accepting Testimony, Exhibits, and Data Request Responses

26. The Commission accepts Pepco, OPC, AOBA, DCG, DC Water, and GSA's pre-filed testimony and exhibits into the evidentiary record of this proceeding. The Commission also accepts the Parties' responses to data requests into the evidentiary record of this proceeding.

IV. PEPCO'S MULTI-YEAR RATE PLAN AND TRADITIONAL HISTORICAL TEST YEAR COST OF SERVICE RATE PROPOSALS

27. Table 2 below summarizes Pepco's MRP as compared to the Company's traditional rate case submission.

Table 2: Summary of MRP and Traditional Rate Case Proposals

	Multi-Year Plan (MRP)			**Traditional Rate Case (TTY)**
Description	**2024**	**2025**	**2026**	**2023**
Revenue Requirement $ Millions:	**$ Millions**	**$ Millions**	**$ Millions**	**$ Millions**
Revenue	$116.3	$34.5	$35.8	$108.1
Cumulative Revenue Requirement	$116.3	$150.7	$186.5	$108.1
Proposed Rate Base & Rate of Return:				
Net Rate Base	$3,007	$3,224	$3,392	$3,023
Return on Equity (ROE)	10.5%	10.5%	10.5%	10.5%
Rate of Return (ROR)	7.77%	7.78%	7.79%	7.66%
Residential Customer Bill Impact (Monthly)				
Increase in Distribution	$6.05	$6.00	$5.96	$10.99
Cumulative Increase in Distribution	$6.05	$12.05	$18.01	
Average Total Residential Customer Bill	$103.11	$108.72	$114.62	$108.70
Test Year	2022	2022	2022	2023

A. Traditional Historical Test Year Overview

28. **Pepco.** Pepco Witness Robert Leming testifies that his supplemental direct testimony and exhibits support the revenue requirement of $108.2 million for the TTY filing that the Commission requested in Order No. 21886.[62] Pepco reduced its revenue requirement to $108.1 million.[63]

29. Pepco Witness Leming testifies that the Company's TTY filing is for the 12 months ended December 31, 2023, comprised of historical data for the six months ended June 30, 2023, and forecasted data for the six-month period ended December 31, 2023.[64] The six months of projected data are based on the Company's 2023 budget, with forecast updates to account for the impacts of year-to-date developments. Pepco combined the projected data with six months of actual data, then directly assigned and/or allocated first to the Company's distribution business and then to the District jurisdiction.[65]

30. Pepco Witness Leming testifies that the Company is earning a ROR of 5.07% on its fully adjusted rate base for the 12 months ended December 31, 2023, and an adjusted return on equity of 5.37%, resulting in a revenue requirement deficiency of $108.2 million based on the Company's proposed ROR of 7.66%.[66] Witness Leming testifies that the process Pepco uses to develop the distribution-only cost of service for the MRP, which he describes on page 42 of his direct testimony, is the same process used for the TTY.[67]

31. Pepco Witness Leming testifies that the Company seeks to change the manner in which state income taxes are calculated for determining the cost-of-service component of the revenue requirement for the TTY, as he discussed on pages 27-30 of his direct testimony in Pepco's MRP.[68] Mr. Leming testifies that these proposed changes increase the overall revenue requirement by $3.2 million when applied to the TTY.[69]

32. Pepco Witness Leming describes 38 RMAs included in the TTY.[70] Mr. Leming further states that the methods the Company used to allocate the distribution electric plant in service ("EPIS") cost in the JCOS, assign depreciation expense to a jurisdiction, and allocate O&M

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62 Pepco (2B) (Leming Supplemental Direct) at 32:9-11.

63 Pepco (3B)-3 Lemming Rebuttal at 1 and 2 of 6.

64 Pepco (2B) (Leming Supplemental Direct) at 4:16-18.

65 Pepco (2B) (Leming Supplemental Direct) at 5:1-7.

66 Pepco (2B) (Leming Supplemental Direct) at 5:8-13.

67 Pepco (2B) (Leming Supplemental Direct) at 6:1-5.

68 Pepco (2B) (Leming Supplemental Direct) at 6:17-21.

69 Pepco (2B) (Leming Supplemental Direct) at 7:1-3.

70 Pepco (2B) (Leming Supplemental Direct) at 7:17-27:17.

expense to a jurisdiction are identical to the TTY and MRP.[71] He further testifies that Pepco's use of Cash Working Capital and Lead-Lag Study for the TTY is identical to the use he discusses in his direct testimony for the MRP case.[72] Pepco Witness Leming further states that his discussion of the new corporate alternative minimum tax ("CAMT") in his direct testimony beginning in 2023, which imposes a 15% tax on adjusted financial statement income, also applies to the TTY.[73] Mr. Leming testifies that he and Company Witness Bonikowski discussed in their direct testimony for Pepco's MRP the Company's proposal to create a new income tax adjustment ("ITA") Rider to recover or refund the revenue requirement associated with federal or state statutory corporate income tax rate changes enacted between base rate cases. Mr. Leming testifies that this proposed ITA Rider would apply to the TTY.[74]

33. **OPC.** OPC Witness Michael Gorman testifies that Pepco did not project TTY revenue sales for its TTY cost of service in the same way as the Company's projected rate base and O&M expenses.[75] OPC Witness Gorman testifies that Pepco relied on actual sales within the test year in projecting test year sales while adjusting these items for end-of-year growth in plant investment and operating expenses when projecting rate base and O&M expenses.[76] Mr. Gorman testifies that this creates a mismatch in how Pepco developed its revenue projections for the TTY and how it is projecting rate base and O&M expenses for the TTY.[77] Mr. Gorman testifies that by not adjusting annualized revenues to account for the increase in customers during the TTY, Pepco is understating revenue and inflating the estimated revenue deficiency.[78] He further testifies that Pepco adjusted operating expenses, including depreciation expense for end-of-year items, thereby decreasing operating income and increasing the estimated revenue deficiency, whereas adjusting customers to year-end increases operating and reduces the estimated revenue deficiency.[79]

34. OPC Witness Gorman testifies that test year revenues should be adjusted to reflect end-of-year growth in the number of customers that occurred throughout the test year leading to an increased level of annual sales due to an increased level of number of customers taking service at year-end, compared to the average number of customers throughout the year.[80] Mr. Gorman recommends that the TTY revenues be annualized to reflect the year-end number of customers,

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71 Pepco (2B) (Leming Supplemental Direct) at 28:1-14.

72 Pepco (2B) (Leming Supplemental Direct) at 28:18-20.

73 Pepco (2B) (Leming Supplemental Direct) at 29:2-12.

74 Pepco (2B) (Leming Supplemental Direct) at 29:13-30:4.

75 OPC (B) (Gorman Direct) at 40:17-20.

76 OPC (B) (Gorman Direct) at 40:20-22.

77 OPC (B) (Gorman Direct) at 40:22-41:22.

78 OPC (B) (Gorman Direct) at 41:23-25.

79 OPC (B) (Gorman Direct) at 41:25-42:2.

80 OPC (B) (Gorman Direct) at 42:14-19.

thereby increasing the TTY revenues by approximately $1.1 million.[81] Mr. Gorman further recommends that Deficient Deferred Income Taxes ("DDIT") be excluded from the cost of service for the same reasons he discussed about 2023 Sales Revenues, leading to a downward adjustment of the TTY revenue requirement by $1.5 million.[82]

35. OPC Witness Gorman believes a longer COVID-19 cost recovery period is appropriate, given the extraordinary nature of the pandemic. Therefore, Mr. Gorman prefers a six-year amortization period because that period mitigates the rate increase proposed in this proceeding while limiting cost recovery to the same two to three traditional rate cycles that would apply to a five-year amortization.[83] OPC Witness Gorman further testifies that while Pepco's TTY Compliance filing includes an inflation adjustment to non-labor O&M expense in RMA 34, Pepco's 3.63% annual inflation rate is overstated compared to the actual inflation rate in the second half of 2023 and an independent economist forecasted inflation rate for 2024.[84] Witness Gorman recommends revising Pepco's inflation estimate in the TTY of 3.63% to reflect the consensus analysts' estimate of 3.2%, to be in effect for the six-month projection period, leading to a downward adjustment of Pepco's TTY revenue requirement by approximately $384,000.[85]

36. OPC Witness Gorman recommends removing the BSA regulatory asset from the rate base, thereby reducing the Company's TTY revenue deficiency by approximately $10.3 million.[86] OPC Witness Gorman testifies that Pepco requests a return on its BSA deferral balance as part of its TTY compliance filing.[87] Mr. Gorman testifies that Pepco should not earn a return on the BSA deferral balance because Pepco acknowledged in its April 2023 MRP filing that the Company is not currently authorized to earn a return on the BSA deferral balances and has not shown a need to earn a return on the BSA deferral balance as part of its TTY and a reason to reverse the current policy regarding a return.[88] He contends that while Pepco argued the BSA is one of the reasons it has not previously earned its authorized ROE, the updated rates and billing determinants approved in this proceeding will give Pepco the opportunity to earn its authorized ROE even without a return on the BSA deferral balances.[89] Mr. Gorman testifies that even if the Commission were to allow Pepco to earn a return on the BSA regulatory asset, Pepco did not adjust the BSA regulatory asset to remove income taxes included in the uncollected revenue that is recorded in the BSA regulatory asset because the income tax expense associated with uncollected

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81 OPC (B) (Gorman Direct) at 43:4-8 and OPC (B)-12.

82 OPC (B) (Gorman Direct) at 43:12-13.

83 OPC (B) (Gorman Direct) at 43:18-44:5.

84 OPC (B) (Gorman Direct) at 44:10-14.

85 OPC (B) (Gorman Direct) at 44:18-22 and OPC (B)-14 (Gorman Direct Exhibit).

86 OPC (B) (Gorman Direct) at 47:3-5 and OPC (B)-15 (Gorman Direct Exhibit).

87 OPC (B) (Gorman Direct) at 45:4-46:4.

88 OPC (B) (Gorman Direct) at 46:7-10.

89 OPC (B) (Gorman Direct) at 46:10-16.

revenue will not become taxable income until the Company recovers the BSA revenue from customers.[90] Mr. Gorman recommends reducing the BSA regulatory asset by the income tax included in the uncollected BSA revenue and applying a carrying charge to the after-tax balance of the BSA regulatory asset.[91]

37. **AOBA.** AOBA Witness Bruce Oliver testifies that Pepco's TTY reflects a greatly overstated revenue increase request.[92] Mr. Oliver contends that examining the monthly detail for Pepco's actual and forecasted TTY costs reveals large increases in its expenditures in the forecasted portion of the Company's TTY that cannot be verified.[93]

38. Mr. Oliver testifies that Pepco's TTY proposes to immediately raise the GT-LV customer charge to the $3,069.75 per month level, which, he contends, is a large one-step increase in any charge for any rate class that is rarely viewed by regulators as reasonable or appropriate.[94]

39. AOBA Witness Oliver testifies that Pepco's proposal to earn a return on its BSA Deferred Revenue Balance in its TTY filing requires the Commission's careful and thoughtful consideration.[95]

DECISION

40. The Commission has reviewed the record and is persuaded to approve Pepco's second MRP application as a Modified MRP Extended Pilot, as discussed more fully herein. The Modified MRP Extended Pilot will allow Pepco and parties to complete their study of the benefits of MRPs, develop recommended requirements for future MRPs (if permitted); encourage appropriate investments in Pepco's distribution system to maintain reliability, improve resiliency, and support electrification; reduce the regulatory burden for all parties by reducing the frequency and number of rate cases; provide known future distribution rates during 2025 and 2026 to assist customers budget their electricity costs; and help to minimize utility financing costs while also attracting investors by reducing regulatory risk.

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[90] OPC (B) (Gorman Direct) at 47:6-12.

[91] OPC (B) (Gorman Direct) at 47:12-15.

[92] AOBA (A) (B. Oliver Direct) at 21:9-11.

[93] AOBA (A) (B. Oliver Direct) at 55:3-9.

[94] AOBA (A) (B. Oliver Direct) at 114, n.88.

[95] AOBA (A) (B. Oliver Direct) at 6:17-7:1.

B. MRP Overview

41. In its April 2023 application, Pepco requested a cumulative rate increase of $190.7 million in base distribution revenue for 2024-2026 with a proposed ROE of 10.5%. These initial revenue requirements were $116.4 million for 2024, $36.9 million for 2025, and $37.4 million for 2026, primarily driven by an increase in rate base, operating expenses, and the 2023 stay-out provision, leading to a total revenue deficiency of $41 million. In response to testimonies prepared by OPC and AOBA, Pepco revised its revenue requirements as contained in Table 3 below.

Table 3: Pepco's Proposed Revenue Requirement ($ millions) and ROE[96]

	Bridge (2023)	MRP Year 1 (2024)	MRP Year 2 (2025)	MRP Year 3 (2025)	ROE
Pepco	$28.1	$116.3	$150.7	$186.5	10.5%

42. **Pepco.** Pepco states the major drivers of the rate increase include growth in rate base, growth in operating expenses, increase in ROE since the last rate case, increase in depreciation related to new plant additions, and impact of change in depreciation rates related to new depreciation study.

43. Pepco Witness Elizabeth O'Donnell asserts that the core of the MRP plan for the period 2024-2026 is the "Climate Ready Grid," which involves investing in infrastructure and processes to enhance system readiness and support customers during the ongoing energy transformation.[97] These investments encompass innovative technologies, communication IT systems, reliability and customer-focused projects, and essential system capacity upgrades.[98] Pepco Witness O'Donnell testifies that the Company's MRP proposal in this proceeding is "an integrated regulatory framework that encourages stakeholder review of the Company's future capital and spending plans, proposed levels of performance and the cost to achieve the level of performance while improving transparency, lowering customer costs, and ensuring customers only pay for the cost of service approved by the Commission."[99] Witness O'Donnell testifies further that Pepco's MRP Application allows the Company to begin recovery of the prudent investments it is making for the benefit of customers and allows the Company to continue investing in the electric distribution system to support the District's policy goals to the benefit of its customers, to earn a reasonable ROE, and to continue positively impacting economic and community development in the District.[100]

44. Pepco Witness Leming testifies that Pepco requests an MRP distribution revenue requirement increase of $116.3 million for 2024, $34.5 million for 2025, and $35.8 million for 2026 for an overall revenue requirement increase of $186.5 million. Mr. Leming testifies that

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96 Pepco (4A) (O'Donnell Rebuttal) at 8:6.

97 Pepco (A) (O'Donnell Direct) at i.

98 Pepco (A) (O'Donnell Direct) at i and 30:19-31:4.

99 Pepco (A) (O'Donnell Direct) at 59:15-20.

100 Pepco (A) (O'Donnell Direct) at 59:30-60:3.

the requested MRP distribution revenue requirement increases would result in a 6.37%, 5.96%, and 5.61% increase in total electric bills for the average residential customer, or $6.05 in MRP Year 1, an additional $6.00 in MRP Year 2, and an additional $5.96 in MRP Year 3, for a total increase of $18.01 over three years.[101]

45. Pepco Witness Leming testifies that unlike the index approach used in the Modified EMRP Pilot that the Commission approved in *Formal Case No. 1156* Modified Enhanced MRP Pilot, Pepco uses its LRP as the basis for the MRP projection for 2024-2026.[102] According to Pepco Witness Leming, the Company's use of the LRP reflects its best current estimates regarding the specific distribution programs and initiatives Pepco will undertake in the District and considers the impacts of inflation and supply chain issues during the three-year term of the MRP.[103] Pepco Witness O'Donnell testifies that the LRP is developed "through a rigorous process that uses the experience and knowledge of the various responsibility areas and departments to develop cost projects that integrate and align Pepco's operational and financial plans for the period."[104]

46. Pepco Witness Leming argues that a revenue increase is needed because of additional capital investments and ongoing costs necessary to maintain and modernize the distribution grid to continue providing safe and reliable service to customers and the proposed work that is necessary to deliver a climate-ready grid that will support and enable the District's goals to reduce greenhouse gas ("GHG") emissions.[105]

47. Pepco Witness Leming argues that Pepco should be allowed a deferred accounting mechanism because it helps to address unforeseen costs due to external factors beyond Pepco's control during the MRP.[106] Mr. Leming testifies that this mechanism will benefit and protect customers by allowing one-time costs to be collected over a multi-year period, thereby reducing bill impacts in any year. He further testifies that the deferred accounting mechanism is intended to avoid the need to employ the reopener mechanism.[107]

48. Pepco Witness Leming testifies that Pepco believes that a reopener provision is necessary to allow the Parties to petition the Commission to reopen the MRP at any time due to an extraordinary circumstance that is outside of the utility's control that warrants the Commission's intervention to ensure that existing rates are just and reasonable or to ensure the fiscal solvency of the utility.[108]

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[101] Pepco (B) (Leming Direct) at 5:9-12; Pepco (3E) (Bonikowski Rebuttal) at 51:3 and Pepco (3B) (Leming Rebuttal) at 2:13.

[102] Pepco (B) (Leming Direct) at i and 5:3-6.

[103] Pepco (B) (Leming Direct) at 9: 1-20.

[104] Pepco (A) (O'Donnell Direct) at 36:7-13.

[105] Pepco (B) (Leming Direct) at 5:13-19.

[106] Pepco (B) (Leming Direct) at 16:1-5.

[107] Pepco (B) (Leming Direct) at 16:5-9.

[108] Pepco (B) (Leming Direct) at 16:10-17.

49. Pepco Witness O'Donnell asserts that the proposed reconciliation process guarantees that customers will only pay the actual costs associated with the delivery of electric distribution service. Since no proposed return on underearning is allowed through this process, Ms. O'Donnell claims Pepco is incentivized to create forecasts that closely match actual outcomes.[109]

50. Pepco Witness Leming testifies that for the MRP benefits to be realized, MRPs should operate contiguously so that the next MRP begins after the previous one ends so rates and revenues can be updated annually and change more gradually, as recognized by the Maryland Public Service Commission. Mr. Leming testifies that without this provision, the impact is less predictable rates for customers, less predictable revenues for utilities, and increased regulatory lag, directly reducing the benefits MRPs are intended to provide.[110]

51. According to Pepco, its proposed MRP in this proceeding conforms with the AFOR framework adopted in Order No. 20273 and builds on and incorporates enhancements based on the experience of implementing the *Formal Case No. 1156* Modified EMRP Pilot.[111] Pepco contends that the MRP fosters transparency into the Company's proposed investments and how they align with DC and Commission goals. This information, along with annual reporting and reviews of spending variances, improves oversight.[112]

52. In addition, Pepco Witness O'Donnell testifies that the MRP proposed in this proceeding provides an opportunity to improve the collaboration and transparency of the regulatory process and to more fully align the Company's interests and future investments and performance with customer expectations and the District and Commission's policy goals.[113]

53. Pepco Witness O'Donnell testifies that the MRP will advance affordability and equity for customers due to the inclusion of programs that will provide bill relief to its most economically vulnerable customers for whom it may be challenging to pay electric bills[114] and the implementation of time-of-use rates for residential customers.[115]

54. Pepco Witness O'Donnell includes as an exhibit an economic benefits study conducted by NERA Economic Consulting that estimates the economic impact of the Company's actual investments in 2022 and proposed capital investments from 2023 through 2026.[116]

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110 Pepco (B) (Leming Direct) 13:7-18 (*citing* Maryland Public Service Commission Case No. 9618, In the Matter of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company, Order No. 89482 at ¶ 59).

111 Pepco's Post Legislative Style Hearing Brief at 10.

112 Pepco's Post Legislative Style Hearing Brief at 11-22.

113 Pepco (A) (O'Donnell Direct) at 59:12-15.

114 Pepco (A) (O'Donnell Direct) at 18:1-19.

115 Pepco (A) (O'Donnell Direct) at 21:10-20.

116 Pepco (A) (O'Donnell Direct) at 23:1-9 and Pepco (A)-1 (CONFIDENTIAL).

55. Furthermore, Pepco claims that these very benefits anticipated in the AFOR Order were realized in the *Formal Case No. 1156* Modified Enhanced MRP Pilot —which provided detailed information (in advance) on its capital investment and business plans, as well as disclosed any variances in capital investments and O&M costs from original projections; provided rate predictability; allowed for more timely recovery of investments, which in turn allowed the utility to earn close to its authorized ROE; encouraged utility spending on diverse suppliers; and reduced the frequency of rate cases.[117]

1. Parties' Position on Pepco's MRP

56. **OPC.** OPC Witness David Dismukes testifies that Pepco's pre-filed testimony and exhibits contain no analysis to support the claims that the *Formal Case No. 1156* Modified EMRP Pilot has, to date, provided any ratepayer benefits and that approving the proposed MRP will result in bona fide and measurable public benefits.[118] OPC Witness Dismukes testifies that while the Commission identified quantitative and qualitative benefits were purported to arise from the adoption of the *Formal Case No. 1156* Modified EMRP Pilot, Pepco did not provide evidence or analysis to support a finding of fact that the MRP in this proceeding will provide these benefits.[119]

57. OPC Witness Dismukes testifies that the capital investments Pepco identified to be recovered through the MRP filed in this proceeding are designed for the Company to meet its normal public service obligations, not the District's climate and clean energy goals.[120] Dr. Dismukes further testifies that Pepco has not clearly shown how its clean energy and climate investments cannot be facilitated under traditional regulation.[121] Dr. Dismukes testifies that OPC Witness Kevin Mara identified several of the Company's proposed MRP capital investment programs comparable to those he had repeatedly seen over the past several years, up to and including those when the Company was regulated using traditional cost-of-service methods.[122] OPC Witness Dismukes testifies that the capital investments intended to be recovered through the MRP are not designed to meet the District's climate and clean energy goals.[123] Instead, they seem to be aimed at fulfilling Pepco's normal public service obligations. Additionally, OPC notes that the Company has not explained how it will measure the success of these investments in achieving those goals.[124] OPC Witness Dismukes testifies that Pepco has neither identified which of its proposed MRP capital investments are designed to meet the District's climate and clean energy goals nor identified how the Company will measure the success of such investments in meeting

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117 Pepco's Post Legislative Style Hearing Brief at 22-24.

118 OPC (A) (Dismukes Direct) at 74:20-22.

119 OPC (A) (Dismukes Direct) at 69:16-70:18.

120 OPC (A) (Dismukes Direct) at 78:7-11.

121 OPC (A) (Dismukes Direct) at 80:4-5.

122 OPC (A) (Dismukes Direct) at 78:11-14; *see* OPC (E) (Mara Direct) at 7:7-16.

123 OPC (A) (Dismukes Direct) at 78:9-11.

124 OPC (A) (Dismukes Direct) at 78:9-11l.

the climate and clean energy goals.[125] Dr. Dismukes testifies that the Commission recently considered and ultimately rejected the Washington Gas Light Company's ("WGL") proposal to fund six future climate initiatives.[126]

58. OPC Witness Kevin Mara testifies that while Pepco claims that its proposed MRP investments in this proceeding are designed to foster a Climate Ready Grid, over 90% of Pepco's proposed MRP investments are dedicated to replacing aged infrastructure and other business-as-usual investments to maintain system reliability, not for modernizing the grid or making it ready for the District's climate initiatives.[127]

59. OPC Witness Mara testifies that Pepco's construction program includes certain projects related to the modernization of the Pepco distribution system. These projects collectively create what Pepco refers to as the Advanced Distribution Management System ("ADMS"). Mr. Mara states that according to the Company, the ADMS will replace Pepco's outage management system and other specific distribution control systems, placing them on a common platform and enabling the distribution operators to monitor, manage, and control the electrical grid utilizing remote switching and reconfiguration of the system due to system conditions.[128] Mr. Mara testifies that the Distributed Energy Resources Management System ("DERMS") is a future phase of the ADMS implementation that allows more DER to be connected to the grid and work collectively to coordinate the use of DER-generated energy and utility-generated energy.[129] OPC Witness Dismukes testifies that Pepco's ADMS is a good reason the Commission should utilize traditional regulation and not an MRP because the ADMS is small relative to the Company's proposed MRP capital investments, the Company cannot specifically identify and quantify the ADMS benefits, many of which may not start to materialize until as late as 2029, and there is no well-defined process by which these investments will be rolled out and the role that stakeholders and the Commission will have in this process.[130]

60. OPC Witness Dismukes testifies that the proposed MRP framework will not provide more opportunities for oversight compared to traditional ratemaking because, under the MRP process, the final prudency reviews are not undertaken until a subsequent rate case is conducted.[131]

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[125] OPC (A) (Dismukes Direct) at 78:21-79:4; OPC (A)-30, Pepco's Response to OPC Data Request 4-1(b); OPC (A)-30, Pepco's Response to OPC Data Request 4-1(a).

[126] OPC (A) (Dismukes Direct) at 79:5-16 (*citing Formal Case No. 1169, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Natural Gas Service*, Order No. 21939 at ¶ 430, rel. December 22, 2023.

[127] OPC (E) (Mara Direct) at 4:8-18 and 6:10-9:16.

[128] OPC (E) (Mara Direct) at 10:1-11:17 (*citing* Exhibit OPC (E)-27, Pepco Response to OPC Data Request 6-24) and 12:10-12.

[129] OPC (E) (Mara Direct) at 12:5-17.

[130] OPC (A) (Dismukes Direct) at 80:6-17.

[131] OPC (2A) (Dismukes Surrebuttal) at 15:5-15.

61. Additionally, OPC argues that Pepco's proposed MRP lacks robust performance incentive mechanisms ("PIMs"), which are crucial to ensuring accountability and performance standards. Pepco's MRP lacks the metrics to link financial incentives with tangible customer benefits, rendering it deficient in providing value to consumers. OPC emphasizes that without fully developed and functional PIMs, Pepco cannot guarantee that rate increases will correlate with improved services or efficiencies for ratepayers.[132] Dr. Dismukes proposes a set of performance metrics that are "straightforward, measurable, and transparent and should focus on big-pictures goals: lower and/or more affordable rates; greater operating and cost efficiencies; and lower GHG emissions, particularly Pepco's own Scope 1 GHG emissions."[133]

62. OPC Witness Dismukes testifies that the MRP does not include nor assure a proper framework for the Commission, OPC, and other stakeholders to ensure that investments Pepco makes are prudent and will not lead to technologies and processes that will become quickly obsolete and stranded. Nor will an MRP facilitate the kind of interconnection and diversity of ownership envisioned in grids of the future. Dr. Dismukes believes this is particularly important for the future deployment of the DERMS since it is purportedly designed to facilitate various technologies and ownership types. Witness Dismukes believes stakeholder input is necessary, requiring more, not less regulation, typical of an MRP and other AFORs.[134]

63. OPC Witness Dismukes testifies that the goals of today's clean energy agenda require greater regulatory oversight and input to ensure that a wide range of resource options, participants, and potential outcomes are considered. He testifies that AFORs, if not carefully regulated, can decouple prices from costs and allow utilities and their shareholders to establish priorities that maximize profits, which is not necessarily a clean energy/climate agenda. He also testifies that prices can change without ongoing regulatory oversight and input.[135] Dr. Dismukes testifies that the Commission has had difficulty defining what performance standards it wants from Pepco, thus placing all performance risks of the *Formal Case No. 1156* Modified EMRP Pilot exclusively upon ratepayers. He testifies that if the Commission approves the Company's proposed MRP without a clearly defined, fully vetted set of performance standards, it will be difficult to ensure that rates are fair, just, and reasonable.[136] Dr. Dismukes recommends a return to traditional regulation to ensure progress on the District's clean energy agenda and protect ratepayers.[137]

64. **AOBA.** AOBA contends that this MRP process had several flaws that outweigh Pepco's claims of MRP benefits. According to AOBA, basing rates on forecasted costs encourages

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[132] OPC's Post Legislative Style Hearing Brief at 11-14.

[133] OPC (A) (Dismukes Direct) at 75:10-12.

[134] OPC (A) (Dismukes Direct) at 82:3-13.

[135] OPC (A) (Dismukes Direct) at 82:14-83:4.

[136] OPC (A) (Dismukes Direct) at 83:5-15.

[137] OPC (A) (Dismukes Direct) at 83:16-20.

aggressive spending projections without properly assessing budget appropriateness.[138] AOBA Witness Bruce Oliver testifies that the proposed MRP exacerbates the incentive for Pepco to maximize its earnings growth through rate base additions.[139] AOBA states that Pepco's experience with the *Formal Case No. 1156* Modified EMRP Pilot demonstrates a lack of cost management efforts aimed at benefiting District ratepayers. Despite significant differences between Pepco's budgeted costs in *Formal Case No. 1156* and the actual costs incurred during the first MRP plan, there is no evidence that the promised benefits of the *Formal Case No. 1156* Modified EMRP Pilot to ratepayers have been maintained or improved.[140] AOBA argues that the current MRP process fails to provide any meaningful incentives for Pepco to manage its expenditures in a way that benefits District ratepayers. AOBA argues that any existing cost management incentives only benefit Pepco and its investors, not the Company's District ratepayers.[141] AOBA further argues that a successful MRP process requires the Commission to dedicate more time and resources to thoroughly assess the reasonableness and prudence of Pepco's capital and O&M expenditures during the MRP period.[142]

65. The current MRP process, according to AOBA, fails to provide any meaningful incentives for Pepco to manage its expenditures in a way that benefits District ratepayers. In fact, AOBA argues, any existing cost management incentives only serve to benefit Pepco and its investors, not the Company's District ratepayers.[143]

66. AOBA further asserts that Pepco's management must be held accountable for improving the cost-effectiveness of the Company's operations and plant additions. The Company should not be allowed to spend to the levels of its forecasted overall budgets without considering the mix of programs and projects for which costs are incurred.[144] According to AOBA, Pepco failed to provide evidence that the value it expected to provide to District ratepayers had been maintained or enhanced when the Company's actual expenditures deviated from the composition of the forecasted costs the Company presented in support of its requested revenue requirements in *Formal Case No. 1156*.[145]

67. AOBA argues that the *Formal Case No. 1156* Modified EMRP Pilot has reduced, if not eliminated, incentives for Pepco to control its costs and/or use its budgeted costs in a manner that reduces ratepayer cost burdens. This causes a failure to reasonably align shareholder and ratepayer interests. AOBA also argues that setting rates based on fully forecasted costs provides no basis for assessing the appropriateness of the Company's budgets but does provide incentives for the Company to forecast its future expenditure levels aggressively. AOBA further contends

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138 AOBA (A) (B. Oliver Direct) at 31:12-14.

139 AOBA (A) (B. Oliver Direct) at 10:3-4.

140 AOBA's Post Legislative Style Hearing Brief at 26-27.

141 AOBA's Post Legislative Style Hearing Brief at 26.

142 AOBA's Post Legislative Style Hearing Brief at 27.

144 AOBA's Post Legislative Style Hearing Brief at 26.

145 AOBA's Post Legislative Style Hearing Brief at 26-27.

that there is no evidence that the *Formal Case No. 1156* Modified EMRP Pilot improved ratemaking transparency. AOBA asserts that Pepco's claims that MRPs produce reduced regulatory burdens and lower regulatory costs are illusory. AOBA argues that savings are only achieved for the Company and/or the Commission when ratepayer protections are significantly diluted. AOBA argues further that the prudency review process for Pepco's actual expenditures under the *Formal Case No. 1156* Modified EMRP Pilot is inadequate and ineffective.[146]

68. AOBA asserts that the *Formal Case No. 1156* Modified EMRP Pilot reveals that, due to Pepco's inability to forecast future expenditures, it provides limited reviews of the Company's actual spending that are neither adequate nor appropriate.[147] In addition, despite fewer base rate proceedings under an MRP, the increased complexity of the process and continued need for document reviews, comments, and participation in technical conferences result in no reduction in regulatory activity for parties.[148] Furthermore, AOBA Witness Bruce Oliver emphasizes that limitations imposed on examinations of the prudence of costs outside of base rate proceedings cannot be relied upon to ensure that the Company's actual expenditures were prudent or cost-effective from a ratepayer perspective.[149] AOBA Witness Bruce Oliver testifies that "protecting ratepayers from the impacts of utility forecasting errors generally requires extensive cost tracking and prudence review that must necessarily go beyond the simple acceptance of an annual information filing."[150]

69. AOBA contends that Pepco's representations of its MRP as a "Climate Ready Grid" are misleading because the Company has not identified any parameters of its perception of what constitutes a "Climate Ready Grid." Its forecasts of future service requirements include no assessment of the expected impacts of the District's efforts to move toward greater electrification of energy use.[151] AOBA argues that although Pepco's SAIFI, SAIDI, and CEMI metrics are already among the best in the industry, the Company has not demonstrated significant ratepayer benefits from further improvement of those metrics.[152] AOBA urges the Commission to limit Pepco's rate base growth to essential expenditures, excluding speculative spending on unquantified future needs.[153]

70. **DCG.** DCG opposes Pepco's MRP. DCG contends that the MRP is designed to lock District ratepayers into guaranteed annual rate increases, foreclosing any meaningful opportunity for the Commission and parties to evaluate whether Pepco's MRP is in the public

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146 AOBA's Post Legislative Style Hearing Brief at 27.

147 AOBA's Post Legislative Style Hearing Brief at 35.

148 AOBA's Post Legislative Style Hearing Brief at 35.

149 AOBA (A) (B. Oliver Direct) at 25.

150 AOBA (A) (B. Oliver Direct) at 41:12-15.

151 AOBA's Post Legislative Style Hearing Brief at 36.

152 AOBA's Post Legislative Style Hearing Brief at 36.

153 AOBA's Post Legislative Style Hearing Brief at 37.

interest and consistent with the Commission's AFOR framework.[154] DCG opposes the idea that an MRP would always be in effect, locking ratepayers into an MRP regulation instead of setting rates based on historical cost-of-service regulation.

71. DCG Witness Courtney Lane testifies that using a Company-specific cost forecast shifts risks to customers because intervening parties and regulators can never completely vet the accuracy of cost forecasts, and utilities have an inherent bias to overstate their costs and understate revenues. She testifies that when a utility's ROR is greater than the cost of borrowing, utilities have a financial incentive to maximize their capital expenditures to increase rate base and thereby increase profits.[155] DCG Witness Lane testifies that regulated utilities have an inherent incentive to favor capital expenditures over operating expenses to increase return to investors.[156] Ms. Lane testifies that these combined factors incentivize utilities to overestimate future costs, maximize their allowed revenues under an MRP, and minimize the chance of overruns.[157] Ms. Lane further testifies that using a forecast does not resolve Pepco's concerns about supply chain issues and inflation variability.[158]

72. DCG Witness Lane testifies that requiring a prudency review does not sufficiently protect ratepayers because the burden of proving imprudence of costs incurred is high. The challenger requires extensive time and resources to request and comb through a vast amount of data to decipher exactly what the utility knew and when.[159] Ms. Lane testifies that it is often extremely challenging for other parties or the Commission to establish or even identify imprudence of costs in all but the most egregious cases. She testifies that no parties conducted any discovery or filed comments regarding Pepco's Final Reconciliation for the *Formal Case No. 1156* Modified EMRP Pilot, demonstrating the impracticality of this after-the-fact approach.[160]

73. DCG Witness Lane testifies that if an MRP includes a revenue requirement forecast based on an external index similar to the *Formal Case No. 1156* Modified EMRP Pilot, she does not recommend any reconciliation of revenues and costs during or at the end of the MRP (except for an earnings sharing mechanism if earnings exceed a certain threshold because reconciliation mechanisms reduce incentives for cost efficiencies over the MRP term. Ms. Lane testifies that for an MRP to provide the desired cost-containment benefits, rates should be reset with a new test year at the close of the MRP.[161] She further testifies that Pepco's MRP proposal does not provide greater cost-containment incentives than cost-of-service regulation, where base rates are set based on a

154 DCG's Post Legislative Style Hearing Brief at 6-7.

155 DCG (A) (Lane Direct) at 10:11-11:8.

156 DCG (A) (Lane Direct) at 11:9-16.

157 DCG (A) (Lane Direct) at 12:1-3.

158 DCG (A) (Lane Direct) at 13:18-14:14.

159 DCG (A) (Lane Direct) at 13:1-5.

160 DCG (A) (Lane Direct) at 13:5-9.

161 DCG (A) (Lane Direct) at 21:4-12.

test year and held fixed until the utility files a subsequent rate case. Ms. Lane testifies that because rates are not trued up to actual costs between rate cases under cost-of-service regulation, the utility has an inherent incentive to control costs between rate cases (*i.e.*, regulatory lag).[162]

74. DCG Witness Lane testifies that while PIMs can be adopted after this proceeding, it is preferable to adopt PIMs in conjunction with an MRP so the incentives offered by each PIM can be designed to be complementary and avoid redundancy.[163] Ms. Lane proposes a non-wires alternative ("NWA") PIM to support the desired outcome of increased investment in cost-effective NWAs.[164]

75. DCG Witness Lane testifies that Pepco should demonstrate that it is making investments to support the District's clean energy goals under the MRP period that would not have been completed under cost-of-service regulation.[165] She testifies that she does not find that Pepco's proposed MRP adequately supports investments to facilitate the District's climate and clean energy goals and instead represents a business-as-usual capital plan.[166] Ms. Lane testifies that Pepco does not identify specific investments as part of the Climate Ready Grid. She testifies that while Pepco proposes to improve the grid resiliency under the MRP Climate Ready Grid to address the impacts of climate realities, including the replacement of aging and/or obsolete infrastructure and routinely and timely performing corrective maintenance work where necessary, these activities are core to the traditional duties of the electric distribution company. Pepco has not adequately explained why undertaking these traditional goals would justify an MRP.[167] Ms. Lane further testifies that Pepco has not identified which investments are part of its Climate Ready Grid, what associated costs it would recover through the MRP, or quantifiable metrics to measure the benefits associated with these investments.[168] According to DCG Witness Lane, the lack of transparency contradicts the Commission's AFOR Framework, which requires the AFOR to provide appropriate transparency and reporting into the utility's operational and capital plans.[169]

76. DCG Witness Lane testifies that because only 3.6% of the $1.4 billion in total planned capital investments over the 2024-2026 MRP term directly supports Pepco's Climate Solutions Plan ("CSP"), this is a clear indication that the Company's MRP is more of a business-as-usual capital plan than a Climate Ready Pathway.[170] Ms. Lane proposes that Pepco include

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[162] DCG (A) (Lane Direct) at 21:13-22:8.

[163] DCG (A) (Lane Direct) at 25:3-21.

[164] DCG (A) (Lane Direct) at 26:1-29:8.

[165] DCG (A) (Lane Direct) at 29:11-14.

[166] DCG (A) (Lane Direct) at 29:19-34:1 and 46:7-47:16.

[167] DCG (A) (Lane Direct) at 31:9-17.

[168] DCG (A) (Lane Direct) at 32:15-19.

[169] DCG (A) (Lane Direct) at 32:19-33:2 (*citing Formal Case 1156*, Order No. 20273 at ¶ 6, rel. December 20, 2019).

[170] DCG (A) (Lane Direct) at 32:3-17.

additional investments to address ongoing issues with the DER interconnection process and support data transparency and advanced metering infrastructure. According to DCG Witness Lane, these investments could include improving Pepco's hosting capacity map and implementing full functionality of Green Button Connect My Data, including the ability for customers to authorize automatic data transfers with third parties and implement Home Area Networks.[171]

77. DCG Witness Lane testifies that Pepco does not include electrification in its 10-year capacity/load forecasts or forecasts for conversions of gas heating to electric heating. According to Ms. Lane, this is problematic because the Company is asking the Commission to approve a revenue requirement for the MRP term that is based on the need to create a Climate Ready Grid that prepares for the significant shift to electrification without considering actual electrification forecasts or conducting an analysis to determine whether additional distribution investments are needed to support forecasted increases in electrification.[172] Ms. Lane testifies that Pepco does not use the Strategic Electrification Roadmap for Buildings and Transportation in the District of Columbia ("Electrification Roadmap"), which the District Department of Energy and Environment ("DOEE") filed in *Formal Case No. 1167*. Ms. Lane testifies that the Electrification Roadmap analyzed the expected load increases and timing resulting from the additional energy efficiency and electrification measures needed to meet the Clean Energy DC Plan target for a 50% reduction in GHG emissions by 2032 and quantifies substation impacts for summer and winter peaks resulting from adding building electrification and electric vehicle ("EV") charging.[173]

78. DCG Witness Lane testifies that Pepco's vision of a Climate Ready Grid appears to be rooted in traditional distribution asset investments rather than focusing on the strategies outlined in the electrification reports, such as increasing the deployment of energy efficiency to manage overall load growth, demand-side management strategies, and NWAs to target areas of the system that become constrained. Pepco's planning process does not adequately address these alternatives to traditional utility investments.[174] Ms. Lane testifies that Pepco should evaluate the cost-effectiveness of alternatives to traditional distribution assets and present those results as part of its MRP.[175]

79. DCG Witness Lane testifies that while Pepco's MRP contains several grid modernization projects, such as Enterprise Asset Management ("EAM 2.0"), Geographic Information System ("GIS"), and ADMS grid modernization automation, she found it difficult to discern the complete set of grid modernization investments Pepco proposed because modernization is diffusely discussed by Pepco, in numerous places throughout the Company's filing.[176] While DCG Witness Lane supports Pepco's proposed grid modernization investments, she expressed concerns about the lack of transparency and clarity in Pepco's approach to presenting these

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171 DCG (A) (Lane Direct) at 34:2-39:6.

172 DCG (A) (Lane Direct) at 39:8-19.

173 DCG (A) (Lane Direct) at 40:1-43:2.

174 DCG (A) (Lane Direct) at 43:3-10.

175 DCG (A) (Lane Direct) at 43:11-44:2.

176 DCG (A) (Lane Direct) at 44:12-45:4.

investments in its MRP filing. Ms. Lane noted that Pepco omitted key information to evaluate its grid modernization plans.[177] Ms. Lane testifies that requiring Pepco to provide a grid modernization plan, including a benefit-cost analysis ("BCA") of its proposed grid modernization investments in conjunction with an integrated distribution system plan ("IDSP"), would address these deficiencies.[178]

80. DCG Witness Lane also recommends that Pepco be required to provide estimates of the benefits that can be expected from a Remote Monitoring System ("RMS") and DERMS. Ms. Lane testifies that the Company should use load forecasts consistent with meeting the District's clean energy goals to demonstrate the peak demand reduction benefits from the deployment of DERs and use load forecasts consistent with meeting the District's clean energy goals to demonstrate these benefits.[179]

81. DCG Witness Lane testifies that Pepco should provide a grid modernization plan as part of an IDSP that includes a detailed and transparent account of its planned investments proposed in other proceedings and grid modernization actions to date, active proposals, future plans, and customer protections.[180] Pepco should detail why investments are the optimal ones to achieve the District's clean energy policy goals and the specific benefits each planned investment will provide.[181] Ms. Lane recommends that if the Commission proceeds with Pepco's MRP Application, the Commission should: (1) apply an external index for business as usual costs; (2) limit cost forecasts to large and unusual investments that support the District's clean energy goals; (3) require one-way (downward) reconciliations for costs based on a forecast with no reconciliations for indexed costs; (4) implement PIMs that advance the District's clean energy goals; and (5) contain quantitative tracking metrics to evaluate the MRP at the end of the rate period.[182]

82. DCG Witness Lane testifies that while Pepco proposes to increase outreach and marketing for the RAD and AMP programs and allow any recipient of a District assistance program to be counted as eligible for these programs, Pepco fails to provide the necessary detail to assess the effectiveness of its proposed efforts to increase enrollment in these programs nor does it provide the number of expected enrollment changes or identify the specific methods it would employ to increase enrollment along with the expected take-up rate.[183] Ms. Lane testifies that if

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[177] DCG (A) Lane Direct) at 45:5-15.

[178] DCG (A) Lane Direct) at 45:15-17.

[179] DCG (A) (Lane Direct) at 47:16-48:2.

[180] DCG (A) (Lane Direct) at 48:3-55:2.

[181] DCG (A) (Lane Direct) at 48:4-11.

[182] DCG (A) (Lane Direct) at 65:12-66:11.

[183] DCG (A) (Lane Direct) at 66:13-67:3.

the RAD tariff needs to be amended to accommodate any changes in the enrollment process, that can be accomplished in *Formal Case No. 1125* and not in a rate case.[184]

83. DCG contends that the MRP is designed to lock District ratepayers into guaranteed annual rate increases; this forecloses any meaningful opportunity for the Commission and parties to evaluate whether Pepco's MRP is in the public interest and consistent with the Commission's AFOR framework. DCG finds an issue in the fact that an MRP would be in effect at all times, locking ratepayers into an MRP regulation, as opposed to setting rates based on historical cost-of-service regulation.[185]

84. In addition, DCG contends that the record in this case has not yielded any measurable, qualitative, or quantitative benefits of the MRP to customers or climate and energy goals.[186] There has been no evidentiary record that supports these proposed benefits of the MRP, and there have also been no evidentiary hearings during which Pepco witnesses could have been cross-examined.

85. According to DCG, the current evaluation framework of the *Formal Case No. 1156* Modified EMRP Pilot is insufficient. No formal evaluation of the *Formal Case No. 1156* Modified EMRP Pilot has been developed, and the AFOR regulations have yet to be developed. DCG contends that Pepco provides a "self-evaluation" of its *Formal Case No. 1156* Modified EMRP Pilot implementation without directives from a formal evaluation framework.[187] Pepco did not quantify the dollar value of each incremental benefit from implementing the *Formal Case No. 1156* Modified EMRP Pilot.[188]

86. DCG Witness Lane recommends that the Commission enact HTY ratemaking until an evaluation framework is developed to track and assess the benefits of the *Formal Case No. 1156* Modified EMRP Pilot.[189] This evaluation framework should include quantifiable metrics related to the purported benefits of AFOR.[190]

87. **GSA.** GSA believes that approving a second MRP is premature without the opportunity to evaluate lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot. Although Pepco has been ordered to provide self-evaluation of its own MRP, the self-evaluation is insufficient because of the lack of reporting metrics and quantitative data.[191] Further, GSA recommends that the Commission allow parties to evaluate the lessons learned from the *Formal*

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184 DCG (A) (Lane Direct) at 68:4-10.

185 DCG's Post Legislative Style Hearing Brief at 6-7.

186 DCG's Post Legislative Style Hearing Brief at 7-8.

187 DCG (A) (Lane Direct) at 56:9-10.

188 DCG (A) (Lane Direct) at 58:10-11.

189 DCG (A) (Lane Direct) at 64:19-20.

190 DCG (A) (Lane Direct) at 65:1-3.

191 GSA's Post Legislative Style Hearing Brief at 8.

Case No 1156 Modified Enhanced MRP Pilot apart from factual issues presented in Pepco's proposed second MRP and TRC, which involves issues of fact, law, and policy that the Commission must decide.[192]

88. In addition, GSA argues that the MRP increases risks and does not provide promised benefits to ratepayers. In Order No. 20273, the Commission concluded that there are several potential benefits of the MRP, such as the shortened cost recovery period, more predictable revenues for utilities, more predictable rates for consumers, mitigation of rate shock by spreading the change in rates over multiple years and decreased administrative burden on the regulator. GSA contends that the *Formal Case No. 1156* Modified Enhanced MRP Pilot did not provide these benefits to customers, and no party to this proceeding supports the proposed MRP.[193]

89. Finally, in Order No. 21886, the Commission requested that Pepco file a TTY rate application.[194] Pepco filed supplemental direct testimony with a TTY rate application in October 2023 as an alternative to the proposed MRP. GSA recommends that the Commission utilize the filing, with adjustments proposed by parties, as the basis for any rate increase that the Commission approves in this proceeding.[195]

DECISION

90. The Parties recommend the Commission reject Pepco's MRP proposal for several key reasons: forecasted costs are likely an inaccurate representation of Company needs over the MRP term; there are no lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot to justify another MRP term; a prudency review has not been made;[196] the reconciliation process does not benefit customers; the MRP proposal does not contain PIMs; and it is premature to approve a second MRP absent an assessment of the *Formal Case No. 1156* Modified EMRP Pilot. The Commission recognizes these concerns and believes that the *Formal Case Nos. 1176* components we approve in this Order mitigate them.

91. The Commission believes that approving an MRP with the modifications discussed below addresses these concerns protects customers, and ensures the electric delivery system's quality, availability, and reliability, and it is in the public interest. The *Formal Case No. 1176* Modified MRP Extended Pilot will lead to more predictable rates for customers, revenue certainty for Pepco, and a reduced regulatory burden. The components discussed below should be considered together as a comprehensive package, not as individual items.

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192 GSA's Post Legislative Style Hearing Brief at 9-10.

193 GSA's Post Legislative Style Hearing Brief at 10.

194 *Formal Case No. 1176*, Order No. 21886, ¶¶ 5, 24.

195 GSA's Post Legislative Style Hearing Brief at 16-17.

196 It should be noted that in *Formal Case No. 1156*, the Commission established a similar process for prudency review in *Formal Case No. 1156*. Order 20755, ¶¶160-162, detailed an informational and final reconciliation process. OPC filed comments in response to the informational filings. OPC's filing did not raise a serious doubt as to the prudence of any expenditures. Further, no other party filed comments on the final reconciliation filing.

92. After reviewing the record, we find that the Pepco MRP, with our modifications, meets the requirements for approval and will result in just and reasonable rates. Accordingly, the Commission approves Pepco's second MRP pilot as modified herein (*i.e.*, *Formal Case No. 1176* Modified MRP Extended Pilot). The Commission finds that the *Formal Case No. 1176* Modified MRP Extended Pilot would be in the public interest because it:

a. Includes an automatic credit adjustment at the conclusion of the MRP period to adjust for any potential utility over earning;

b. allows for appropriate reductions in plant in-service recovery and proposed O&M expenditures during the MRP period;

c. initiates a *Formal Case No. 1176* Lessons Learned Proceeding and requires Pepco to submit a robust Lessons Learned assessment prior to filing the next MRP;

d. prohibits another MRP until the *Formal Case No. 1176* Lessons Learned Proceeding concludes and the Commission has issued a decision on the Company's Lessons Learned assessment;

e. requires a compliance filing providing an update on forecasted capital additions (by project) and O&M expenses reflecting the ordered adjustments for CY 2025 and CY 2026 on March 1, 2025;

f. continues with the reporting of existing Performance Tracking Metrics ("PTMs");

g. requires the Company to report on its performance during the MRP period in its final reconciliation filing, which allows the Commission and Parties to challenge the prudency of utility capital investments; and

h. initiates an independent management audit (two phases) to review the accuracy of the utility's spending compared to a forecast within the *Formal Case No. 1176* Modified MRP Extended Pilot term.

93. The Commission is reducing the term of the *Formal Case No. 1176* Modified MRP Extended Pilot from three to two years.

C. MRP Revenue Requirement

94. **Pepco.** Pepco Witness Leming proposes revenue requirements of $116.4 million in 2024, $36.9 million in 2025, and $37.4 million in 2026 for a cumulative revenue requirement of $190.7 million.[197] Witness Leming testifies that its requested revenue requirement in 2024 is higher, relative to 2025 and 2026, due to a few notable drivers. The primary driver of the 2024 revenue requirement is an increase in rate base and operating expenses relative to 2023, which results in a revenue deficiency of $41 million.[198] Mr. Leming further explains there are three additional major drivers of the 2024 revenue requirement: (1) regulatory lag due to the 2023 stay-out provision imposed in the *Formal Case No. 1156* Modified EMRP Pilot, which results in a

197 Pepco (B) (Leming Direct) Table 1 at page 4.

198 Pepco (B) (Leming Direct) 6:10.

revenue deficiency of $29 million;[199] (2) a requested 10.5% ROE relative to the 9.275% ROE that is currently approved in order to maintain the Company's financial integrity and be able to attract capital on reasonable terms, which results in a revenue deficiency of $26 million;[200] and (3) updated depreciation rates which results in a revenue deficiency of $11 million.[201] Ratemaking Adjustments ("RMAs") and an updated proposed capital structure account for 2025 and 2026 revenue requirements. This would result in a 5.63% average annual bill increase for residential customers from 2023 to 2026.[202] Pepco Witness Leming modified Pepco's requested revenue requirement, proposing to recover $116.3 million in 2024, $34.5 million in 2025, and $35.8 million in 2026 for a cumulative revenue requirement of 186.5 million.[203] Pepco Witness Leming testifies in his rebuttal that the changes in requested revenue requirements are due to some RMAs changing since he filed his direct testimony and some RMAs being newly entered into the record.[204]

95. **OPC.** OPC Witness Gorman asserts that Pepco overstated its proposed MRP revenue requirement by $55.5 million in 2024, $62.9 million in 2025, and $70.6 million in 2026.[205] OPC's revenue requirement reductions include (1) adjustments to Pepco's capital structure resulting in $24.1 million in 2024, $25.9 million in 2025, and $27.3 million in 2026; and (2) depreciation expense reductions of $25.2 million in 2024, $24.6 million in 2025, and $23.6 million in 2026.[206] OPC proposes other reductions related to Pepco's sales forecast, service company cost escalation, deferred income taxes, and regulatory asset amortization, resulting in an adjusted proposed cumulative revenue requirement of $60.1 million in 2024, $89.5 million in 2025 and $119.0 million in 2026.[207] In response to a Pepco Data Request,[208] OPC acknowledged an incorrect ROE, which impacted revenue requirement determination, and necessitated an errata filing to OPC Witness Gorman's Direct Testimony. After filing the errata, OPC sponsors an adjusted proposed cumulative revenue requirement of $60.9 million in 2024, $90.5 million in 2025, and $120.2 million in 2026.[209]

96. **AOBA.** In Direct Testimony, AOBA Witness Tim Oliver proposes that the Commission limit Pepco's cumulative revenue requirement to no more than $138.6 million for a

199 Pepco (B) (Leming Direct) 6:13.

200 Pepco (B) (Leming Direct) 6:16.

201 Pepco (B) (Leming Direct) 6:18-19.

202 Pepco (A) (O'Donnell Direct) at 34:1-2.

203 Pepco (3B) (Leming Rebuttal) at 4: Table 1.

204 Pepco (3B) (Leming Rebuttal) at 37: Table 11.

205 OPC (B) (Gorman Direct) at 3:7-8.

206 OPC (B) (Gorman Direct) at 3: Table 1.

207 OPC (B)-2 (Gorman Direct).

208 OPC Response to Pepco Data Request 1-3(b).

209 OPC (B) (Errata Table of Direct Testimony of Michael P. Gorman).

multi-year rate plan or $46.2 million for each year of the MRP.[210] This adjusted revenue requirement reflects a combination of: (1) AOBA's recommended return on equity; (2) adjustments to Pepco's test year costs and proposed RMAs; and (3) AOBA's proposed adjustments.[211]

DECISION

97. We find that the Company's MRP revenue requirements methodology, as modified by the Commission, is reasonable. However, because the MRP is based upon an adjusted HTY 2022 with a bridge year 2023 ("Bridge Year 1"), the Commission adopts 2024 as a second bridge year ("Bridge Year 2") consisting of forecasted data for 12 months ending December 31, 2024, establishing a base to forecast expenditures during the Modified MRP period of CY 2025 and CY 2026. The Commission reviewed Pepco's most recent quarterly earnings report and notes that the Company's actual average unadjusted rate base was $2,796.7 million for the 12 months ended June 2024. This is approximately 6.5% below its forecasted rate base for 2024 in *Formal Case 1176*.[212] This growth convinces us that Pepco will meet its authorized rate base of $2,991.0 million for 12 months ended December 2024 if the Company continues with its forecasted capex investments for 2024. The $2,991.0 million reflects the approved rate base adjustments in this proceeding.

98. Pepco's MRP cumulative revenue requirements request of $186.5 million is adjusted to reflect Commission approved adjustments, assuming a rate effective date of January 1, 2025, an ROE of 9.5%, and an ROR of 7.28% for 2025 (MRP Year 1), and an ROE of 9.5%, and an ROR of 7.29% for 2026 (MRP Year 2). Based upon the Commission's findings, we have determined that the appropriate revenue increases for the Modified MRP are: CY 2025–$99.7 million (January 1, 2025 rate effective date) and CY 2026–$123.4 million. The details of Commission-approved revenue requirements and adjustments are provided in the following attachments: Schedule 1 Revenue Requirements; Schedule 2 Rate of Return; Schedule 3 Approved Revenue Requirements and Ratemaking Adjustments; and Schedule 4 Ratemaking Adjustments.

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210 AOBA (B)-3 (T. Oliver Direct) at 2.

211 AOBA (B) (T. Oliver Direct) at 34:1-11.

212 Pepco's *Formal Case No. 1156* Quarterly ROR Report for the 12 Months Ended June 30, 2024, filed on September 30, 2024.

D. Annual Reconciliation Filing

99. **Pepco.** Pepco Witness Leming proposes an annual reconciliation process, which he states generally aligns with Order No. 20755 and is consistent with the three-step process adopted by the Maryland Public Service Commission Order No. 89482.[213] Under the proposed annual reconciliation process in this proceeding, the cost reconciliation will be conducted in three steps: (1) an annual information filing that compares projected data to actual figures;[214] (2) a consolidated reconciliation and prudence review occurring in a subsequent rate case;[215] and (3) a final reconciliation and prudence review conducted at the end of the MRP term.[216] Mr. Leming also proposes a stay-out that does not allow for a rate update during the MRP rate effective period, a Deferred Accounting Mechanism, and a Re-opener Provision.[217]

100. Pepco Witness Leming testifies that Pepco would file a final reconciliation and prudence review, and the Commission and the Parties will be able to perform a prudency review of those costs and variances versus projections.[218] Any over- or under-collection amounts found during the final reconciliation and prudency review would be placed into a regulatory asset/liability, which will be addressed by a rider mechanism to adjust customer rates for any over- or under-collections ultimately approved by the Commission. The period for repayment/recovery of any over- or under-collection would be proposed by the Company in its filing and ultimately be determined by the Commission on a case-by-case basis.[219] Pepco Witness O'Donnell asserts that the proposed reconciliation process guarantees that customers will only pay the actual costs associated with the delivery of electric distribution service. Since no proposed return on underearning is allowed through this process, Ms. O'Donnell claims it is incentivized to create forecasts that closely match actual outcomes.[220]

101. **DCG.** DCG Witness Lane testifies that Pepco's proposed reconciliation process does not incentivize the development of forecasts as close as possible to actual results. Rather, it incentivizes Pepco to inflate its projected costs in the LRP and reduces Pepco's incentive to find cost efficiencies during the MRP term.[221] Ms. Lane testifies that she is unaware of jurisdictions other than Maryland and the District where a reconciliation process for over- and under-spending

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213 Pepco (B) (Leming Direct) at 10:3-10 (*citing* Maryland Public Service Commission *Case No. 9618, In the Matter of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company*, Order No. 89842, ¶ 78 (February 4, 2020) ("Order No. 89842")).

214 Pepco (B) (Leming Direct) at 14:1-17.

215 Pepco (B) (Leming Direct) at 14:18-15:3.

216 Pepco (B) (Leming Direct) at 15:4-19 (*citing* Order No. 89842, ¶ 78).

217 Pepco (B) (Leming Direct) at 8: Table 3.

218 Pepco (B) (Leming Direct) at 15:4-14.

219 Pepco (B) (Leming Direct) at 15:15-19.

220 Pepco (A) (O'Donnell Direct) at 36:14-19.

221 DCG (A) (Lane Direct) at 16:7-18:8.

in the context of an MRP is implemented. She testifies that some states have implemented reconciliations for underspending, but reconciliations are limited outside of cost trackers for specific types of costs.[222] Ms. Lane testifies that the forecasting and reconciliation process is similar to formula rate plans that ensure revenues track costs (i.e., measured as deviations in ROE from the utility's target ROE). She testifies that if a utility spends less than it collects through revenues under a formula rate plan, its return will exceed its ROE target, and the utility will be required to reduce its rates. If a utility overspends, its earned return will fall below its target return and be allowed to increase its rates.[223] Ms. Lane testifies that rate increases or decreases under formula rate plans are accomplished through periodic prudency reviews and reconciliations that ensure revenues track prudently incurred costs. Thus, the MRPs in Maryland and the District are similar to formula rate plans since revenues are adjusted to match the utility's costs.[224] DCG Witness Lane testifies that most MRPs limit revenue adjustments (reconciliations) during the plan because adjusting revenues to match costs erodes cost-containment incentives. She testifies that MRPs establish a pre-set revenue adjustment mechanism and require utilities to live within those pre-set revenues. If utilities overspend their allowed revenues during the MRP, they do not recover those costs. Conversely, if utilities find cost efficiencies during the plan, they retain all or a portion of those cost savings until the following rate case.[225]

102. DCG Witness Lane testifies that two reconciliation mechanisms would be appropriate in an MRP if the revenue requirement is based on cost forecasts. First, a one-way downward reconciliation mechanism should be implemented to reduce the risk to customers that the utility has inflated its cost forecasts. Second, a limited bi-directional reconciliation mechanism can be appropriate for certain large, unusual investments, such as part of a grid modernization plan, recurring pass-through or mandated costs, or extraordinary costs that are largely outside of the utility's control.[226]

DECISION

103. The Commission's goal is to strike a balance between achieving increased transparency and accountability from Pepco while realizing the MRP benefits. To strike this balance, during the *Formal Case No. 1176* Modified MRP Extended Pilot, a reconciliation of Pepco's costs will be conducted by (1) a reconciliation filing and prudency review for CY 2023 and CY 2024, (2) an annual information filing for CY 2025, and (3) a final reconciliation and prudency review after the conclusion of the *Formal Case No. 1176* Modified MRP Extended Pilot rate-effective period as more fully discussed below. As discussed below, the Commission adopts a Compliance, Reporting, and Prudency process involving three steps to address the Parties' concerns.

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[222] DCG (A) (Lane Direct) at 18:9-13.

[223] DCG (A) (Lane Direct) at 18:9-19.

[224] DCG (A) (Lane Direct) at 19:1-4.

[225] DCG (A) (Lane Direct) at 19:5-10.

[226] DCG (A) (Lane Direct) at 20:2-21:3.

104. **Step 1: Reconciliation Filing and Prudency Review for CY 2023 and CY 2024** – The Commission directs Pepco to file within 90 days after the end of CY 2024 (*i.e.*, by March 31, 2025), a detailed report on any variances in revenue requirement items for each of the following years: CY 2023 and 2024, such as O&M and plant additions, exceeding a 10% threshold where the budget exceeds $1 million. This filing shall cover the capital spending projects completed in CY 2023 and CY 2024 and should also include the effects on EPIS, deferred taxes, rate base, and depreciation expense. This step would be an informational review to aid in the anticipated lessons learned proceeding and other related matters. This reconciliation filing would provide the parties and the Commission an opportunity to review the actual spending and projects placed in service to ensure all expenditures were prudently incurred. The Parties may conduct discovery within 45 days from the date of the reconciliation filing for CY 2023 and CY 2024, with an additional 15 days to file comments. Further, the Commission directs Pepco to respond to any discovery requests within five (5) business days. No data request or follow-up data requests can be filed after May 23, 2025. Parties can request a hearing if significant differences exist between forecasted and actual expenditures. Parties' comments, along with the independent Phase 2 audit report and any applicable true-up adjustments recommended by the Phase 2 audit report, will be considered by the Commission when the Company's next base rate is filed.[227]

105. **Step 2: Annual Informational Filing for CY 2025 -** Pepco is directed to file within 90 days after the end of CY 2025 (*i.e.*, by March 31, 2026) a detailed report on any variances in revenue requirement items for CY 2025, such as O&M and plant additions, exceeding a 10% threshold where the budget exceeds $1 million. This filing shall cover the capital spending projects completed in CY 2025, including the effects on EPIS, deferred taxes, rate base, and depreciation expense. This step would serve as an informational review, with potential rate adjustments addressed during the final reconciliation process in Step 3 below, rather than annual rate updates. The Parties may conduct discovery within 45 days from the date of the annual informational filing for CY 2025, with an additional 15 days to file comments on the filings. Further, the Commission directs Pepco to respond to any discovery requests within five (5) business days. No data request or follow-up data requests can be filed after May 26, 2026.

106. **Step 3: Final Reconciliation and Prudency Review for CY 2025 and 2026** – To ensure there is a final prudence review and reconciliation of the two-year *Formal Case No. 1176* Modified MRP Extended Pilot, Pepco is directed to file a final reconciliation report, similar to its *Formal Case No. 1156* filing on April 30, 2027. The final reconciliation report should contain a detailed final reconciliation and an analysis of variances in revenue requirement items, such as O&M and plant additions, exceeding a 10% threshold where the budget exceeds $1 million. This filing will cover the CY 2025 and CY 2026 *Formal Case No. 1176* Modified MRP Extended Pilot periods. The final reconciliation filing must be supported by detailed worksheets and explanations showing the differences between Pepco's approved *Formal Case No. 1176* Modified MRP Extended Pilot forecasted projections and the actual results for each year. The final reconciliation filing must include a rate reduction for customers should the annual reconciliation filing demonstrate that Pepco is overearning.

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227 As previously noted, in *Formal Case No. 1156*, the Commission established a similar process for prudency review in *Formal Case No. 1156*. Order 20755, ¶¶160-162, detailed an informational and final reconciliation process. OPC filed comments in response to the informational filings. OPC's filing did not raise a serious doubt as to the prudence of any expenditures. Further, no other party filed comments on the final reconciliation filing.

107. To reduce the risk to customers, the Commission directs the Company to refund customers for any over-collections by reducing rates through an automatic rider mechanism (sur-credit) on a prospective basis within 30 days of the filing of the final reconciliation report. The Company's final reconciliation and sur-credit calculation will be subject to the Phase 2 audit (as directed by the Commission) and a final Commission decision and potential true-up adjustments.

108. The Parties may conduct discovery within 45 days from the date of the annual informational and reconciliation filings for CY 2025 and CY 2026 and file comments within 60 days of the annual informational and reconciliation filings. The Parties may conduct discovery within 45 days from the date of the final reconciliation filings for CY 2025 and CY 2026, with an additional 15 days to file comments. Further, the Commission directs Pepco to respond to any discovery requests within five (5) business days. No data request or follow-up data requests can be filed after May 25, 2027. Parties' comments, along with the independent Phase 2 audit report and any applicable true-up adjustments recommended by the Phase 2 audit report, will be considered by the Commission when the Company's next base rate case is filed.

E. Deferred Accounting Mechanism

109. Pepco proposes continuing with the deferred accounting mechanism approved in Order No. 20755.[228] Under the deferred accounting mechanism, Pepco can request deferral treatment for unforeseen costs due to external factors beyond the Company's control (such as natural disasters or cybersecurity events). These unforeseen costs must have at least a $1 million impact on the jurisdictional revenue requirement.[229] The mechanism allows Pepco to spread the collection of these one-time costs over multiple years to reduce the immediate impact on customer bills. Pepco is directed to submit a request for deferral within 90 days of identifying such an event, detailing the external factors and resulting unforeseen costs.[230] The mechanism is designed to avoid the need for triggering the reopener mechanism, and any use of this mechanism must be approved by the Commission on a case-by-case basis, ensuring that the deferred costs are truly extraordinary, unavoidable, non-recurring, and material enough to impact the Company's financial integrity.[231] Additionally, Pepco requests that the Company earns a return on the deferred amounts, equivalent to its authorized ROR until these amounts are reflected in customer rates.

DECISION

110. None of the other Parties opposed or provided any alternative recommendations to Pepco's deferred accounting mechanism proposal. Consistent with Order No. 20755, the deferral mechanism should contain minimum threshold requirements: (1) that the request should have at least a minimum of a $1 million impact; and (2) that provides whether the costs, (i) are truly extraordinary and unavoidable, (ii) are unusually large and non-recurring, and (iii) create a material degradation in Pepco's earnings that likely would impair Pepco's financial integrity if the deferred

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228 Pepco (B) (Leming Direct) at 16:3.

229 *Formal Case No. 1156*, Order No. 20755, ¶¶ 49, 163.

230 *Formal Case No. 1156*, Order No. 20755, ¶¶ 99, 163.

231 *Formal Case No. 1156*, Order No. 20755, ¶¶ 139(e), 163.

accounting treatment. The Commission is persuaded that Pepco should be allowed a deferred mechanism. A deferral request would be evaluated on a case-by-case approach, as this approach allows the Commission and the Parties an opportunity to evaluate the merits of any proposal and determine whether the circumstances are truly extraordinary, unavoidable, and non-recurring. Pepco shall be required to file a request for deferral within 90 days of identifying an event, and the request should describe the external factors and unforeseen costs.

F. Reopener Provision

111. Pepco proposes to continue with the reopener provision approved in Order No. 20755 as a part of the Commission's approval of its second MRP. Under this provision, Parties may petition the Commission to reopen the MRP at any time in the event of an extraordinary circumstance beyond the utility's control. Extraordinary circumstances may include, but are not limited to, "significant changes in federal or local law, natural disasters, cyber or terror attacks, major economic or financial events, or other circumstances that would warrant the Commission's intervention."[232]

DECISION

112. The Commission adopts a reopener provision that allows the Parties to petition the Commission to reopen the *Formal Case No. 1176* Modified MRP Extended Pilot at any time in the event of extraordinary circumstances that are outside of the utility's control that would warrant the Commission's intervention to ensure that existing rates are just and reasonable or the extraordinary circumstances threaten the fiscal solvency of the utility; extraordinary circumstances may include but are not limited to changes in federal or local law, natural disasters, cyber or terror attacks, major economic events or other circumstances that would warrant the Commission's intervention. Both the deferred accounting mechanism and the reopener provisions assure all stakeholders that these mechanisms would only be appropriate for extraordinary, unforeseen, catastrophic events.

G. Modified Multi-Year Rate Extended Pilot Lessons Learned

113. In Order No. 20755, the Commission approved the *Formal Case No. 1156* Modified EMRP Pilot from July 1, 2021, until December 31, 2022, after determining that it met the requirements prescribed by D.C. Code § 34-1504 (d)(2).[233] The Commission found that establishing a *Formal Case No. 1156* Modified EMRP Pilot allows "this first MRP filing to serve as an opportunity to gather valuable lessons learned in assessing future MRP proposals and to facilitate the development of AFOR regulations."[234] The Commission also stated that adopting the *Formal Case No. 1156* Modified EMRP Pilot allows the Commission, the Parties, and other

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232 Pepco (B) (Leming Direct) at 16:17-20.

233 Order No. 20755, ¶¶ 4, 143, 153. The Commission noted in footnote 408: "[a]lthough opposed to the adoption of an MRP, both OPC and GSA recommended that if the Commission approved the MRP, it should be a pilot program only. *See* OPC (C) at 3:18–4:6 (DeCourcey Direct) and GSA's Brief at 37. Through this pilot the Commission will benefit from lessons learned to facilitate the adoption of regulations for MRP and other AFOR applications."

234 Order No. 20755, ¶ 143.

stakeholders to improve the MRP process and prudently evaluate the overall performance and effectiveness of the *Formal Case No. 1156* Modified EMRP Pilot.[235]

114. Although the Commission did not specify in Order No. 20755 when and how the *Formal Case No. 1156* Modified EMRP Pilot lesson-learned process would occur, we believed that there should be no delay in considering Pepco's MRP Application in this proceeding while also agreeing with AOBA, the District Government, and OPC that the time had come to gather valuable lessons in assessing the *Formal Case No. 1156* Modified EMRP Pilot.[236] To facilitate the lessons learned process, the Commission directed Pepco to file supplemental testimony with accompanying exhibits that explain quantitative and qualitatively the benefits of the *Formal Case No. 1156* Modified EMRP Pilot and discuss any problems identified and lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot.[237] The Commission directed OPC and the Parties to file testimony responding to Pepco's supplemental testimony on the *Formal Case No. 1156* Modified EMRP Pilot.[238] The Commission clarified that the lessons learned filing is not simply a Pepco self-assessment but also an opportunity for OPC and the Parties to conduct discovery and provide testimony on the benefits of, problems identified, and the lessons learned regarding the *Formal Case No. 1156* Modified EMRP Pilot.[239] The Parties have expressed their position on the lessons learned process as presented below.

1. Parties' Positions

115. **Pepco.** Pepco Witness O'Donnell testifies that the *Formal Case No. 1156* Modified EMRP Pilot achieved the qualitative and quantitative benefits Company Witness Kevin McGowan identified in *Formal Case No. 1156*.[240] Ms. O'Donnell states that the *Formal Case No. 1156* Modified EMRP Pilot facilitated investments supporting the District's energy policy goals.[241] She testifies further that through the *Formal Case No. 1156* Modified EMRP Pilot, Pepco provided customers, the Commission, and interested parties a longer-term view of the Company's future capital investments and operation and maintenance plans before the investments were made and provided rate predictability to customers.[242]

116. Pepco Witness O'Donnell testifies that the *Formal Case No. 1156* Modified EMRP Pilot provided qualitative and quantifiable benefits of promoting timely recovery of costs so that current customers receiving the benefits of the Company's investments pay for them rather than

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235 Order No. 20755, ¶ 474.

236 *Formal Case No. 1176*, Order No. 21886, ¶ 23, rel. July 28, 2023 ("Order No. 21866").

237 Order No. 21886, ¶ 24.

238 Order No. 21886, ¶ 25.

239 *Formal Case No. 1176*, Order No. 21903, ¶ 8, rel. September 14, 2023.

240 Pepco (2A) (O'Donnell Supplemental Direct) at 4:5-10, *citing* Pepco (3B) (McGowan Additional Supplemental Direct) at 9-21, submitted January 21, 2020.

241 Pepco (2A) (O'Donnell Supplemental Direct) at 4:11-5:3.

242 Pepco (2A) (O'Donnell Supplemental Direct) at 5:4-6:13.

imposing those costs on future customers who may not receive the benefit. Additionally, timely recovery of costs enabled the Company to invest at the level and pace required to fully support the District's climate change goals promoted by the Commission.[243] Ms. O'Donnell testifies that the annual reconciliation filing process allowed the Parties to review actual versus projected spending, conduct discovery, and request a hearing. It also allowed the Commission to adjust rates if it determined that Pepco was over-earning. According to Ms. O'Donnell, this benefit is qualitative until triggered, when the benefit can be measured and quantified based on any impact on customers and the rates they pay.[244]

117. Pepco Witness O'Donnell testifies that the *Formal Case No. 1156* Modified EMRP Pilot provided an increased level of transparency and reporting to customers, the Commission, and stakeholders by delivering its traditional Construction Report with projections of anticipated construction and plant additions on a project basis and expected O&M costs for the entire term of the MRP.[245] She testifies that Pepco demonstrated how the plans were accomplished and/or modified on a project-specific basis through the reconciliation filings.[246] According to Ms. O'Donnell, this level of transparency and reporting would not be provided under a traditional historic test year cost of service rate proceeding.[247] Ms. O'Donnell testifies further that the *Formal Case No. 1156* Modified EMRP Pilot enhanced the Commission's oversight of Pepco's costs and capital investments and the certainty of spending during the term of the MRP.[248] Ms. O'Donnell testifies that the *Formal Case No. 1156* Modified EMRP Pilot created certainty to create jobs and promote economic development and impacted job creation in the District.[249] Pepco Witness O'Donnell testifies that the *Formal Case No. 1156* Modified EMRP Pilot has allowed the Company to focus more on climate change initiatives and interconnection improvements.[250]

118. Pepco Witness O'Donnell testifies that Pepco's Climate Ready Pathway filed in the *Formal Case No. 1176* MRP uses the revenues and expenses developed in the Company's LRP rather than the escalation factor used in the *Formal Case No. 1156* Modified EMRP Pilot because, as Pepco Witness Robert Leming discusses in his Direct Testimony, using the LRP projection of revenues and expenses for the term of the MRP provides transparency into the Company's plans and also roots the MRP's revenue requirements in Pepco's actual plans.[251] According to Witness O'Donnell, "[a]n escalation approach is not the optimal approach to align rates (and revenues)

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243 Pepco (2A) (O'Donnell Supplemental Direct) at 11:9-17.

244 Pepco (2A) (O'Donnell Supplemental Direct) at 11:17-12:4.

245 Pepco (2A) (O'Donnell Supplemental Direct) at 12:5-9.

246 Pepco (2A) (O'Donnell Supplemental Direct) at 12:10-11.

247 Pepco (2A) (O'Donnell Supplemental Direct) at 12:12-17.

248 Pepco (2A) (O'Donnell Supplemental Direct) at 13:1-19.

249 Pepco (2A) (O'Donnell Supplemental Direct) at 14:1-17.

250 Pepco (2A) (O'Donnell Supplemental Direct) at 16:3-17:4.

251 Pepco (2A) (O'Donnell Supplemental Direct) at 20:5-11 and Pepco (B) (Leming Direct at 9:6-11).

with the costs that the Company will incur to provide safe and reliable electric distribution service to its customers in the District. Reliance on an escalation factor, rather than the Company's own projections as reflected in the LRP, fails to account for year-to-year deliberate planning variations that would not be captured by a CPI or other index."[252] Pepco Witness O'Donnell testifies further that the stay-out provision and reconciliation process established in *Formal Case No. 1156* eliminated or minimized many of an MRP's benefits.[253] In particular, the stay-out provision created regulatory lag, as none of the Company's incremental O&M costs or plant additions to the rate base in 2023 are reflected in rates even though they serve and provide customer benefits. This lengthens the cost recovery period and impacts rates more significantly in the future, as customers experience two or more years' worth of rate base and cost growth at once instead of spreading those out over multiple years.[254] Pepco Witness O'Donnell testifies that Pepco has been unable to recognize revenues under GAAP accounting because the Company's billing determinants have not been updated since 2019 and discusses the importance of updating them.[255]

119. Pepco Witness O'Donnell testifies that Pepco's three-year MRP proposed in *Formal Case No. 1156* was reduced to 18 months. The rates for the first year did not take effect until July 2021, and Pepco did not recover some of the revenues required for the Company to be provided a reasonable opportunity to earn its authorized ROE in 2021.[256] Pepco Witness O'Donnell points to Pepco Witness Lemming's direct testimony about the importance of having an MRP that allows rates and revenues to be updated annually.[257]

120. Pepco Witness Leming testifies that the annual reconciliation process and the stay-out provision approved in Order No. 20755 eliminated or minimized many of the benefits the Commission identified in approving the *Formal Case No. 1156* Modified EMRP Pilot.[258] Mr. Leming testifies that the stay-out period during which there is a reconciliation process to change customer rates, independent of future rate applications, conflicts with the benefit of having predictable rates for customers, creates regulatory lag, and lengthens the cost recovery period.[259] Mr. Leming testifies that this has the effect of reducing rate predictability while also impacting customer rates more significantly in the future, given that customers will experience two or more years' worth of rate base and cost growth at once, as opposed to spreading those out over multiple years as noted in the Commission's prior orders.[260]

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[252] Pepco (2A) (O'Donnell Supplemental Direct) at 20:14-19.

[253] Pepco (2A) (O'Donnell Supplemental Direct) at 21:3-6.

[254] Pepco (2A) (O'Donnell Supplemental Direct) at 21:6-12.

[255] Pepco (2A) (O'Donnell Supplemental Direct) at 21:3-22:2 and 24:4-17.

[256] Pepco (2A) (O'Donnell Supplemental Direct) at 22:5-13.

[257] Pepco (2A) (O'Donnell Supplemental Direct) at 22: 14-19 (*citing* Pepco (B) (Leming Direct) at 13:8-10).

[258] Pepco (B) (Leming Direct) at 10:13-19.

[259] Pepco (B) (Leming Direct) at 11:1-11 and 12:1-6.

[260] Pepco (B) (Leming Direct) at 11:11-14.

121. At the legislative-style hearing, Pepco's counsel stated that the Company enhanced the MRP process by incorporating lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot.[261] Pepco's counsel further stated that in December 2023, the Maryland Public Service Commission approved an MRP proposed by Baltimore Gas and Electric Company and ordered a statewide lessons-learned process to be convened.[262]

122. **OPC.** OPC asserts that it is necessary to evaluate the overall performance and effectiveness of the MRP Pilot, including whether the *Formal Case No. 1156* Modified EMRP Pilot provided the promised benefits to ratepayers while reducing costs, whether this form of ratemaking should be continued, and consider improvements to the structure of the MRP.[263] OPC argues that it is also essential to consider whether an MRP reduces administrative burdens and whether the MRP process is more efficient than a historic rate case.[264] OPC proposes that following the technical conference, there should be hearings to resolve any outstanding issues of material fact on the *Formal Case No. 1156* Modified EMRP Pilot as well as determine whether to continue the *Formal Case No. 1156* Modified EMRP Pilot, whether to move forward with this form of ratemaking, or whether a historic rate case or another form of alternative ratemaking is more appropriate, followed by post-hearing briefs.[265] OPC contends that the disagreement over the scope of the Annual Information Filing ("AIF") supports the need for a deliberative process to properly evaluate the structure of the *Formal Case No. 1156* Modified EMRP Pilot and any MRP because it is unclear what is reviewable under the AIF.[266]

123. OPC Witness David E. Dismukes testifies that Pepco's testimony and exhibits provide no analysis or support that the *Formal Case No. 1156* Modified EMRP Pilot provides ratepayer benefits and that the MRP Application will produce public benefits.[267] Dr. Dismukes testifies that MRP performance metrics should be straightforward, measurable, and transparent and focus on big-picture goals such as lower and/or more affordable rates, greater operating and cost efficiencies, and lower GHG emissions.[268] Dr. Dismukes states that energy affordability will

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261 *Formal Case No. 1176*, Potomac Electric Power Company's Legislative-Style Hearing Transcript at 17:17-20, July 30, 2024 ("Pepco's Transcript").

262 Pepco's Transcript at 19:3-10. The Commission notes that the Maryland Public Service Commission is undertaking a lesson-learned process from BGE's MRP proceeding in *Case No. 9618*, *In the Matter of Alternative Rate Plans or Methodologies to Establish New Base Rates for an Electric Company or Gas Company and Case No. 9645*, *Application of Baltimore Gas and Electric Company for an Electric and Gas Multi-Year Plan*.

263 *Formal Case No. 1176*, Office of the People's Counsel for the District of Columbia's Comments Regarding a Procedural Schedule at 6, filed June 23, 2023 ("OPC Comments").

264 OPC Comments at 9.

265 OPC Comments at 5-6.

266 OPC Comments at 8.

267 OPC (A) (Dismukes Direct) at 74:20-22.

268 OPC (A) (Dismukes Direct) at 75:9-12.

not improve if the *Formal Case No. 1156* Modified EMRP Pilot becomes permanent.[269] He referenced OPC (A)-13, which examined prices, costs, and capital investments for Pepco and other regional peer investor-owned utilities before and during the *Formal Case No. 1156* Modified EMRP Pilot.[270] Dr. Dismukes testifies that Pepco's retail rates have not improved during the *Formal Case No. 1156* Modified EMRP Pilot.[271] He further testifies that Pepco did not realize improvements in operating and capital cost efficiency during the *Formal Case No. 1156* Modified EMRP Pilot.[272] Dr. Dismukes testifies that while the District experienced reduced GHG emissions during the *Formal Case No. 1156* Modified EMRP Pilot, little evidence suggests these reductions were due to the *Formal Case No. 1156* Modified EMRP Pilot.[273] OPC Witness Dismukes testifies that although Pepco Witness O'Donnell testifies that there were ten quantitative and qualitative benefits purported to arise from the adoption of the MRP, "Pepco has not provided evidence or analysis to support a finding of fact that its proposal will provide these benefits."[274]

124. Witness Dismukes states that Pepco Witness O'Donnell claims that the *Formal Case No. 1156* Modified EMRP Pilot allowed for a more timely recovery of investments and allowed the Company to make investments to meet the District's and the Commission's decarbonization and clean energy goals.[275] Dr. Dismukes testifies that Pepco did not provide any quantifiable and measurable review of supposed historical benefits of the MRP, even while claiming that the MRP's reduction in administrative burden and costs associated with annual rate case filings was "quantitative and measurable."[276]

125. Witness Dismukes also highlights that the Company did not compare/contrast its AFOR performance with best practices in other regulatory jurisdictions.[277] Witness Dismukes calculated the net benefits of the Company's MRP investment program; based on this analysis, the MRP Pilot has led to and will continue to lead to "negative net economic benefits," namely: (1) contraction of the economic output of over $2.7 billion on a net-present value basis; (2) an employment reduction of 41,000 job-years; (3) a $1 billion reduction in overall wages; and (4) a $1.2 billion reduction in local gross domestic product.[278]

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[269] OPC (A) (Dismukes Direct) at 75:13-18.

[270] OPC (A) (Dismukes Direct) at 76:4-9.

[271] OPC (A) (Dismukes Direct) at 76:9-77:2.

[272] OPC (A) (Dismukes Direct) at 77:3-17.

[273] OPC (A) (Dismukes Direct) at 77:18-78:5.

[274] OPC (A) (Dismukes Direct) at 69:16-71:10.

[275] OPC (A) (Dismukes Direct) at 70:17-71:3 (*citing* Pepco (2A) (O'Donnell Supplemental Direct Testimony) at 4:13-16.

[276] OPC (A) (Dismukes Direct) at 71:8-9.

[277] OPC (A) (Dismukes Direct) at 73:12-14.

[278] OPC (A) (Dismukes Direct) at 73:2-9.

126. Witness Dismukes also performed analyses on the benefits of the MRP during the MRP Pilot and concluded that:

a. Energy affordability will not improve if Pepco continues with the *Formal Case No. 1156* Modified EMRP Pilot permanently, as some of the District's most vulnerable ratepayers will be adversely impacted;[279]

b. Pepco's rate competitiveness has not improved;[280]

c. Pepco did not make any improvements in its operating cost efficiencies;[281]

d. Pepco did not make any improvements in its capital cost efficiencies;[282]

e. There is no evidence to suggest that GHG emissions in the District have decreased;[283] and

f. An MRP does not facilitate stakeholder participation and accountability.[284]

127. **AOBA**. AOBA argues that the Commission should first examine whether and to what extent the *Formal Case No. 1156* Modified EMRP Pilot was responsive to the goals that the Commission discussed in Order No. 20273 and Order No. 20755.[285] AOBA further argues that the Commission must determine if the *Formal Case No. 1156* Modified EMRP Pilot produced just and reasonable rates based on the costs incurred by the Company during the *Formal Case No. 1156* Modified EMRP Pilot and assess whether the benefits of the *Formal Case No. 1156* Modified EMRP Pilot were achieved.[286] AOBA contends that the Commission must first decide whether its AFOR determination was appropriate and justifies consideration of a second MRP or a return to historic test year rate case proceedings and provide the Commission and the Parties the opportunity to assess if the *Formal Case No. 1156* Modified EMRP Pilot produced just and reasonable results, or the Commission's approval of the *Formal Case No. 1156* Modified EMRP Pilot will be rendered meaningless.[287]

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279 OPC (A) (Dismukes Direct) at 75:13-18.

280 OPC (A) (Dismukes Direct) at 76:6-77:1-2.

281 OPC (A) (Dismukes Direct) at 77:3-11.

282 OPC (A) (Dismukes Direct) at 77:12-17.

283 OPC (A) (Dismukes Direct) at 77:18-78:1-5.

284 OPC (A) (Dismukes Direct) at 82:5-13.

285 *Formal Case No. 1176*, Comments of the Apartment and Office Building Association of Metropolitan Washington in Support of the Procedural Schedule Proffered by the Office of the People's Counsel, the District of Columbia Government and AOBA at 1-2, filed June 23, 2023 ("AOBA Comments").

286 *Formal Case No. 1176*, AOBA Comments at 2.

287 *Formal Case No. 1176*, AOBA Comments at 2.

128. AOBA Witness Bruce Oliver testifies that rather than provide an examination of the actual results of and lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot, Pepco Witness O'Donnell's testimony repeats arguments presented in *Formal Case No. 1156* to support the Company's preference for an MRP by focusing on the benefits the Company believes an MRP can provide without presenting an examination of the benefits the *Formal Case No. 1156* Modified EMRP Pilot provided.[288] Mr. Oliver contends that Pepco Witness O'Donnell does not acknowledge that, at times, regulatory commissions have allowed costs to be included in rates for facilities placed into service before the closing of the evidentiary record based on a limited opportunity for third-party review of such additions.[289] Mr. Oliver testifies that Pepco has not provided evidence of reductions in regulatory costs associated with implementing the *Formal Case No. 1156* Modified EMRP Pilot because: (1) the Company erroneously assumes that absent an MRP, Pepco should be expected to file a new base rate increase request annually; (2) relying on forecasted estimates of future expenditures in an MRP requires more after-the-fact review of actual expenditures to ensure that ratepayers' interests are protected; and (3) Pepco offers no assessment of the added costs that an MRP can impose on other rate case participants.[290] Mr. Oliver testifies, "Sound ratemaking policy and effective utility regulation require more than simply allowing the utility to estimate costs and spend to forecasted cost levels."[291]

129. AOBA Witness Bruce Oliver criticizes Pepco Witness O'Donnell's assertion that traditional historic test year cost of service rate proceedings do not provide rate certainty, noting that Pepco's rate surcharges and proposed billing determinant updates can erode any potential perception of rate certainty in an MRP, which he believes will be illusory.[292] Mr. Bruce Oliver also criticizes Pepco Witness O'Donnell for failing to support her assertion that traditional historic test year cost of service rate proceedings do not focus on service reliability by noting that Pepco has improved reliability without an MRP.[293] Mr. Oliver testifies that Pepco Witness O'Donnell has not demonstrated how modifications to traditional historic test year cost of service rate practices to accommodate distributed energy resources ("DER") and other customer-focused technologies could not be made with traditional rate cases.[294] Mr. Oliver testifies that with the decline of kWh and kW in Pepco's forecasts and minimal customer growth, unchecked growth in capital and O&M expenditures will push the Company's rates upward.[295]

130. AOBA Witness Bruce Oliver suggests establishing performance standards without determining penalties or rewards because establishing standards without a predetermined reward

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288 *Formal Case No. 1176*, Exhibit AOBA (A) (B. Oliver Direct) at 24:6-25:26.

289 AOBA (A) (B. Oliver Direct) at 26:1-9.

290 AOBA (A) (B. Oliver Direct) at 26:11-27:21.

291 AOBA (A) (B. Oliver Direct) at 28:7-9.

292 AOBA (A) (B. Oliver Direct) at 28:11-29:3 and 30:4-13.

293 AOBA (A) (B. Oliver Direct) at 29:5-12.

294 AOBA (A) (B. Oliver Direct) at 29:12-20.

295 AOBA (A) (B. Oliver Direct) at 29:20-30:2.

or penalty structure conveys performance expectations while allowing the Commission to tailor penalties or rewards to fit the circumstances.[296] According to Mr. Oliver, rewards paid to utilities under performance incentive programs should be associated with accomplishments beyond expectations based on the funding provided.[297] Mr. Oliver states that incentives for exceeding expectations are difficult to justify under an MRP because specific expectations are not associated with approved funding levels, and the utility is allowed discretion to alter the composition of budgeted expenditures.[298] AOBA Witness Oliver states that PIMs establish the dollar value of the rewards and penalties without directly linking to the value gained from positive performance or the costs imposed by substandard performance.[299] Mr. Oliver further states that a pitfall of using PIMs in combination with setting rates based on forecasted costs is the potential for the utility to inflate the forecasted costs to ensure ample resources to meet its performance objectives.[300] Mr. Oliver states that ratepayers are essentially being asked to pay twice for the same achievement when that occurs.[301]

131. **DCG.** DCG argues that the Commission should not consider Pepco's MRP Application in this proceeding without assessing the Modified EMRP Pilot.[302] DCG also contends that Pepco should perform a cost-benefit analysis of the *Formal Case No. 1156* Modified EMRP Pilot to determine whether the Modified EMRP Pilot achieved the benefits promised by Pepco.[303]

132. DCG Witness Courtney Lane testifies that although the Commission stated the information contained in the supplemental testimony would support an assessment of lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot and develop an evaluation framework in assessing Pepco's MRP Application in this proceeding, relying on the Company to provide a self-evaluation of its *Formal Case No. 1156* Modified EMRP Pilot without the directives from a formal evaluation framework does not provide sufficient information to assess whether the *Formal Case No. 1156* Modified EMRP Pilot successfully achieved the goals of AFOR, or is merely a litany of self-serving claims that cannot be verified.[304] Ms. Lane testifies that although Pepco identified ten incremental benefits the *Formal Case No. 1156* Modified EMRP Pilot would provide and stated that the *Formal Case No. 1156* Modified EMRP Pilot achieved the qualitative and quantified benefits, Pepco did not provide work papers, data, analyses, assumptions, and studies it relied on to quantify each of the benefits achieved by the *Formal Case No. 1156* Modified

[296] AOBA (A) (B. Oliver Direct) at 42:11-19.

[297] AOBA (A) (B. Oliver Direct) at 43:2-4.

[298] AOBA (A) (B. Oliver Direct) at 43:4-7.

[299] AOBA (A) (B. Oliver Direct) at 42:14-17.

[300] AOBA (A) (B. Oliver Direct) at 42:20-22.

[301] AOBA (A) (B. Oliver Direct) at 43:1-2.

[302] *Formal Case No. 1176*, District of Columbia Government's Comments in Support of its Proposed Procedural Schedule at 4, filed June 23, 2023 ("District Government Comments").

[303] District of Columbia Government Comments at 3.

[304] DCG (A) (Lane Direct) at 55:16-56:13.

EMRP Pilot, indicated that it did not quantify the dollar value of each incremental benefit, and indicated that it did not perform quantitative analysis to demonstrate that the benefits the *Formal Case No. 1156* Modified EMRP Pilot provided to customers or in achieving public policy goals.[305] According to Ms. Lane, it is difficult to assess whether the *Formal Case No. 1156* Modified EMRP Pilot resulted in sufficient benefits to ratepayers to outweigh the risks associated with information asymmetry and the reconciliation process and whether it incentivized cost-efficiencies compared to cost-of-service regulation without reporting metrics and quantitative data.[306]

133. DCG Witness Lane testifies further that although Pepco claims that its *Formal Case No. 1156* Modified EMRP Pilot facilitated investments that support the District's energy policy goals, the Company did not identify any investments that specifically support the District's energy policy goals, stated that it does not track capital investments by whether they meet a specific decarbonization and clean energy goal, and indicated that cannot list the reliability and resiliency investments made during the *Formal Case No. 1156* Modified EMRP Pilot that directly support the District's energy policy goals.[307] Ms. Lane states that if the primary driver of the MRP is to support the District's energy policy goals, Pepco should be required to provide transparency on the investments made to support those goals.[308] Ms. Lane testifies that although Pepco Witness O'Donnell indicates that as a result of the *Formal Case No. 1156* Modified EMRP Pilot, the Company could focus more on matters related to climate change initiatives, the Company did not indicate whether it could have made these filings under cost-of-service regulation.[309] According to Ms. Lane, a utility does not require an MRP to develop and file customer-facing programs.[310]

134. DCG Witness Courtney Lane disagrees with Pepco's claim that an MRP is required to increase transparency to the Commission and customers. According to Ms. Lane, information asymmetry makes it difficult for intervening parties and regulators to vet proposed utility investments and the accuracy of cost forecasts.[311] Ms. Lane testifies that intervening parties have fewer staff resources to devote to this review and that it is cost-prohibitive to acquire outside expertise to conduct the necessary review of annual reconciliation filings and variance reports to vet an investment's prudency adequately. She further testifies that the fact that none of the Parties conducted discovery or filed comments regarding Pepco's Final Reconciliation for the *Formal Case No. 1156* Modified EMRP Pilot implies the impracticality of this approach.[312] Ms. Lane also

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305 DCG (A) (Lane Direct) at 56:14-58:14.

306 DCG (A) (Lane Direct) at 58:15-18.

307 DCG (A) (Lane Direct) at 60:1-61:2.

308 DCG (A) (Lane Direct) at 61:3-10.

309 DCG (A) (Lane Direct) at 61:11-19.

310 DCG (A) (Lane Direct) at 61:19-62:6.

311 DCG (A) (Lane Direct) at 62:7-63:1.

312 DCG (A) (Lane Direct) at 63:1-6.

testifies that whether Pepco operates under an MRP or cost-of-service regulation, it could file a comprehensive, integrated distribution system and grid modernization plan.[313]

135. DCG Witness Lane testifies that although Pepco claims that its *Formal Case No. 1156* Modified EMRP Pilot provided customers with rate predictability in 2021, 2022, and 2023, she did not find rate predictability to be a compelling enough benefit to outweigh the risks of approving a second MRP. Ms. Lane testifies that while it is true that customers would know about rate increases with the *Formal Case No. 1156* Modified EMRP Pilot, rate predictability can similarly be achieved under traditional cost-of-service regulation.[314]

136. DCG Witness Lane testifies that although Pepco claims that its *Formal Case No. 1156* Modified EMRP Pilot created cost efficiencies compared to traditional cost-of-service regulation, there is no counterfactual to compare these savings to what would have occurred under traditional cost-of-service regulation. Ms. Lane testifies that Pepco provides no quantitative evidence demonstrating cost efficiencies relative to its capital plan. Ms. Lane testifies that while Pepco secured a lower cost of debt during the *Formal Case No. 1156* Modified EMRP Pilot that allowed for lower capital financing costs, it is unclear whether it was attributable to the *Formal Case No. 1156* Modified EMRP Pilot.[315] Ms. Lane testifies that it is impossible to know whether Pepco's self-evaluation of the *Formal Case No. 1156* Modified EMRP Pilot is accurate because the information cannot be verified and noted that one should be highly skeptical given Pepco's self-serving financial interest to conclude that the *Formal Case No. 1156* Modified EMRP Pilot was a success.[316]

137. District Government Witness Lane testifies that the Commission should enact HTY ratemaking until an evaluation framework is developed for tracking and assessing an MRP's benefits.[317] Ms. Lane recommends that the Commission require Pepco to track quantifiable metrics related to the purported benefits of AFOR that measure trends in costs over time, such as rate base (or net plant in service) per customer, administrative and general expenses per customer, distribution line maintenance costs per mile, and regulatory costs. Ms. Lane also recommends that metrics could track energy policy outcomes such as lowering interconnection costs, improvements to hosting capacity, and the number of non-wires alternatives approved and implemented. Ms. Lane further recommends that Pepco be required to track its capital investments by whether the investment primarily pertains to grid modernization, reliability, resiliency, or support of climate goals.[318]

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313 DCG (A) (Lane Direct) at 63:7-10.

314 DCG (A) (Lane Direct) at 63:11-64:2.

315 DCG (A) (Lane Direct) at 64:3-11.

316 DCG (A) (Lane Direct) at 64:11-15.

317 DCG (A) (Lane Direct) at 64:17-20.

318 DCG (A) (Lane Direct) at 65:1-10.

138. **GSA.** GSA argues that the Parties and the Commission have an opportunity to understand the results and evaluate lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot.[319]

DECISION

139. The Commission determined previously that a lessons-learned process was essential to improve the MRP process and prudently evaluate the overall performance and effectiveness of the *Formal Case No. 1156* Modified EMRP Pilot with the expectation that regulations regarding future MRP filings would eventually be developed and adopted.[320] Specifically, in Order No. 20755, the Commission found that "establishing a Pilot to consider Pepco's EMRP will allow this first MRP filing to serve as an opportunity to gather valuable lessons learned in assessing future MRP proposals and to facilitate the development of AFOR regulations."[321]

140. The Commission did not adopt a *Formal Case No. 1156* Modified EMRP Pilot evaluation plan concurrent with the approval of *Formal Case No. 1156* Modified EMRP Pilot. During the pendency of this case, the Commission directed Pepco to file supplemental testimony with accompanying exhibits that explain quantitative and qualitatively the benefits of the *Formal Case No. 1156* Modified EMRP Pilot and discuss any problems identified and lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot. The Commission directed OPC and the Intervenors to file testimony responding to Pepco's supplemental testimony on the *Formal Case No. 1156* Modified EMRP Pilot. While Pepco asserts that there were constructive lessons learned from its initial MRP warranting the Commission's approval of a second MRP, the Parties contend that Pepco's proffer was deficient primarily because of the lack of work papers, data, analysis, assumptions, or studies that support Pepco's assertions. The Parties also contend there was no "formal evaluation framework" to determine the overall performance and effectiveness of the *Formal Case No. 1156* Modified EMRP Pilot.

141. Several parties have asserted that if the lessons learned process is not wholly favorable of the *Formal Case No. 1156* Modified EMRP Pilot, the Commission must deny the MRP filed in this case. The Commission disagrees. Evaluations of a pilot are not meant to be dispositive or occur in a singular, one-off fashion. Instead, lessons learned can and should be used to inform what happened in that pilot and inform future pilots, and those lessons learned can occur in multiple phases. This is similar to the approach that Maryland has taken with their pilot MRP utility BGE. The Maryland Commission issued interim lessons learned and approved a second MRP, all with the purpose of creating an iterative process to create a complete record on which to fully evaluate and inform future MRPs.

142. Based on the filings and the testimony throughout the case, the Commission has learned several lessons regarding the *Formal Case No. 1156* Modified EMRP Pilot. Before discussing those lessons, it is important to note that when the Commission first envisioned

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[319] *Formal Case No. 1176*, United States General Services Administration's Comments on Procedural Schedule at 1, filed June 22, 2023 ("GSA Comments").

[320] *See Formal Case No. 1156*, Order No. 20755, ¶ 474.

[321] *Formal Case No. 1156*, Order No. 20755, ¶ 143.

adopting an MRP, the proposed term for an MRP was three years. Our AFOR principles are predicated on a three-year MRP. The vast majority of jurisdictions that have adopted MRPs have been for three years. However, due to many factors, including the COVID-19 pandemic, the *Formal Case No. 1156* Modified EMRP Pilot was for only 18 months. Additionally, the majority of the EMRP term occurred during the COVID emergency. These are important considerations that the Commission must consider when reviewing the lessons learned, recognizing that these two substantial variations can skew the lessons learned during the *Formal Case No. 1156* Modified EMRP Pilot.

143. Upon review, the Commission determines that these are the main lessons learned from the *Formal Case No. 1156* Modified EMRP Pilot:

a. Future lessons learned processes should be clearly prescribed by the Commission with input from stakeholders;

b. Enhancing data collection and analysis of operational metrics is essential to identifying areas for improving operating and capital cost efficiency.

c. There needs to be greater opportunity for stakeholders to participate in key aspects of the MRP, *i.e.*, the Long-Range Plan ("LRP");

d. Additional safeguards are necessary to protect consumers in the event the Company over-earns during the MRP period.

144. Taking those lessons learned into account, the Commission has instituted several modifications to this MRP to ensure that it is in the public's interest. The first such modification is the creation of a prescribed lessons-learned framework to evaluate the *Formal Case No. 1176* Modified MRP Extended Pilot. This framework provides clear direction for the Lessons Learned process in this proceeding. This second Pilot is a continuation of our efforts to gain additional experience and lessons learned regarding MRP filings so that we can adopt a formal evaluation framework and regulations.[322] However, we emphasize that the over-arching evaluation of the MRPs is prescribed by law; that is, the MRP results in just and reasonable rates for all Pepco customers,[323] protects consumers, ensures the quality, availability, and reliability of regulated electric services, and is in the public interest, including Pepco's shareholders.

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[322] Commission has previously extended pilot programs that we had approved such as the physical hedging pilot program, financial hedging pilot program, multi-family piping program, and Reliable Energy Trust Fund pilot programs. *See GT01-1, In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, for Authority to Amend its General Services Provision* ("*GT01-1*"), Order No. 12327, rel. September 10, 2022; *see GT01-1*, Order No. 13654, rel. August 8, 2005; *see GT01-1*, Order No. 14231, rel. March 6, 2007; *see GT01-1*, Order No. 14755, rel. March 7, 2008. *See GT01-1*, Order No. 16782, rel. May 10, 2012. *See Formal Case No. 1137, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service*, Order No. 19236, rel. January 17, 2018. *See Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices* ("*Formal Case No. 945*"), Order No. 14321, rel. May 31, 2007; *see Formal Case No. 945*, Order No. 14582, rel. September 28, 2007; *see Formal Case No. 945*, Order No. 14689, rel. December 27, 2007.

[323] It should be noted that no party alleges that the EMRP resulted in unjust or unreasonable rates.

145. To facilitate the Lessons Learned process, the Commission hereby directs Commission Staff to convene *Formal Case No. 1176* Modified MRP Extended Pilot Lessons Learned Working Group ("LLWG") meeting within 60 days from the date of this Order consisting of all Parties to this proceeding to discuss and develop a framework for the evaluation of *Formal Case No. 1176*. We expect that developing this framework will require multiple meetings, and we encourage Staff to convene as many meetings as necessary. Topics may include, but are certainly not limited to: the development of recommendations on the work papers, data, analysis, assumptions, or studies needed to develop a "formal evaluation framework" to determine the overall performance and effectiveness of MRPs; whether and how testimony based on forecasted data should be provided to cover such areas as ROR, ROE, capital structure, Class Cost of Service Studies ("CCOSS"), billing determinants, rate design, engineering, and accounting; and a complete list of proposed reporting requirements, measures, and timelines.

146. Based on its discussions, evaluations, considerations, and proposals, the LLWG shall submit a report into the record, identifying areas of consensus and non-consensus and proposing recommendations for the Commission's consideration prior to the end of CY 2025.

147. To complement the Lessons Learned process established by this Order, we have also ordered Pepco to undergo comprehensive audits that compare actual expenditures to forecasted values between 2023 and 2026, including the 2-year term of this extended Pilot as described in this Order. The audits will allow us to assess the accuracy of Pepco's cost estimates, the reasonableness of forecasts, and the "used and useful" nature of plant additions, including the prudence of the investments.

148. Phase 1 of the comprehensive audit will be completed by the end of CY 2025, providing critical insights that will inform the Commission's decision on the Lessons Learned framework. The Commission will issue an order on the LLWG and the Audit by June 2026. Pepco will then use this filing to submit its lessons learned report no later than April 30, 2027. Upon receipt of that Report, Parties will have 30 days to comment on the lessons learned report, and the Commission will issue an Order on the Report and comments. Importantly, no new MRP can be filed until the Commission issues this Order, ensuring that the Commission's findings can be integrated into future filings. By implementing this structured approach, we will ensure that lessons learned from past experiences are effectively integrated into future planning and operations.

149. Additionally, as a part of the informational and reconciliation process that we are establishing in this Order, we adopt automatic credit/rate adjustments for any over-earning by the Company that may occur during the term of this 2-year MRP Extended Pilot. This automatic credit/rate adjustment signifies a substantial improvement over the previous language in *Formal Case No. 1156* Modified EMRP Pilot by incorporating a more structured and transparent process. Under this credit adjustment mechanism, if the Company's earnings exceed the authorized return on equity ("ROE") at the end of the MRP period, sur-credits will be automatically issued to customers. Following Pepco's reconciliation report filed on March 31, 2027, if the Company over-earns beyond the authorized ROE of 9.5%, Pepco must submit a rate adjustment filing by April 30, 2027, reflecting a rate reduction for customers if the reconciliation filing demonstrates that Pepco over earned above the authorized 9.5% ROE; ensuring that sur-credits become effective on June 1, 2027, for a period of 12 months. This mechanism enhances our ability to respond proactively to the utility's financial performance, ensuring that customers receive timely benefits while maintaining the utility's financial stability.

150. Lastly, we have initiated an IDSP process to provide greater transparency for Pepco's distribution system planning, including the LRP.[324] This is similar to the process that Maryland has undertaken, which allowed BGE to proceed with its MRP while also beginning a distribution system planning process. The first step in the Commission's IDSP process involves the issuance of a Notice of Inquiry ("NOI") with a strawman proposal from Staff. This strawman proposal is partially based on the distribution planning processes of Minnesota and Michigan, as well as some of the initial principles developed in the Maryland DSP process.

151. The Commission believes that the addition of these modifications from the lessons learned of *Formal Case No. 1156* greatly enhances the Modified MRP Extended Pilot we are approving in *Formal Case No. 1176* and the ongoing MRP Lessons Learned process.

H. Utility Management Audit

152. OPC has stated that the information provided by Pepco as part of the prudence review includes investments that are considerably over budget, including projects located in Maryland, and some of the investments Pepco seeks recovery for were included in Pepco's Maryland rate case.[325]

153. **AOBA.** AOBA contends that: (1) to date, Pepco has carried no burden of proof for the prudence and cost-effectiveness of the actual expenditures it has incurred;[326] and (2) "[t]he annual reconciliations and information filings provided by Pepco for the years of the pilot MRP and Calendar Year 2023 do not demonstrate the prudence and cost-effectiveness of Pepco's actual expenditures. The cryptic explanations of variances that Pepco has provided fall well short of any reasonable demonstration of prudence and provide no assessment of the benefits and costs of the projects that Pepco has chosen to fund."[327]

154. However, AOBA's examination of that filing finds that it falls well short of a demonstration of prudence for any of its CY 2023 expenditures. For example, the information contained in Attachment 2 to Pepco's July 5, 2024, Supplemental Information filing, although labeled as a "2023 Prudence Review," presents "Plant In-Service" additions that the Company seeks to include in its rate base.[328] However, those additions reflect capital expenditures that often have been accrued over multiple years. Nothing in the data presented in Attachment 2 details either the dollar amounts of capital expenditures by year included the Company's claimed 2023 Plant In-Service additions or the dollar amounts actually incurred in Calendar Year 2023 for each ITN Number.[329] AOBA contends the information in Attachment 2 to Pepco's July 5, 2024,

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324 *See Formal Case No. 1182*.

325 OPC Pre-Hearing Brief at 14.

326 AOBA Pre-Hearing Brief at 11.

327 AOBA Pre-Hearing Brief at 12.

328 AOBA's Pre-Hearing Brief at 15-16.

329 AOBA Pre-Hearing Brief at 16.

Supplemental Information Filing fails to demonstrate the prudence of the capital costs the Company incurred by the project during Calendar Year 2023.[330]

155. **Pepco Rebuttal.** Pepco responded to critiques from both OPC and AOBA regarding the opportunity for a prudency review by emphasizing that traditional "prudency" reviews are a definitionally backward looking exercise conducted after the fact to review the reasonableness of expenditures that have been completed, which is different from "oversight" which allows parties to prospectively review planned work.[331] The Company's response to the directive in Order No. 22013 does little to facilitate the Commission's assessment of the Company's earnings for regulatory purposes. Pepco represents that the Supplemental Information in its July 5, 2024, filing in response to Order No. 22013 provides a "[d]etailed demonstration of the prudence of Pepco's Calendar Year 2023 capital and operating expenditures."[332]

DECISION

156. The Commission believes that a utility management audit—while not an MRP tool—can also help to alleviate concerns related to inaccurate cost forecasting, as it would thoroughly scrutinize the utility's planning and spending. The Commission believes a utility management audit would give visibility into whether utilities are operating efficiently and in a manner that is consistent with the best interest of customers. The management audit should address various issues and evaluate the accuracy of the Company's actual spending compared to forecasts. These issues could include but are not limited to, the reasonableness of the Company's cost and billing determinants forecasting, the timing and staging of investments, and the prudence of its capital investments, including whether rigorous cost-benefit analyses are performed as part of the planning process. Investments determined to have been imprudently incurred will be subject to disallowance.[333]

157. Further, the Commission believes that a utility management audit is a review of a utility's management processes related to costs that ultimately fall on ratepayers; it encompasses a comprehensive review of the utility's operations and is often paired with a financial audit performed by an accounting firm. It has qualitative and quantitative/technical components and concrete recommendations—including detailed findings around actual spending relative to Pepco's forecasts from its Construction Budget and its LRP.

158. The Commission establishes a phased audit. In the first phase, the audit would assess utility processes and results in the years 2023-2024. In the second phase, the auditor will cover Calendar Years 2025 and 2026. *The Formal Case No. 1176* Modified MRP Extended Pilot would not be included in the first phase of the audit, seeing as most audits take about six months

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330 AOBA Pre-Hearing Brief at 16.

331 Pepco (3B) (Leming Rebuttal) at 5:16-22.

332 *Formal Case No. 1176*, Potomac Electric Power Company's Supplement to its Rate of Return Filings at 1, filed July 5, 2024 ("Pepco Supplement").

333 *See Potomac Electric Power Co. v. Public Serv. Comm'n of the District of Columbia*, 661 A.2d 131 (1995).

to complete, and—to inform the Lessons Learned proceeding—the audit would need to be finalized before the end of the *Formal Case No. 1176* Modified MRP Extended Pilot term.

159. In the first phase, the Commission directs Pepco to do the following: (1) draft and file a Request for Proposal ("RFP") within 30 days of this Order, with comments on the draft RFP due within 30 days of its filing; (2) issue the RFP within 15 days of the Commission approval of the draft RFP; (3) file a list of bidders with the Commission within 45 days of the approval of the draft RFP; and (4) hire the auditor and notify the Commission within 30 days of the auditor's selection. The Commission directs that the phase 1 MRP audit report be completed and filed by December 31, 2025 following the hiring of the auditor. The Commission establishes a period of 30 days for comments and 60 days for reply comments for the audit report.

160. For the second phase of the MRP audit (which covers the period CY 2025 and CY 2026), the Commission directs Pepco to: (1) draft a RFP for the performance of the second phase of the MRP and to file it with the Commission by October 31, 2026 (Parties will be permitted to file comments within 30 days); (2) issue the RFP within 15 days of the Commission approval of the draft RFP; (3) file a list of bidders with the Commission within 45 days of the approval of the draft RFP; (4) hire the auditor and notify the Commission within 30 days of the Commission auditor selection. Based on this timeline, the auditor would be required to file the final audit report for the second phase of the audit (covering CY 2025 and CY2026) by December 31, 2027. The Commission establishes a period of 30 days for comments and 60 days for reply comments for the audit report.

V. TEST YEAR

161. To allow Pepco a reasonable opportunity to recover its costs, the Commission adopts a proposed test year to: (1) ensure that rate levels and the revenues they produce have a reasonable correlation to the revenue requirements of the Company; and (2) determine costs and investments as accurately as possible.[334] In this instance, Pepco's proposed test year is uncontested. The test year for this case consists of an HTY of actual financial results for the 12 months ending December 31, 2022.[335]

DECISION

162. Pepco's approach to determining the test year for its proposed MRP with ratemaking adjustments conforms with the approved approach in *Formal Case No. 1156*. Pepco's selection of the proposed test year for the 12 months ending December 31, 2022, is uncontested. The Commission accepts Pepco's proposed test year of actual results for the twelve (12) months ending December 31, 2022, because the methodology aligns with regulatory precedent and is a reasonable and appropriate starting point to evaluate the merits of Pepco's MRP Application.

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334 *See Formal Case No. 1103*, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service* ("*Formal Case No. 1103*"), Order No. 17424, ¶ 14, rel. March 26, 2014 ("Order No. 17424"), *citing Formal Case No. 610*, *In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates, Tolls, Charges, and Schedules for Gas Service*, Order No. 5685 at 6, rel. January 23, 1975.

335 Pepco (3B)-1 (Leming Direct) at 4:3-7.

163. Although the Commission is adopting the twelve (12) months ending December 31, 2022, as the test year, we recognize that a bridge period is necessary to track ongoing investments between the HTY and the first year of the MRP period. The bridge period ensures that the rate base used in the first year of the MRP accounts for investments between the Historical Test Year and the first year of the MRP. Pepco initially proposed a single Bridge Year of 2023; however, by shortening the MRP period to only the years 2025 and 2026, the bridge period must also be extended to include 2023 and 2024.

164. The Commission adopts 2024 as Bridge Year 2, consisting of forecasted data for 12 months ending December 31, 2024, Bridge Year 1. The 2024 bridge year links the HTY, the 2023 bridge year, and the first year of new rates, 2025.

VI. COST OF CAPITAL

165. The Commission must determine a reasonable ROR, including the cost of equity capital, debt, and the projected capital structure for Pepco. Our decisions follow the well-settled standards established in *Washington Gas Light Co. v. Public Service Comm'n*, 450 A.2d 1187, 1209-1215 (D.C. 1982) (review of *Formal Case No. 686*).[336] We also adhere to the standards derived from the United States Supreme Court's decisions in *Bluefield Waterworks & Improvement Co. v. Public Service Comm'n of the State of West Virginia*, 262 U.S. 679 (1923) ("*Bluefield*") and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) ("*Hope*"). In *Bluefield* and *Hope*, the Court held that a public utility is entitled to earn a fair and reasonable ROR on its capital investments comparable to that of investments of similar corresponding risks,[337] a return sufficient to assure confidence in the financial integrity of the public utility such that it will be able to maintain its credit and attract investment capital.[338]

166. The Commission determines the Company's authorized overall ROR by the "cost of capital" method.[339] The cost of capital method seeks to determine what return the Company must offer its investors to attract the capital investment in its stocks and bonds necessary to finance its construction and operations. The overall cost of a utility's capital is calculated by determining

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[336] *See, e.g.*, *Formal Case No. 850*, *In the Matter of Investigation into the Reasonableness of the Authorized Return on Equity, Rate of Return, and Current Charges and Rates for Telecommunication Services Offered by Chesapeake and Potomac Telephone Company*, Order No. 9927 at 7-8, rel. January 27, 1992; *see also Office of the People's Counsel v. Public Service Comm'n*, 455 A.2d 391, 397-398 (D.C. 1982) (review of *Formal Case No. 685*). More recently, *see Formal Case No. 1139, In the Matter of the Application of Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service* ("*Formal Case No. 1139*"), Order No. 18846, rel. July 25, 2017, ¶ 250 ("Order No. 18846").

[337] *Bluefield*, 262 U.S. 679, 692-693.

[338] *Hope*, 320 U.S. 591, 603.

[339] "The rate of return is an expression, in terms of percentage of rate base, of: 'the amount of money a utility earns, over and above operating expenses, depreciation expense, and taxes expressed as a percentage of the legally established net valuation of utility property, the rate base. Included in the returns are interest on debt, dividends on preferred stock, and earnings on common stock equity. In other words, the return is that money earned from operations which is available for distribution among the various classes of contributors of money capital." *Formal Case No. 685*, *In the Matter of Application of Potomac Electric Power Company for an Increase in its Retail Rates for the Sale of Electric Energy*, ("*Formal Case No. 685*"), Order No. 6096 at 6, rel. June 14, 1979.

the cost of each component in the company's capital structure. A weighted cost for each component is derived by multiplying its cost by its ratio to total capital. The sum of these weighted costs then becomes the utility's overall ROR, multiplied by Pepco's rate base to determine the Company's required return.[340] With these standards forming the backdrop for our consideration of the Cost of Capital and Capital Structure, we turn to its various components and the evidence submitted into the record by the Parties.

A. Overall Position of the Parties

167. **Pepco (MRP).**

Table 4: Pepco MRP Proposed Cost of Capital[341]

Pepco MRP Year 1 - 2024

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	4.99%	2.47%
Common Equity	50.50%	10.50%	5.30%
	100.00%		**7.77%**

Pepco MRP Year 2 - 2025

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.02%	2.48%
Common Equity	50.50%	10.50%	5.30%
	100.00%		**7.78%**

Pepco MRP Year 3 - 2026

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.04%	2.49%
Common Equity	50.50%	10.50%	5.30%
	100.00%		**7.79%**

340 *See generally*, *Washington Gas Light Co. v. Public Service Commission*, 450 A.2d 1187, 1209, n.30 (D.C. 1982).

341 Pepco (3C)-1 (Holden Direct) at 19-21.

168. **OPC.**

Table 5: OPC Recommended Cost of Capital[342]

OPC MRP Year 1 - 2024

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	4.99%	2.47%
Common Equity	50.50%	9.35%	4.72%
	100.00%		**7.19%**

OPC MRP Year 2 - 2025

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.02%	2.48%
Common Equity	50.50%	9.35%	4.72%
	100.00%		**7.21%**

OPC MRP Year 3 - 2026

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.04%	2.49%
Common Equity	50.50%	9.35%	4.72%
			7.22%

169. **AOBA.**

Table 6: AOBA Recommended Cost of Capital[343]

AOBA MRP Year 1 - 2024

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	4.99%	2.47%
Common Equity	50.50%	9.10%	4.60%
	100.00%		**7.07%**

AOBA MRP Year 2 - 2025

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.02%	2.48%
Common Equity	50.50%	9.10%	4.60%
	100.00%		**7.08%**

342 OPC (A) (Dismukes Direct) at 6:7-12.

343 AOBA (B) (Oliver Direct) at 9:16-18.

AOBA MRP Year 3 - 2026

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.04%	2.49%
Common Equity	50.50%	9.10%	4.60%
	100.00%		**7.09%**

B. Capital Structure

170. The capital structure refers to the make-up and proportions of the utility's financial resources comprised of long-term debt, short-term debt, preferred stock, and common stock (equity). The capital structure is used in determining an appropriate ROR on rate base.[344]

171. **Pepco.** Pepco's proposed capital structure consists of 50.50% Common Equity and 49.50% Long-Term Debt for the three-year term of the MRP. Pepco asserts that the proposed capital structure in this proceeding is consistent with the Company's goals and objectives to maintain its current credit ratings.[345] Additionally, Pepco asserts that the proposed equity percentage of 50.50% for the three-year term of the MRP is consistent with the capital structure underlying rates of return approved in prior proceedings and aligns with other utilities in the Company's peer group.[346] Pepco notes that under Exelon-Pepco Merger Commitment No. 93, the Company is required to maintain an equity ratio of at least 48%.

172. Pepco also states that the Company's forecasted cost of debt reflects forecasted debt issuances in its LRP during the 3-year MRP term as well as the bridge year. The cost of debt includes Pepco's $85 million and $100 million 10-year long-term bond issuances, $40 million 15-year long-term bond issuance, and $125 million 30-year long-term bond issuance that were priced and closed on February 28, 2023.[347] Short-term debt is not included since it is used to finance allowance for funds used during construction ("AFUDC"), the treatment of which Pepco avers the Commission has previously approved.[348]

173. No Parties contested Pepco's proposed capital structure and estimates of the embedded cost of debt.

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344 Public Utilities Report Glossary of Utility Terms.

345 Pepco (C) (Holden Direct) at 16:2-17:46.

346 Pepco (C) (Holden Direct) at 16:2-17:4.

347 Pepco (C) (Holden Direct) at 17:6-10.

348 Pepco (C) (Holden Direct) at 20:5-11.

DECISION

174. As referenced above, Pepco's proposed capital structure reflects Pepco's forecasted debt issuances in its LRP during the 3-year MRP term, the bridge year CY 2023 debt issuance, including $85 million and $100 million 10-year long-term bond issuances, $40 million 15-year long-term bond issuance, and $125 million 30-year long-term bond issuance that were priced and closed on February 28, 2023. The Exelon/PHI merger Commitment No. 93 requires Pepco to maintain a rolling 12-month average equity ratio of at least 48%.[349] We have monitored Pepco's rolling 12-month average ratio since the merger to ensure it remains at or above 48%.

175. Maintaining a reasonable capital structure with the appropriate mix of equity and debt is essential in retaining Pepco's current investment-grade credit rating. We note that Standard and Poor's ("S&P") upgraded Pepco's long-term issuer credit ratings (and those of other PHI companies: ACE, Delmarva, and Conectiv) from BBB+ to A- (minus) on March 1, 2019.[350] S&P confirmed Pepco's A- long-term issuer credit ratings and stable outlook on July 24, 2024.[351] Moody's assigned a Baa1 long-term issuer rating with a stable outlook to Pepco on June 4, 2019.[352] On May 2, 2024, Moody's completed its periodic review of ratings for Pepco Holdings, LLC and related utility issuers (including Pepco), in which Moody's specifically noted the significant capital expenditures facing Pepco as a credit challenge. Moody's also highlighted credit-supportive regulatory environments due to the adoption of MRPs in Maryland and the District, stating that MRPs reduce regulatory lag and provide stability to earnings and cash flow.[353] An investment-grade credit rating provides Pepco with financial flexibility and the opportunity to obtain capital at an optimal overall cost, thereby enabling the continued financing of significant investment projects underway. Whatever capital structure the Commission adopts must be sufficient to help maintain Pepco's current investment-grade credit rating. The Commission approves Pepco's proposed targeted capital structure of 50.50% Common Equity and 49.50% Long-Term Debt for the *Formal Case No. 1176* Modified MRP Extended Pilot because it aligns with Exelon/PHI Merger Commitment No. 93 and is reasonable. The Commission notes that this is uncontested by the Parties.

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349 *Formal Case No. 1119*, *In the Matter of the Joint Application of Exelon Corporation, Pepco Holdings, Inc., Potomac Electric power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction*, Order No. 18148, Attachment B, ¶ 93, rel. March 23, 2016.

350 Standard and Poors' Global Ratings, "Research Update: Exelon Upgraded To 'BBB+' On Successful Execution of Growth Strategy; Subsidiary Ratings Also Raised; Outlook Stable", published March 1, 2019.

351 S&P Issuer Review, Potomac Electric Power Co, July 24, 2024, S&P, at www.snl.com

352 MOODY'S, https://www.moodys.com/entity/617000/overview

353 MOODY'S, https://www.moodys.com/research/Moodys-Ratings-announces-completion-of-a-periodic-review-of-ratings-Announcement-of-Periodic-Review--PR_489264.

C. Cost of Capital

176. Pepco proposes a Cost of Capital ("COC") or overall ROR of 7.77% for 2024 (MRP Year 1), 7.78% for 2025, and 7.79% for 2026, and a constant ROE of 10.50% for the duration of the MRP. OPC recommends a 7.22% ROR with an ROE of 9.35% to reflect the reduction in risk with the MRP, while AOBA recommends a 7.09% cost of capital with an ROE of 9.10%.

1. Return on Equity

177. As estimated using tests applied to proxy companies, the ROE reflects the composite of those proxy companies' business, regulatory, and financial risks. The cost of equity estimated by reference to a sample of companies applies to a specific utility without adjustment and only if the magnitude of the sample's total risks (business, regulatory, and financial) and the specific utility are comparable. In practice, however, given the limitations of comparable companies, it is more common to select one or more samples of companies as proxies to estimate an ROE.

178. **Pepco.** Pepco utilizes a proxy group of 23 utility companies to determine a return on equity of 10.5% and applies that return to a capital structure containing a 50.5% Common Equity ratio.[354] Pepco Witness Adrien McKenzie created an electric-specific proxy group of 23 electric utilities called the "Electric Group."[355] Mr. McKenzie used the following criteria to identify his proxy group utilities: First, corporate credit ratings from Moody's and S&P correspond to one notch above and below the Company's current ratings. For Moody's, this resulted in a rating range of Baa2, Baa1, and A3; for S&P, the range is BBB+, A-, and A. Second, there have been no cuts in common dividend payments during the past six months, and there has been no announcement of a dividend cut since then. Third, there has been no ongoing involvement in a major merger or acquisition that would distort quantitative results.[356]

179. Pepco Witness McKenzie also evaluated investors' risk perceptions for the Electric Group by looking at *Value Line*'s primary risk indicator of Safety Rank, which is intended to capture the total risk of a stock, *Value Line*'s Financial Strength Ratings, which serves as a guide to overall financial strength and creditworthiness, and beta values, which measures a utility's stock price volatility relative to the market as a whole and reflects the tendency of a stock's price to follow changes in the markets.[357]

180. Pepco Witness McKenzie utilized various analytical models, including Discounted Cash Flow ("DCF"), Capital Asset Pricing Model ("CAPM"), Empirical Capital Asset Pricing

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354 Pepco (F)-3 (McKenzie Direct) at 1.

355 Pepco (F)-5 (McKenzie Direct Exhibit) at 1. The "Electric Group" includes the following companies: (1) Alliant Energy, (2) Ameren Corp., (3) American Electric Power, (4) Black Hills Corp., (5) CenterPoint Energy, (6) CMS Energy Corp., (7) Dominion Energy, (8) DTE Energy Co., (9) Duke Energy Corp. (10) Entergy Corp., (11) Evergy Inc., (12) Eversource Energy, (13) Exelon Corp., (14) NextEra Energy, Inc., (15) OGE Energy Corp., (16) Pinnacle West Capital, (17) Portland General Elec., (18) PPL Corp., (19) Public Service Enterprise Grp., (20) Sempra Energy, (21) Southern Company, (22) WEC Energy Group, (23) Xcel Energy Inc.

356 Pepco (F) (McKenzie Direct) at 23:6-13.

357 Pepco (F) (McKenzie Direct) at 24-25.

Model ("ECAPM"), Utility Risk Premium, and Expected Earnings to arrive at an ROE range of 9.9%-11.1%.[358]

181. In calculating the average DCF estimate, Witness McKenzie excludes values that fall below his calculated threshold value of 7.24% or are above the calculated upper threshold value of 20.80%. He eliminated low-end DCF estimates ranging from 0.6% to 7.2% and a high-end DCF result of 20.8%. This impacted his DCF results both for the electric group and for the non-utility group.[359]

182. After analyzing the results of the different methods, Pepco Witness McKenzie proposes a cost of equity range of 9.9% to 11.1% for Pepco's electric operations, with a midpoint of 10.5% for a just and reasonable ROE that he contends is adequate to compensate Pepco's investors while maintaining financial integrity and the ability to attract capital on reasonable terms.

183. **OPC.** OPC Witness Walters recommends an ROE of 9.35%, which he testifies is 20 basis points below the midpoint of OPC's recommended range (9.20%-9.90%) and is consistent with Commission Order No. 20755 in *Formal Case No. 1156*.[360] OPC Witness Walters relied on the same proxy group as Pepco Witness McKenzie but excluded Dominion Resources.[361]

184. In addition to the Constant Growth DCF Model, OPC Witness Walters uses the multi-stage DCF model, reflecting the possibility of non-constant growth for a company over time. The multi-stage DCF model reflects three growth periods: (1) a short-term growth period consisting of the first five years; (2) a transition period consisting of the next five years (6 through 10); and (3) a long-term growth period starting in year 11 and extending into perpetuity.[362]

185. OPC Witness Walters also uses the constant growth model, which is appropriate for mature companies with a stable history of growth and future expectations, and dividends for mature firms are often expected to grow at about the same rate as nominal gross domestic product.[363]

186. OPC Witness Walters testifies that Pepco applied the traditional (Constant Growth) DCF model to its utility proxy group.[364] According to Witness Walters, Pepco Witness McKenzie observed the average and midpoint results of his proxy group's DCF results. He also estimated a sustainable growth rate based on Value Line data similar to OPC's sustainable growth DCF model. OPC Witness Walters notes that Pepco Witness McKenzie refers to the average and midpoint estimates of his results after excluding what he has deemed to be outliers. Mr. Walters disagrees

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358 Pepco (F)-2 (McKenzie Direct) at 3:24-4:10.

359 Pepco (F), McKenzie Direct at 40-41.

360 OPC (C) (Walters Direct) at 2:12-17.

361 *See* OPC (C)-3 (Walters Direct Exhibit) at 1.

362 OPC (C) (Walters Direct) at 43:2-6.

363 OPC (C) (Walters Direct) at 44:4-11.

364 OPC (C) (Walters Direct) at 67:28-68:6.

with Mr. McKenzie's proposal to selectively exclude what he believes to be outliers from the proxy group, which manipulates the results of the proxy group. Notably, OPC Witness Walters testifies that he excludes four low-end results from his DCF analysis while only removing one outlier for being too high. Mr. McKenzie narrows the range of the proxy group results to produce a result that he finds to be reasonable.

187. OPC Witness Walters explains that a better methodology would be to rely on all the proxy group results by assessing their central tendency.[365] In the presence of outliers, a more accurate method of measuring the central tendency of the proxy group's results would be to measure the median of all the DCF return estimates, according to Witness Walters.

188. OPC Witness Walters testifies that Pepco Witness McKenzie adjusts each of his CAPM return estimates to account for any size premium based on each company's market capitalization. This size adjustment has increased his proxy group's CAPM returns by an average of 30 basis points. Therefore, his size-adjusted traditional CAPM analysis produces an average result of 11.1%. [366]

189. OPC Witness Walters testifies that Pepco Witness McKenzie's DCF is biased upward because he (1) arbitrarily removes what he has determined to be low-end outliers and one high-end outlier, and (2) he relies heavily on the midpoint of the individual results as a measure of central tendency. Mr. Walters believes that a more reasonable approach would be not remove any outliers and rely on the median as a measure of central tendency.[367]

190. In addition, OPC Witness Walters testifies that Pepco Witness McKenzie's recommended ROE of 10.50% falls significantly outside a reasonable range for a low-risk distribution electric utilities when compared to observable benchmarks such as recent authorized ROEs for electric utilities, especially considering the lower-risk nature of distribution-only electric utilities that operate under an MRP.

191. **AOBA.** AOBA Witness Timothy Oliver asserts Pepco Witness McKenzie's proxy group of 23 companies includes companies with significant non-utility and non-price-regulated business activities.[368] Mr. Oliver states that the holding companies are more appropriate and comparable to Pepco's parent company, Exelon.[369] Therefore, AOBA excludes Exelon from Pepco Witness McKenzie's proxy group and adds companies from the *Formal Case No. 1156* proxy group proposed by Pepco Witness D'Ascendis.[370] AOBA suggests that the proxy group selected by Pepco Witness D'Ascendis in *Formal Case No. 1156* represents a more appropriate risk profile.

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365 OPC (C) (Walters Direct) at 68:18-69:2.

366 OPC (C) (Walters Direct) at 70:9-13.

367 OPC (C) (Walters Direct) at 66:5-9.

368 AOBA (B) (T. Oliver Direct) at 15:18-20.

369 AOBA (B) (T. Oliver Direct) at 14:20- 15:2.

370 AOBA (B) (T. Oliver Direct) at 19:16-19.

AOBA Witness Timothy Oliver's estimated ROE of 9.1% is approximately 15 basis points below the lower end of AOBA's recommended range.

192. AOBA Witness Oliver notes Pepco Witness McKenzie's proxy group includes utility holding companies with significant non-utility and non-price-regulated business activities. Oliver states that the holding companies are more appropriate and comparable to Pepco's parent, Exelon.[371] He excludes the holding companies, including Exelon, and then adds to the sample companies used by a Pepco Witness D'Ascendis in *Formal Case No. 1156*. The six companies added as a result are: ALLETE, Inc., Avangrid, Inc., Consolidated Edison, Inc., Hawaiian Electric Industries, Inc., Northwestern Corporation, and PNM Resources.[372]

193. To estimate an ROE for Pepco in this proceeding, AOBA included the computation of DCF and CAPM analyses.[373] The DCF analysis employs annual high and low stock price data and earnings growth projections from Zacks, Seeking Alpha, and Yahoo in a traditional Constant Growth DCF model.[374] Because no explicit adjustment is made to account for the reduced risk of a distribution utility from that of a holding company, the results of the DCF analysis should be viewed as an upper bound for an appropriate return of equity for a distribution utility such as Pepco.[375]

194. AOBA Witness Oliver disagreed with Pepco Witness McKenzie's use of Value Line earnings growth estimates and betas for his proxy group, claiming that it introduced a significant upward bias in his ROE estimates and is out of line with other publicly available measures of earnings growth estimates and betas, and is therefore not reasonable to rely upon for an ROE determination. AOBA Witness Oliver also noted that the various cost of equity analyses performed by Pepco Witness McKenzie resulted in a range from 8.9% to 11.3%, which he alleged was "sufficiently broad to render it essentially meaningless."[376]

195. The risk-free rate to estimate the required ROE for Pepco's distribution utility operations should be based on recent 30-year treasury rates. Due to the extremely low 30-year Treasury rates, AOBA Witness Oliver chose to utilize the current rate as of November 27, 2023, of 4.57%.[377] AOBA Witness Oliver states that his CAPM analysis compensates for the lack of market data on which the assessment of differences in risk and return requirements between Pepco and the proxy group and/or between Pepco and the general market is absent. In the absence of

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371 AOBA (B) (T. Oliver Direct) at 14:20-15:2.

372 The Commission notes that AOBA (B)-1 incorrectly shows the number of adjusted proxy group as 25. However, the number of the companies on the list is 28, not 25.

373 AOBA (B)-1 (T. Oliver Direct Exhibit).

374 Overall proxy group DCF results are summarized for each source of earnings growth estimates in AOBA (B)-1 at 1, lines 1-4.

375 AOBA (B) (T. Oliver Direct) at 20.

376 AOBA (B) (T. Oliver Direct) at 16:17-18.

377 AOBA (B) (T. Oliver Direct) at 20:14-17.

publicly traded Pepco stock, differences in risk associated with stock price volatility are not observable.[378]

196. **Pepco Rebuttal.** There were no changes in Pepco's requested ROE or proposed capital structure. Pepco points out that OPC Witness Gorman initially proposed an ROR range of 7.17% to 7.19% for all years of the MRP but utilized an incorrect ROE of 9.30%.[379] Pepco further asserts that AOBA incorporated a static cost of debt in its analysis instead of varying debt costs by year.[380] Pepco explains that its proposed dynamic cost of debt reflects its anticipated future costs per year and aligns with how Pepco has developed its other forecasts utilized in the MRP.[381]

197. **OPC Surrebuttal.** OPC Witness Walters responded to Pepco Witness McKenzie's correction on ROE but maintained OPC's recommended range of 9.20% to 9.9%.[382] After filing an erratum to OPC Witness Gorman's testimony, OPC supports a recommended ROE of 9.35%.[383] OPC noted that the 9.35% ROE is 11 basis points higher than the average authorized ROE for distribution utilities of 9.24% in 2023.[384]

DECISION

198. The District of Columbia Court of Appeals, in *Metropolitan Board of Trade v. Public Service Comm'n,* 432 A.2d 343, 350 (D.C. 1981) notes:

> Rate design principles and specific rates approved by the Commission, however, must be "reasonable, just and nondiscriminatory." This statutory authority is deliberatively broad and gives the Commission the authority to formulate its own standards and to exercise its ratemaking function free from judicial interference, provided the rates fall within a zone of reasonableness which assures that the Commission is safeguarding the public interest that is, the interests of both investors and consumers. *** From the investor standpoint, courts have defined the lower boundary of this zone of reasonableness as "one which is not confiscatory in the constitutional sense." *** From the consumer

378 AOBA (B) (T. Oliver Direct) at 21:1-5.

379 Pepco (3C) (Holden Rebuttal) at 6:6-9.

380 Pepco (3C) (Holden Rebuttal) at 4:21-5:3.

381 Pepco (3C) (Holden Rebuttal) at 4:17-5:10.

382 OPC (2C) (Walters Rebuttal) at 3:2-3.

383 OPC (2C) (Walters Rebuttal) at 3:3-4.

384 OPC (2C) (Walters Rebuttal) at 3:4-6.

standpoint, the upper boundary cannot be so high that the rate would be classified as "exorbitant."[385]

199. Consequently, the establishing of an ROE at any point within the range of reasonableness is within the Commission's statutory authority to set just, reasonable, and nondiscriminatory rates.[386]

200. In its rate decisions, the Commission has relied primarily on the DCF model to determine a utility's appropriate cost of common equity. The Commission has consistently found that the DCF method produces results more reasonable than those of other methods.[387] The DCF analysis attempts to estimate the return that investors require from an equity investment in Pepco. This return may be expressed as an investor-expected stock dividend yield plus the investor-expected dividend growth rate. Nevertheless, the Commission's preference for the DCF model does not preclude consideration of other methods like the CAPM and RPM for calculating the cost of equity in some instances. However, our reliance on the DCF model does not foreclose the parties from advocating the use of other methods in future rate proceedings.[388] The Commission, as always, considers the entire record in determining the just and reasonable cost of equity, which may include action taken by other commissions and recent changes in the law.[389]

201. The Commission has reviewed the DCF results of the Parties, including Pepco, OPC, and AOBA. Based on our review, the range of DCF results are as follows:

Table 7: DCF Analysis Results

	Pepco	**OPC**	**AOBA**	**Average**
Low	8.90%	8.59%	8.70%	8.73%
Mid	9.60%	8.93%	8.77%	9.10%
High	10.0%	10.24%	9.22%	9.82%
Average	**9.50%**	**9.20%**	**8.89%**	

385 *See Metropolitan Board of Trade v. Public Service Comm'n,* 432 A.2d. 343, 350 (D.C. 1981), *citing Federal Power Comm'n v. Natural Gas Pipeline Co.,* 315 U.S. 575, 585 (1942); *Washington Public Interest Organization v. Public Service Comm'n*, 393 A.2d. 71,76 (D.C. App. 1978), *cert denied sub nom; Potomac Electric Power Co. v. Public Service Comm'n*, 44 U.S. 926 (1979).

386 *See* D.C. Code § 34-1101; *see also Federal Power Comm'n v. Hope Natural Gas Co. v. Public Service Comm'n of the State of West Virginia,* 262 U.S. 679 (1923); *Washington Gas Light Co. v. Public Service Comm'n*, 450 A.2d 1187, 1209-1215 (D.C. App. 1982).

387 *See*, *e.g.*, *Formal Case No. 939,* Order No. 10646 at 38, and n.16, rel. June 30, 1995 ("Order No. 10646"), (*citing Formal Case Nos. 929, 912, 905, 889*, and *869*). *See also*, *Formal Case No. 929*, *In the Matter of the Application of Potomac Electric Company for an Increase in Retail Rates for the Sale of Electric Energy,* Order No. 10387 at 38-41, rel. March 4, 1994 ("Order No. 10387"); *Formal Case No. 912*, Order No. 10044 at 45, rel. June 26, 1992 ("Order No. 10044").

388 *See Formal Case No. 1103,* Order No. 17424, ¶ 273, *citing Formal Case No. 939,* Order No. 10646 at 38.

389 *See, e.g.*, *Formal Case No. 1016,* Order No. 12986, ¶¶ 57-64, rel. November 10, 2003 (the Commission considered but rejected other record evidence when determining whether adjustments to the DCF calculations should be made, including the impact of the new income tax law).

202. The Commission notes that the results show that the average of the high end of the DCF analysis of the Parties is 9.82%. While the average low-end DCF results are 8.73%, we also observe that, according to Pepco Witness McKenzie, the Company expects to incur total capital expenditures (system-wide) of approximately $900 million in 2023 and $2.8 billion over 2024-2026. Additionally, Pepco Witness McKenzie reiterates that continued support for Pepco's financial integrity and flexibility will be instrumental in attracting the capital necessary to fund these projects effectively.[390] Therefore, to enhance the Company's ability to raise significant capital at favorable terms over the next few years and to help maintain the company's current investment-grade credit rating, we place more weight on the upper end of the average DCF range.

203. The Commission finds that Pepco's ROE request of 10.50% is unsupported by the record in this proceeding and is a significant increase from the Company's current authorized ROE of 9.275%. Pepco's 122-basis point increase does not reflect current market conditions, moderating inflation, and declining interest rates. Additionally, the ROEs recommended by OPC and AOBA are lower than the 2022 and 2023 recent national averages for investor-owned electric utilities.[391]

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390 Exelon Corporation, 2022 Form 10-K Report at 84.

391 Pepco Response to Commission Staff DR Response 1-21, electronic file tab "Table R4-Chronology 2022" shows 9.54% average ROE and tab "Table R4-Chron 2023" showing 9.60%, and table in para 160.

204. Table 8 below summarizes ROE results for various methods used in this case.[392]

Table 8: ROE Determinations of the Parties

FC1176 Cost of Equity Model	Pepco ROE[393]	AOBA ROE[394]	OPC ROE[395]
Average DCF	9.50%	8.89%	9.20%
CAPM	11.10%	8.87%	9.80%
ECAPM	11.30%		
Utility Risk Premium	10.60%		9.90%
Expected Earnings	11.30%		
Parties Recommended ROE	10.50%	9.10%[396]	9.35%[397]
Range	9.9% - 11.1%		9.20%-9.90%
Midpoint	10.50%	9.08%	9.55%
RRA Average National ROE (2022, 53 rate cases*)[398]		9.54%	
RRA Ave. National ROE (2023, 62 rate cases*)[399]		9.60%	
Ave. Peer Group ROE		9.67%	
Current Exelon Utilities ROE		9.43%[400]	
ROE Range		9.4% - 9.6%	
ROE Midpoint		9.50%	

205. Based on the Commission's review of the analytical models and market review, including the recent Federal Reserve decision to reduce interest rates by 75 basis points, we determine that a reasonable ROE for Pepco lies within the range of 9.4% to 9.6%, with a midpoint of 9.50%. The starting point of 9.40% is close to OPC's recommendation of 9.35% and 9.43% of current Exelon ROEs. The endpoint of 9.60% is the same as the 2023 National Average of Granted ROEs for electric rate cases, slightly below the Peer Group average ROE of 9.67% and slightly

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392 Exelon Summer 2024 Investor Meetings Presentation at page 49 titled "Approved Electric Distribution Rate Case Financials."

393 Pepco (F)-2 at 1 (McKenzie Direct).

394 AOBA (B)-1p. at 1.

395 OPC (C) (Walters Direct) at 48:2-7; OPC (C) (Walters Direct) at 53:1-3; OPC (C) (Walters Direct) at 63:1-3, and OPC (C) (Walters Direct) at 64:1-11.

396 AOBA (B) (Oliver Direct) at 9:16-18.

397 OPC (A) (Dismukes Direct) at 6:7-12.

398 Pepco (F)-3, Pepco's response to Commission Staff DR Response 1-2 on May 20, 2024, electronic file tab "Table R4-Chron 2022" shows 9.54% average ROE and tab "Table R4-Chron 2023" shows 9.60%.

399 Pepco (F)-3, Pepco's response to Commission Staff DR Response 1-2 on May 20, 2024, electronic file tab "Table R4-Chron 2022" shows 9.54% average ROE and tab "Table R4-Chron 2023" shows 9.60%.

400 Average of 7 Exelon Utilities Approved Electric Distribution Rate Case ROEs obtained from the Exelon Summer 2024 Investor Presentation at Page 48 https://investors.exeloncorp.com/events-and-presentations/presentations.

above the 9.54% 2022 National Average of Granted ROEs for electric rate cases. An ROE of 9.50% for Pepco is appropriate, within the zone of reasonableness, is supported by the record, and is adequate to maintain and support Pepco's current investor-grade credit ratings, attract needed capital for infrastructure investments, and provide financial flexibility. Our decision is also consistent with the nationwide average of awarded ROEs for electric utilities in recent years and at the present time.[401] Therefore, the Commission approves an ROE of 9.50%, approximately 100 basis points below Pepco's requested ROE of 10.50%.

1. Cost of Debt

206. **Pepco.** Consistent with Commission precedent, the Company's capital structure excludes short-term debt, a form of temporary financing. Pepco requested a long-term cost of debt of 4.99%, 5.02% and 5.04% for the MRP years of 2024, 2025, and 2026, respectively.[402] The Company is proposing an ROR based on the budgeted embedded cost of debt in 2024 through 2026, which does not change the overall ROR by more than 14 basis points year over year. The year-over-year increase in the cost of debt is based on future issuances. Both OPC and AOBA agree with Pepco's proposed long-term cost of debt.

DECISION

207. No Party objects to Pepco's cost of debt which includes the expected debt issuance during the MRP period. The Commission reviewed the three-year trend of Pepco's embedded average cost of long-term debt. Based on our review, Pepco's average cost of embedded long-term debt has declined over the past several years because the Company has refinanced its debt during periods of low interest rates and issued new debt at a lower cost. Pepco's average embedded cost of debt has continuously dropped from 5.48% in *Formal Case No. 1139* to 5.01% in *Formal Case No. 1156*. The Long-Term debt costs proposed in this proceeding are 5.02% and 5.04% for 2025 and 2026. The Commission notes that Pepco issued approximately $350 million of long-term debt from January 2023 through December of 2023 at coupon rates ranging from 5.30% to 5.57%[403] and issued approximately $375 million and $300 million of long-term debt in March 2024 at 5.20% and 5.50%.[404] After reviewing the record, the Commission is persuaded that Pepco's proposed embedded cost of debt of 5.02% and 5.04% for 2025 and 2026 is reasonable. Therefore, the Commission approves a cost of debt of 5.02% for CY 2025 and a 5.04% rate for CY 2026 for the purpose of capital structure as reasonable.

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401 Pepco (F)-3, Pepco's response to Commission Staff DR Response 1-2 on May 20, 2024, electronic file tab "Table R4-Chron 2022" shows 9.54% average ROE and tab "Table R4-Chron 2023" shows 9.60%.

402 Pepco Witness Holden Direct at 15: 4-15.

403 *Formal Case No. 1170*, *In the Matter of the Application of Potomac Electric Power Company for a Certificate of Authority to Issue Debt Securities* ("*Formal Case No. 1170*"), Pepco's Report of Financing Activities for the period January 1, 2023, through December 31, 2023, filed on February 28, 2024.

404 Pepco's Formal Case No. 1170 Report of Financing Activities, filed on March 8, 2024.

2. Overall Cost of Capital

208. Based on the above, we determine that the overall cost of capital for Pepco is 7.28% for 2025 and 7.29% for 2026 for the *Formal Case No. 1176* Modified MRP Extended Pilot calculated as follows:

Table 9: Authorized Cost of Capital

MRP Year 1 - 2025

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.02%	2.48%
Common Equity	50.50%	9.50%	4.80%
	100.00%		
		Cost of Capital	**7.28%**

MRP Year 2 - 2026

Capital Component	Ratio	Cost	Weighted Cost
Long-Term Debt	49.50%	5.04%	2.49%
Common Equity	50.50%	9.50%	4.80%
	100%		
		Cost of Capital	**7.29%**

This ROR will allow Pepco to maintain its financial integrity, attract capital on reasonable terms, and earn a return commensurate with those of other investments of corresponding risks.

VII. RATE BASE

A. Overall Position of the Parties

209. Rate base represents the investor-supplied plant facilities and other investments required in supplying utility services to customers for which the Company is allowed to earn a fair ROR. It is the value of a company's property that is used and useful in providing that service minus accrued depreciation.[405] Operating income is derived based on the revenues the Company receives for electric service minus the costs it incurs in providing service to customers. The Parties have proposed various adjustments to Pepco's unadjusted rate base and associated operating income during the test year. The Parties' recommendations are set forth below.

1. Parties' Positions

210. **Pepco.** Pepco provides a list of rate base components and describes how the various components are projected in the MRP.[406] Pepco proposes a total rate base of $3,006.5 million,

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405 *Potomac Electric Power Co. v. Public Service Comm'n,* 380 A.2d 126, 133, n.8 (D.C. 1977).

406 Pepco (B) (Leming Direct) at 31: 1-35:18

$3,224.1 million, and $3,391.7 million for the MRP CY 2024, CY 2025, and CY 2026, respectively, with EPIS as the primary driver of the increase.[407] The MRP rate base uses a 13-month average consistent with Commission precedent.[408] Pepco states that the rate base generally reflects property that is used and useful for which the Company is allowed to earn a fair ROR. It is the investor-supplied plant facilities and other investments required in supplying utility services to customers.

211. **OPC.** OPC recommends that the Commission reject the proposal to include the test year BSA deferred balance within the rate base, which would allow the Company to earn an ROR on the balance and rate base, rewarding Pepco for not exercising oversight of BSA operations.[409] OPC argues that the updated rates and billing determinants approved in this proceeding will allow Pepco to earn its authorized ROE without a return on the BSA deferral balances.[410] OPC proposes some adjustments to the EPIS, specifically removing various capital expenditure projects from the rate base. OPC believes that several projects should be disallowed, as they were shown to no longer be justified, given OPC's load forecast, or simply not needed.[411]

212. OPC Witness Mara recommends several adjustments to the construction and capital investment costs (as reflected in Table 10 below) included in Pepco's MRP because Pepco has not justified that these projects will be completed and provide benefits to ratepayers during the rate-effective period. OPC recommends these costs be either delayed or disallowed from EPIS, reducing the rate base due to a reduction in load.[412] Specifically, OPC takes issue with the allocation of sub-transmission costs to the District and recommends that some costs be disallowed due to changes in the Downtown Resupply Project. The impact of these costs reduces the rate base by $20.8 million in Year 1, $61.5 million in Year 2, and $108.8 million in Year 3.[413]

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407 Pepco (B) (Leming Direct) at 30:16-35:18.

408 Pepco (B) (Leming Direct) at 30:19-35.

409 OPC (B) (Gorman Direct) at 11:10-12.

410 OPC (B) (Gorman Direct) at 46:14-16.

411 OPC (E) (Mara Direct) at 6:10.

412 OPC (B) (Gorman Direct) at 5:9-17

413 OPC (B)-2 (Gorman Direct).

Table 10: OPC's Proposed Construction Budget Adjustments[414]

Description	2024	2025	2026
ITN 74085 – Waterfront Substation No. 223	$0.64M	-	-
ITN 77270 – Alabama Avenue Substation No. 136	$0.03M	$3.62M	-
ITN 77272 – Alabama Avenue Substation No. 136	-	$0.06M	$2.43M
ITN 74120 – White Flint Substation	$0.03M	$0.00M	-
ITN 72730 – National Harbor Substation	$0.72M	$1.21M	$1.94M
BESS Alabama Avenue Substation	$2.66M	$3.46M	$0.16M
BESS Mt. Vernon Substation	$4.47M	-	-
Downtown Resupply Project [415]	$32.96M	$31.67M	$50.00M
Total	**$41.50M**	**$40.01M**	**$54.53M**

213. **AOBA.** AOBA states, "Pepco's request for inclusion of its entire current BSA deferred revenue balance as of June 30, 2023, in rate base is wholly inappropriate and unjustified."[416] AOBA also identifies several projects for which it could not find support for the budgeted costs in the support materials that Pepco provided.[417] Specifically, according to AOBA, some of the supporting materials on the projects AOBA identified date back five years or more and have no discernible linkage to the relevant forecasted capital budgets presented in Pepco's Load Growth Exhibit filing.[418] AOBA proposes to remove these unjustified capital projects from each year of the Company's proposed MRP construction budget. This adjustment would reduce the Company's proposed budgeted capital expenditure by approximately $167 million, resulting in a cumulative revenue requirement decrease of $16.3 million.[419]

214. AOBA recommends the disallowance of ITN 65553: Benning Substation 41 69kV GIS of $72.3 million, among other projects. According to AOBA, Company Exhibit Pepco (H)-2 indicates that this project is anticipated to go into service in December 2027, after the end of the

414 Pepco (3B) (Leming Rebuttal) at 20.

415 Pepco (3B) (Leming Rebuttal) at 20:1.

416 AOBA (A) (B. Oliver Direct) at 7:17-18.

417 AOBA (A) (B. Oliver Direct) at 73:10-14.

418 *See generally*, Pepco (H)-2 (Cantler Direct Exhibit).

419 AOBA (B) (T. Oliver Direct) at 32:9-13.

proposed MRP. Another project that AOBA recommends for disallowance that does not close during the MRP period is ITN 70096: 13kV Distribution Cutovers "F" St to "L" St. Company Exhibit Pepco (H)-2 states that this project is anticipated to go into service in May 2029.[420]

215. With regards to the lead-lag study, AOBA disagrees with the use of 2021 data, as the study's results were significantly impacted by the COVID-19 pandemic when "customers were exempted from late payment fees and from shut-offs of utility service due to non-payment."[421] The exemptions are no longer effective and, hence, should not be relied upon to evaluate payment lags. AOBA questions Pepco's conclusion and asks for supporting documents detailing the trends in customer payment behavior. In response to the request, Pepco provided the monthly analysis of its accounts receivable balances and billing amounts from January 2020 to January 2023. According to the data, Pepco's 2021 accounts receivable balances and billing amounts are consistent with those of 2022 and the first quarter of 2023.[422]

216. **Pepco Rebuttal.** In its Rebuttal Testimony, Pepco adopted the majority of OPC's proposed adjustments to the capital plan through the inclusion of RMA 29 but contested the inclusion of the Downtown Resupply Project items as they stated that those are not currently included in the rate base for this case.[423] Pepco Witness Leming expressed concern that OPC Witness Gorman's adjustment to remove the Downtown Resupply from his proposed revenue requirement removes capital expenditures from the rate base as they are incurred instead of assessing when they are being placed in service. Mr. Leming testifies that it has the effect of removing amounts from the rate base that the Company has not even included in the rate base.[424]

217. Pepco counter argues that ITN 65553 Benning Substation 41 69kV GIS project includes $72.5 million in projected capital expenditures ("CapEx") spend anticipated for 2023 through 2026 and that only 40.31% of this spend would ultimately be allocated to Pepco's DC distribution rates.[425] As such, AOBA's proposed disallowance of $167.3 million is flawed for multiple reasons, not least because a large portion of the proposed disallowed costs are not even included in the Company's proposed revenue requirement.[426]

218. In its Rebuttal Testimony, Pepco opposes AOBA's proposed $18 million disallowance of projected CapEx from the revenue requirement in 2023 through 2026 for ITN

[420] *See generally*, Pepco (H)-2 (Cantler Direct Exhibit).

[421] AOBA (A) (B. Oliver Direct) at 80:17-18.

[422] Pepco's Response to AOBA Data Request No. 2-20.

[423] Pepco (3B) (Leming Rebuttal) at 20:11-16; 21:11.

[424] Pepco (3B) (Leming Rebuttal) at 21:5-9.

[425] Pepco (3B) (Leming Rebuttal) at 23:15-24:220.

[426] Pepco (3B) (Leming Rebuttal) at 23:20-24:1-2.

70096: 13kV Distribution Cutovers "F" St to "L" St.[427] The Company states it "is not seeking recovery of these amounts in this proceeding."[428]

219. Furthermore, Pepco has similar issues regarding the proposed adjustments to remove CapEx related to Downtown Resupply due to the project not closing during the effective MRP rate period. Pepco finds that OPC and AOBA are erroneously proposing to remove this CapEx cost from the total rate base as it is spent instead of removing it from EPIS as it is completed.[429] Pepco also finds that in AOBA's proposed adjustments, AOBA disallowed entire project costs rather than the portion attributable to Pepco's DC distribution.[430] Pepco contends that AOBA's recommendation proposes to remove significant amounts of budgeted capital investments from the Company's proposed revenue requirement that are not being sought for recovery. Pepco recommends that the Commission disregard AOBA's proposal as materially flawed and unsupported.[431]

B. Unopposed/Uncontested Rate Base Adjustments

220. RMAs are pro forma adjustments to the cost of service for various reasons, including (but not limited to) known and measurable changes, normalization of costs, or adjustments to the "per books" cost of service based on previous Commission orders or practices regarding cost allowances and disallowances.[432] The RMAs included in the MRP serve to remove certain cost items from the MRP to account for projected costs for which the Company is not currently seeking recovery.

221. Pepco's rate filing includes 31 RMAs. In rebuttal testimony, the Company proposed three additional RMAs to the original 28 RMAs included in the initial application.[433] These include RMA 29, related to the removal of certain capital projects from the rate base included in the Company's initial application; RMA 30, which reflects the removal of DC CREF Meters; and RMA 31, which reflects the removal of the Benning RI/FS Regulatory Asset from rate base and related amortization included in the Company's cost of service.[434] These proposed adjustments cover various aspects, from reflecting CSP Programs and current case costs to modifying depreciation rates.[435] Pepco Witness Leming highlights the Company's desire to recover the impact of the Company's updated Cash Working Capital ("CWC") and depreciation

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427 Pepco (3B) (Leming Rebuttal) at 24:3-8; Pepco (H)-1-2 Page 11 of 216.

428 Pepco (3B) (Leming Rebuttal) at 21:5-9.

429 Pepco (3B) (Leming Rebuttal) at 23:3-7.

430 Pepco (3B) (Leming Rebuttal) at 23:10-12.

431 Pepco (3B) (Leming Rebuttal) at 24:14-17.

432 Pepco (B) (Leming Direct) at 47:13-16.

433 Pepco (3B) (Leming Rebuttal) at 37:6-7.

434 Pepco (3B) (Leming Rebuttal) at 37:4-6; Pepco (3B) at 39:13-41:6.

435 Pepco (B) (Leming Direct) at 49.

rates on the MRP.[436] Pepco is also seeking recovery for those incremental investments that are aligned with the District's climate objectives and that make its utilities more accessible for low-income consumers.[437]

222. Many of Pepco's rate base adjustments that are reflected in the MRP starting point are unopposed by the Parties: (1) RMA Pepco-1 Remove DC Power Line Undergrounding ("DC PLUG") costs;[438] (2) RMA Pepco-2 Remove Supplemental Executive Retirement plan costs ("SERP");[439] (3) RMA Pepco-3 Removal of Certain Executive Incentive Plan costs;[440] (4) RMA Pepco-12 Remove Benning Insurance Proceeds;[441] (5) RMA Pepco-18 Real Estate & Facility Costs;[442] (6) RMA Pepco-20 Excess Deferred Income Taxes ("EDIT") Balance;[443] (7) RMA Pepco-21 House of Worship Credit; (8) RMA Pepco-22 Current Case Costs; (9) RMA Pepco-29 Capital Project Updates;[444] (10) RMA Pepco-30 Remove DC CREF Meters;[445] and (11) RMA Pepco-31 Remove Benning RI/FS Regulatory Asset & Amortization per Order No. 21884.[446] RMAs Pepco-20, Pepco-21, and Pepco-22 are explained below due to the adjusted recovery period.

223. **RMA Pepco-12 Reflection of Benning Insurance Proceeds.** As outlined in the Settlement Agreement in *Formal Case Nos. 1150* and *1151*, Pepco has been pursuing recovery of insurance proceeds and agreed to return these funds to customers through rates in a subsequent proceeding. As reported in the biannual filing of December 28, 2022, the Company has successfully recovered $4.6 million in insurance proceeds. Through this RMA, the Company adjusts operating income and rate base to reflect the return of the District's portion of these proceeds of approximately $2.7 million to ratepayers.[447] The Company includes $0.785 million of insurance proceeds in this proceeding to return to customers. Pepco determined that $0.785 million was charged through rates after the Settlement Agreement until the time that regulatory asset amortization was paused upon the Commission's approval of the *Formal Case No. 1156* Modified

436 Pepco (B) (Leming Direct) at 49:2-9.

437 Pepco (B)Leming Direct) at 64:10-12.

438 Pepco (B)-1 (Leming Direct Exhibit) at 3.

439 Pepco (B)-1 (Leming Direct Exhibit) at 2.

440 Pepco (B)-1 (Leming Direct Exhibit) at

441 Pepco (3B) (Leming Rebuttal) 38:9-39:6.

442 Pepco (B)-1 (Leming Direct Exhibit) at

443 Pepco (B)-1 (Leming Direct Exhibit) at 16.

444 Pepco (3B) (Leming Rebuttal) at 37:6.

445 Pepco (3B) (Leming Rebuttal) at 37:6.

446 Pepco (3B) (Leming Rebuttal) at 37:6.

447 Pepco (B)-1 (Leming Direct) at 54:6-9

EMRP Pilot, beginning July 1, 2021. The Commission notes that the Company resumed amortization of this regulatory asset on January 1, 2023, and the Company's rates were updated to reflect the resumption of this amortization. As a result, since January 1, 2023, rates have included $27.4 thousand of amortization expense per month.[448] Pepco requests the inclusion of the ongoing amortization expense to reflect the timing of this rate case decision. The Commission accepts this uncontested adjustment and modifies it to include $0.658 million of amortization expense for the months between January 1, 2023, and December 31, 2024, reflecting a total of $1.443 million. The impact of RMA Pepco-12 Reflection of Benning Insurance Proceeds is accepted and modified to include an offset for the ongoing amortization of $0.658 million between January 1, 2023, and the rate effective date of January 1, 2025. This adjustment increases the revenue requirement by $0.814 million in 2024, reduces the revenue requirement by $1.497 million in 2025, increases the rate base by $0.285 million in 2024, and reduces the rate base by $0.523 million in 2025.

224. **RMA Pepco-20 EDIT Balance Regulatory Asset** Pepco filed with the Commission its updated 5-year EDIT Report for Rider "EDIT," which sets rates to ensure the full amount of the TCJA tax benefits associated with the non-protected assets are returned to customers over a five- and ten-year period. In this Report, Pepco demonstrated that the full amount of the applicable 5-year EDIT credit for rate schedules R, GT-LV, MGT-LV, and GT-3B will be returned to customers by their proposed shutoff dates and proposed sunsetting the credits for these classes. OPC proposes amortizing the EDIT Balance regulatory asset over a 6-year period instead of the Company's 5-year amortization period.[449] OPC's adjustment increases rate base by $0.227 million, $0.408 million, and $0.317 million in 2024, 2025, and 2026 respectively, and reduces revenue requirement by $0.024 million, $0.022 million, and $0.02 million in 2024, 2025, and 2026 respectively.[450]

225. The Commission's review finds that in Order No. 21594, the Commission granted the unopposed request of Pepco in its 5-Year Excess Deferred Income Tax Filing to eliminate the 5-year EDIT credits for rate schedules R, GTLV, MGT-LV, and GT-3B by proposing to sunset the credit.[451] The Commission also accepts OPC's recommendation of amortizing the EDIT balance regulatory asset over a 6-year period instead of the 5-year period proposed by Pepco as a more balanced and fair recovery period. A longer amortization period will mitigate the rate increase proposed by Pepco without harming the Company's ability to recover these costs and is consistent with Commission precedent of approving amortization periods ranging from 3 to 15 years for various regulatory assets.[452] Pepco RMA-6 accepts and modifies Pepco RMA-20 to a 6-year amortization period beginning Modified MRP Year 1 in 2025, resulting in a decrease in rate base of $217,000 and a decrease in revenue requirement of $172,000 in 2024; a decrease in rate

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[448] Pepco (3B) (Leming Rebuttal) at 38:19-39:6

[449] OPC (B) (Gorman Direct) at 39:5-10.

[450] OPC (B) (Gorman Direct) at 39:5-10.

[451] Order No. 21549 (Issued on April 7, 2023, in *Formal Case Nos. 1150, 1151, and 1156*), ¶ 14.

[452] Pepco Response to OPC Data Request No.13-33, provided in OPC (B)-4 (Gorman Direct Exhibit) at 26.

base of $154,000 and a decrease in revenue requirement of $40,000 in 2025; and a $136,000 increase in rate base and an $11,000 reduction in revenue requirement in 2026.

226. **RMA Pepco-21 House of Worship Credit.** Pepco proposes recovery of the House of Worship Credit approved by Commission Order No. 21077 through deferral into a regulatory asset and amortization of these costs over a one-year period in 2024. While RMA Pepco-21 is uncontested, the Commission directs that the *Formal Case No. 1176* Modified MRP Extended Pilot is adjusted to reflect the amortization of the Regulatory Asset related to the House of Worship Credit over a 12-month period beginning 2025 (Modified MYP Year 1), instead of 2024.[453] The impact of this adjustment is a $28,000 decrease in rate base and a $79,000 decrease in revenue requirement for 2024, and a $28,000 increase in rate base and $79,000 increase in revenue requirement for 2025.[454]

227. **RMA Pepco-22 Reflection of Current Case Costs.** While RMA Pepco-22 is uncontested, the Commission directs that the *Formal Case No. 1176* Modified MRP Extended Pilot be adjusted to amortize the Current Case costs over a three-year period beginning in 2025 (Modified MYP Year 1) instead of 2024.[455] The impact of this adjustment is a $2.337 million decrease in rate base, and $1.524 million decrease in revenue requirement for 2024, and $935,000 increase in rate base, and $94,000 increase in revenue requirement for 2025 and 2026.[456]

228. The Commission has reviewed these adjustments, which were either unopposed or uncontested, and finds them to be just and reasonable. Therefore, we approve these ratemaking adjustments that have a net reduction to the rate base totaling $28.6 million.

C. Contested Rate Base Adjustments

1. RMA Pepco-15-Reflection of PHISCO DDIT

229. After the enactment of the Tax Cuts and Jobs Act of 2017 ("TCJA"), PHISCO re-measured its accumulated deferred income tax ("ADIT") based on the new federal income tax rate. ADIT represents the temporary difference between when an expense/revenue is recognized in a company's records versus when the company recognizes that expense/revenue on its tax return. DDIT represents the difference between the deferred taxes at the old rate and the new rate. In *Formal Case No. 1156*, the Commission approved the amortization of PHISCO's property-related DDIT. RMA-15 addresses the amortization of PHISCO's recoverable, non-property-related DDIT balances allocated to Pepco, and Pepco proposes to amortize the non-property DDIT over five years.[457] In *Formal Case No. 1156*, Pepco sought recovery for PHISCO's non-property-related DDIT, and the Commission denied Pepco's proposal. Pepco asserts that the Commission should

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453 Pepco (B)-1 (Leming Direct) at 65:12-66:3.

454 PEPCO (B)-1 (Leming Direct Exhibit) at page 17

455 Pepco (B)-1 (Leming Direct) at 66:6-10.

456 PEPCO (B)-1 (Leming Direct Exhibit) at 17.

457 Pepco (B) (Leming Direct) at 57-58. *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. 20755, ¶¶ 328-331, rel. June 8, 2021.

revisit Pepco's proposal for PHISCO's non-property-related DDIT balances, arguing that the underlying costs giving rise to PHISCO's non-property-related DDIT balances are included in customer rates. The impact of Pepco's proposed RMA-15 on the MRP projected cost of service results in an increase to Pepco's revenue requirement by $1.579 million in 2024, $1.489 million in 2025, and $1.398 million in 2026.[458]

230. **OPC.** OPC Witness Gorman recommends the removal of RMA-15.[459] Gorman highlights that the Commission rejected Pepco's request to amortize its PHISCO DDIT in *Formal Case No. 1156* and argues that the Commission should not reverse this decision given the insufficient justification for RMA-15 that Pepco put forth in testimony. While Pepco Witness Leming justifies RMA-15 by highlighting the approval of the DDIT by the Maryland Public Service in *Formal Case No. 9602*, Witness Gorman points out that *Formal Case No. 9602* occurred before Commission *Formal Case No. 1156* and argues that Witness Leming is not presenting new information. Witness Leming also argues that the underlying costs giving rise to PHISCO non-property-related DDIT are included in customer rates. Therefore, the corresponding DDIT should be included in the cost of service. OPC counters that this argument was also presented to the Commission in *Formal Case No. 1156,* and the RMA was rejected nonetheless.[460] When combined with OPC's proposed adjustment to Pepco's capital structure, the removal of Pepco RMA-15 from the MRP projected cost of service will reduce Pepco's revenue deficiency by $1.513 million in 2024, $1.437 million in 2025, and $1.361 million in 2026.[461]

231. **Pepco Rebuttal.** In rebuttal testimony, Pepco Witness Leming disputes OPC's argument and reiterates that corresponding DDIT should be included in consumer rates to reflect the inclusion of PHISCO's non-property-related DDIT balances.[462]

DECISION

232. In Order No. 20755, the Commission stated:

> The Commission agrees with OPC's position that while the PHISCO plant assets and property related ADIT balances are authorized in rate base, the PHISCO non-property related ADIT balances are not. Pepco contended that the test should be whether the underlying basis is included in customer rates as a recoverable operating expense since there are underlying tax basis accounts that are not included in Pepco's ADIT in rate base but were included in Pepco's non-property EDIT agreed to in *Formal Case No. 1150*. However, the Commission denies the Company's revised proposal to include the NPNP DDIT asset of $5.853 million on a gross basis.

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458 Pepco (B)-1 (Leming Direct Exhibit) at 2.

459 OPC (B) (Gorman Direct) at 37:4-7.

460 OPC (B) (Gorman Direct) at 36:10-22.

461 OPC (B) (Gorman Direct) at 37:6-7.

462 Pepco (3B) (Leming Rebuttal) at 25:16-18.

> The Company's reference to the EDIT Settlement agreement is misplaced. The NP EDIT agreed to in *Formal Case No. 1150* did not address the PHISCO deferred income tax balances; it only addressed the Pepco balances. PHISCO non-property ADIT is not a component of rate base. The adjustment reduces rate base by $5.3 million and increases operating expenses by $848,000.[463]

233. The Commission agrees with OPC's position to deny Pepco RMA-15. Pepco does not raise any new arguments that persuade the Commission to change the basis for its prior decision in *Formal Case No. 1156*. PHISCO plant assets and property related ADIT balances are authorized in rate base, but the PHISCO non-property related ADIT balances are not. Pepco's argument that the underlying costs giving rise to PHISCO's non-property related DDIT balances are included in customer rates, thus the corresponding DDIT should be included in customer rates, is rejected because the change in income tax law attributed to the TCJA altered the amount of PHISCO's anticipated future tax deductions for both the property related and non-property related EDIT and DDIT balances. PHISCO's non-property-related DDIT is not a component of Pepco's authorized rate base and is neither attributable to Pepco ratepayers nor should it be included in customer rates. Therefore, the Commission denies Pepco's proposed RMA-15. With the corresponding approved capital structure in this proceeding, RMA-2, denying Pepco-15 reduces Pepco's rate base by $3.818 million, $2.970 million, and $2.121 million, and reduces revenue requirement by $1.553 million, $1.468 million and $1.383 million in 2024, 2025 and 2026, respectively.

2. RMA Pepco-16 - Reflection of Climate Solutions Plan Programs

234. **Pepco.** Pepco-16 reflects the impact of rate base and operating income from certain CSP programs that are incremental to Pepco's LRP. Pepco argues that through the CSP programs RMA, Customer Operations plans to implement programs that will enhance community solar and billing reporting services, integrate the community solar portal with the billing system, include subscriber organization fees in the utility consolidated billing for community solar customers, and enhance the benchmarking energy reporting services provided to building owners in the District.[464] Pepco argues that these programs support advancing the District's climate objectives and requests these incremental expenditures be recovered as part of this rate case.[465] The impact of Pepco's proposed RMA-16 on the MRP projected cost of service results in an increase in revenue requirement by $0.951 million in 2024, $1.731 million in 2025, and $1.633 million in 2026.[466]

235. **OPC.** OPC Witness Dismukes states that Pepco's capital investments identified to be recovered through the MRP are not designed to meet the District's climate and clean energy goals but, instead, appear to be designed to meet its normal public service obligations. OPC advised that this RMA is most appropriately considered in *Formal Case No. 1167*.[467] OPC also reiterates

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463 *Formal Case No. 1156*, Order No. 20755, ¶ 356.

464 Pepco (J) (Bell-Izzard Direct) at 20:9-14.

465 Pepco (B) (Leming Direct) at 59:20-60:4.

466 Pepco (B)-1 (Leming Direct Exhibit) at 2.

467 OPC (A) (Dismukes Direct) at 79:8-16.

that over 90% of the Company's proposed MRP investments are dedicated to replacing aged infrastructure and other "business as usual" investments, not those dedicated to advancing clean energy objectives or reducing GHG emissions.[468]

236. **AOBA.** AOBA does not contest RMA-16 and reflected the impact of this acceptance in its results. After modifying Pepco's proposed capital structure, AOBA Witness T. Oliver recommends increases related to accepting this RMA of $0.941 million in 2024, $1.704 million in 2025, and $1.604 million in 2026, respective revenue requirements.[469]

237. **DCG.** The DCG does not contest RMA 16 or offer results modifying the RMA. DCG Witness Lane asserts that only 3.6% of the $1.4 billion in total planned capital investments over the MRP term directly support Pepco's CSP programs, based on the data provided.[470]

DECISION

238. The Commission finds that the CSP programs proposed by Pepco are not consistent with the District's energy and climate goals. Until the Commission has approved projects, whether in *Formal Case No. 1167* or other related proceedings, the Commission determines that there should be no cost recovery for these unapproved programs at this time. Additionally, in its response to OPC Data Request No. 5-4, Pepco states that there are no projects in Bridge Year 1 or the MRP Application that qualify as being part of CSP Phase 1, but rather the proposed spending plan in the MRP complements the CSP Phase 1 Application.[471] Therefore, the Commission accepts OPC's request to deny Pepco's request for the recovery of expenses associated with RMA-16 and recommends that the Company seek approval of these CSP costs in *Formal Case No. 1167*. Denying RMA Pepco-16 results in a corresponding reduction in rate base by $1.037 million, $2.814 million, and $2.907 million and a reduction in revenue requirement by $944,000, $1.712 million, and $1.613 million for 2024, 2025 and 2026, respectively.

3. Pepco RMA-17 - Reflection of Regulatory Asset Treatment of COVID-19 Related Costs

239. The COVID-19 Response Emergency Amendment Act of 2020 prohibited electric and gas utilities from "disconnecting service for non-payment of a bill or fees during a public health emergency or for 15 days thereafter."[472] The Commission directed Pepco to create a regulatory asset to record the COVID-19 incremental costs that were prudently incurred beginning

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468 OPC (A) (Dismukes Direct) at 78:9-79:4.

469 AOBA (B)-3 (T. Oliver Direct Exhibit) at 2.

470 DCG (A) (Lane Direct) at 33:5-10.

471 Pepco response to OPC Data Request No. 4-5.

472 Act 23-0247, COVID-19 Response Emergency Amendment Act of 2020, sections 305 and 306.

March 11, 2020, for the continued provision of service to District residents during the public health emergency for recovery in a future rate case.[473]

240. **Pepco.** Pepco proposes a recovery of incremental lost late payment revenues, incrementally lost connection, reconnection fees, as well as incremental costs associated with personal protective equipment, cleaning, and other costs. Incremental COVID-19 pandemic costs deferred into the regulatory asset were for the period of March 11, 2020, the start of the public health emergency in the District, through August 8, 2021, 15 days after the termination of the public health emergency.[474] Pepco proposes to recover in base rates the costs deferred in the COVID-19 incremental cost regulatory asset. Pepco's RMA-17 proposes amortization of the COVID-19 incremental cost regulatory asset over five years, with the unamortized balance of costs included in the rate base.[475] RMA-17 increases rate base by $8.3 million, $6.5 million, and $4.6 million, increasing revenue requirement by $3.4 million, $3.2 million, and $3.0 million for 2024, 2025, and 2026, respectively.

241. **OPC.** OPC Witness Gorman recommends that the Commission approve a longer amortization period of six years instead of the five years initially proposed by Pepco, arguing that the extraordinary and nonrecurring nature of the COVID-19 pandemic lends itself to a longer amortization period to mitigate the rate impact of the COVID-19 pandemic without harming the Company's ability to recover these costs.[476] Gorman also argues that the amortization periods should be aligned with two to three traditional rate case cycles to alleviate some revenue deficiency. The longer amortization would lower Pepco's claimed revenue deficiency by $408,000 in 2024, $375,000 in 2025, and $342,000 in 2026.[477]

242. **AOBA.** AOBA Witness Oliver suggests that the Commission identify and remove the portion of the BSA Deferred Revenue Balance that is associated with revenue under-recoveries during the COVID-19 pandemic and allow Pepco to recover the amount attributed to COVID-19 as a regulatory asset amortized over ten years with a return on the unamortized balance for Pepco.[478]

243. **Pepco Rebuttal.** In rebuttal testimony, Pepco finds the six-year amortization period to be appropriate.[479]

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473 *GD2020-01*, *In the Matter of the Establishment of Regulatory Assets for COVID-19 Related Incremental Costs*, Order No. 20329, rel. April 15, 2020 ("Order No. 20329").

474 Pepco (B) (Leming Direct) at 61:15-21.

475 Pepco (B) (Leming Direct) at 63:18-19 and 64:1-2.

476 OPC (B) (Gorman Direct) at 38:5-6.

477 OPC (B) (Gorman Direct) at 39:1-2; OPC (B)-11(Gorman Direct) at Page 1 of 3.

478 AOBA (A) (B. Oliver Direct) at 126:1-3.

479 Pepco (3B) (Leming Rebuttal) at 27:2-3.

DECISION

244. In Order No. 20329, the Commission allowed Pepco to establish a regulatory asset account for COVID-19-related costs. However, to recover these costs, the Commission required that the incremental costs be prudently incurred for the continued provision of service to District residents during the public health emergency and 15 days afterward. In addition, the Commission required Pepco to maintain detailed records of the incremental costs. During a base rate case proceeding to recover these costs, the Commission also stated that it would consider other issues, such as the appropriate period of recovery for the approved amount of the regulatory asset, any carrying costs thereon, and other related matters.[480] Pepco proposed a five-year amortization of the COVID-19 pandemic-related regulatory asset with a $2.549 million amortization per year, while OPC proposes a 6-year amortization resulting in a $2.124 million amortization (*i.e.*, $12.746 million divide by 6 years). No parties opposed OPC's recommendation. The Commission approves OPC's proposal to amortize the COVID-19 pandemic regulatory asset over 6 years beginning in 2025 because a longer amortization period will mitigate the rate increase proposed by Pepco without harming the Company's ability to recover these costs. This is consistent with Commission precedent of approving amortization periods ranging from 3 to 15 years for various regulatory assets. Therefore, the Commission modifies RMA Pepco-17, resulting in an $8.314 million reduction in rate base and a $3.383 million decrease in revenue requirement for 2024. In 2025, this adjustment will increase the rate base by $2.002 million and decrease the revenue requirement by $224,000. Finally, in 2026, this adjustment increases the rate base by $2.310 million and decreases the revenue requirement by $193,000.

4. RMA Pepco-19 - DER Interconnection Costs

245. **Pepco.** Pepco requests recovery for certain DER interconnection investments that are incremental to the LRP and support advancing the District's climate objectives. RMA 19 reflects the impacts on the rate base and operating income from certain DER interconnection investments that are incremental to Pepco's Long-Range Plan. Pepco Witness Bell-Izzard explains that this RMA will allow Customer Operations to expand the Interconnection team, better supporting the growing demand driven by increased installation requests.[481] Witness Bell-Izzard acknowledges challenges in processing DER interconnection applications and managing billing services for customers and Subscriber Organizations.[482] She notes that expanding the team will improve application timelines, enhance the handling of rising interconnection requests, and increase capacity to manage more complex requirements.[483] In addition, Pepco argues that these costs support the advancement of the District's climate objectives and requests that these incremental expenditures be recovered as part of this rate case.[484] Pepco's RMA-19 increases rate

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480 *GD2020-01*, Order No. 20329, ¶ 4.

481 Pepco (J) (Bell-Izzard Direct) at 20:16-18.

482 Pepco (J) (Bell-Izzard Direct) at 22:3-5.

483 Pepco (J) (Bell-Izzard Direct) at 23:9-11.

484 Pepco (B) (Leming Direct) at 64:10-14.

base by $1.952 million, $3.313 million, and $2.124 million and reduces net operating net income by $879,000, $745,000, and $749,000 for MRP Years 2024, 2025 & 2026, respectively.

246. **AOBA.** AOBA does not contest the proposed DER interconnection costs in its testimonies; in fact, it incorporates Pepco's proposed amount into its revenue requirements model.[485]

247. **DCG.** DCG Witness Lane does not oppose the proposed DER interconnection costs; it suggests that more should be done.[486] Specifically, DCG recommends that Pepco make additional investments to address ongoing DER interconnection issues and enhance data transparency and advanced metering infrastructure.[487] In addition, DCG recommends that Pepco should provide funding to improve its hosting capacity maps,[488] increase data transparency, and utilize advanced metering infrastructure.[489]

248. **GSA**. GSA does not contest this RMA.

DECISION

249. The Commission denies Pepco's request to recover expenses associated with this RMA Pepco-19 as part of this rate case and directs the Company to consider seeking recovery of these DER Interconnection costs in *Formal Case No. 1050*. The Commission indicated in Order No. 22312 that it would, among other things, investigate interconnection cost transparency, including how Pepco's collection of interconnection costs offsets its revenue requirement, Pepco's interconnection process, and consider best practices in interconnection cost allocation and review interconnection as part of a broader grid planning under an integrated distribution framework.[490] Denying Pepco's RMA-19 results in a reduction in rate base of $1.952 million, $3.313 million, and $2.124 million and a decrease in revenue requirement of $1.408 million, $1.361 million, and $1.247 million in 2024, 2025 and 2026, respectively.

5. RMA Pepco-23 Reflection of Electric Vehicle Regulatory Asset

250. **Pepco.** Pepco asserts that when the Commission approved a portion of Pepco's Transportation Electrification proposed offerings related to EVs and related items, the Commission directed Pepco to establish a regulatory asset and defer expenditures for the approved

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485 AOBA Exhibit AOBA (B)-3 at 2.

486 DCG (A) (Lane) 35:2-5.

487 DCG (A) (Lane) 34:4-6.

488 DCG (A) (Lane) 36:2-4.

489 DCG (A) (Lane) 38:1-20; 39-1-6.

490 *Formal Case No. 1050*, *In the Matter of the Investigation of the Implementation of Interconnection Standards in the District of Columbia* ("*Formal Case No. 1050*"), *RM40-2023-01, In the Matter of 15 DCMR Chapter 40 – District of Columbia Small Generator Interconnection Rules* ("*RM40-2023*-01"), and *ET2023-02*, *In the Matter of the Petition of Potomac Electric Power Company to Approve a Tariff Change for 20kW and Below Residential NEM Solar Interconnections* ("*ET2023-02*"), Order No. 22312, ¶ 53, rel. October 10, 2024 ("Order No. 22312").

offerings, and to seek recovery of such costs in a future distribution rate case.[491] RMA-23 establishes a regulatory asset that increases rate base by $1.777 million, $1.812 million, and $1.295 million in 2024, 2025 & 2026, respectively, and increases revenue requirement by $0.904 million, $0.908 million, and $0.852 million in 2024, 2025, and 2026, respectively.[492]

251. **OPC.** OPC proposes amortizing the EV regulatory asset over a 6-year period instead of the Company's 5-year amortization period. OPC argues that the longer amortization period is a more balanced and fair recovery, and a failure to align the recovery period with an expected rate cycle period will allow Pepco to over recover these regulatory assets costs.[493] OPC's adjustment increases rate base by $0.044 million, $0.130 million, and $0.216 million in 2024, 2025, and 2026 respectively, and reduces revenue requirement by $0.114 million, $0.106 million, and $0.097 million in 2024, 2025, and 2026 respectively.[494]

DECISION

252. The Commission, in Order No. 19898, approved a portion of Pepco's Transportation Electrification proposed offerings related to EVs and related items to facilitate the deployment of public EV charging stations and to establish a regulatory asset and regulatory liability to track EV expenditures and revenues for the approved Offerings.[495] The Commission has reviewed Pepco's compliance filing reports filed in *Formal Cases Nos. 1150* and *1155* and found that the Company has complied with the Commission directive to track EV costs for make-ready investments separately. Additionally, the Commission has reviewed the expenditures in Pepco-23 Regulatory Asset that seeks recovery of Pepco's EV make ready-related incremental costs and determined that the costs are reasonable.

253. The Commission also accepts OPC's recommendation of amortizing the EV regulatory asset over 6 years instead of the 5 years proposed by Pepco as a more balanced and fair recovery period. A longer amortization period will mitigate the rate increase proposed by Pepco without harming the Company's ability to recover these costs and is consistent with Commission precedent of approving amortization periods ranging from 3 to 15 years for various regulatory assets.[496] The Commission accepts and modifies Pepco RMA-23 to a 6-year amortization period beginning Modified MRP Year 1 in 2025, resulting in a $1.777 million reduction in rate base, and $892,000 reduction in revenue requirement in 2024, $561,000 increase in rate base and $62,000 reduction in revenue requirement in 2025, and $647,000 increase in rate base and $54,000 reduction in revenue requirement in 2026.

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491 Pepco (B) (Leming Direct) at 67:3-68:12, referencing *Formal Case Nos. 1130 and 1155*, Order No. 19898.

492 Pepco (B)-1 Page 19 of 23 (Leming Direct Exhibit) at 19-23.

493 OPC (B) (Gorman Direct) at 39:5-10.

494 OPC (B) (Gorman Direct) at 39:5-10.

495 *Formal Case Nos. 1130* and *1155*, Order No. 19898, rel. April 12, 2019.

496 Pepco Response to OPC Data Request No.13-33, provided in OPC (B)-4 (Gorman Direct Exhibit) at 26.

6. RMA Pepco-24 Small DER Cost Sharing Petition

254. RMA Pepco-24 proposes the establishment of regulatory liability and deferral of billed customer fees. This adjustment also proposes the amortization of this regulatory liability, and the capitalization and depreciation of related capital costs. The cost recovery proposal and requested regulatory treatment reflected in this adjustment are contingent upon the approval of Pepco's petition related to its Small DER interconnection program.[497]

255. **Pepco.** Pepco asserts that it will book flat fees to all customer-applicants, which would fund distribution system upgrades required for the interconnection of small generators. In addition, Pepco's proposal included a request to establish a regulatory liability into which Pepco would defer the revenues from these customer fees.[498]

256. Pepco's costs for system upgrades for interconnection would be primarily capital costs that would be included in EPIS and rate base. The regulatory liability would be amortized over the composite life of distribution assets approved in the Company's most recent depreciation study, offsetting amortization with the depreciation of these assets. The program and flat fee have been established so that the fees collected will allow recovery of approximately 80% of the interconnection costs of the proposed small DER interconnection program. Pepco has proposed that the recovery of the remaining 20% of costs be socialized through the net asset balances in rate base, and such costs are recovered through base rates.[499]

257. **AOBA/DCG/GSA.** AOBA generally accepted this RMA. AOBA reflected the impact of this acceptance in its revenue requirements position.[500] DCG accepted Pepco's RMA 24. DCG asserted that the MRP should include additional investments to address ongoing issues with the DER interconnection process and support data transparency and advanced metering infrastructure.[501] DCG recommended the Company consider investments such as Pepco's hosting capacity map to address these interconnection issues.[502] GSA did not contest this RMA.[503]

DECISION

258. The Commission denies Pepco's request for the recovery of expenses in this rate case associated with RMA Pepco-24, Small DER Cost Sharing Petitions. This is consistent with our decision in Order No. 22312,[504] which held in abeyance Pepco's Petition to approve a cost

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[497] Pepco (B) (Leming Direct) at 69:3-9.

[498] Pepco (B) (Leming Direct) at 68:15-22.

[499] Pepco (B) (Leming Direct) at 68:15-69:8.

[500] AOBA (B)-3 (B. Oliver Direct Exhibit) at 2.

[501] DCG (A) (Lane Direct Testimony) at 34:4-35:14

[502] DCG (A) (Lane Direct Testimony) at 36:1-17.

[503] *See generally*, GSA (A) (Goins Rebuttal).

[504] *Formal Case No. 1050*, *RM40-2023-01*, and *ET2023-02*, Order No. 22312, ¶ 52.

sharing tariff. The Company should consider requesting recovery of Small DER Cost Sharing Petition costs in *Formal Case No. 1050*. Denying RMA Pepco-24 results in a rate base reduction of $196,000, $572,000, and $921,000 and a reduced revenue requirement of $26,000, $68,000, and $111,000 in 2024, 2025, and 2026, respectively.

7. RMA-Pepco 26 Lead Lag Study (2021) and RMA Pepco-27 Cash Working Capital

259. CWC is a major component of the rate base and is comprised of the funds that Pepco must have available to cover operating expenses prior to collecting customer bills. In the regulated energy business, CWC represents the cash amount that a firm must obtain from investors to carry out its daily business operations. Due to the fluctuating nature of Pepco's actual working capital on its balance sheet, a lead-lag study method is utilized to calculate CWC. A lead-lag study is performed primarily to establish the accurate amount of investor funds required to maintain utility operations, spanning from the time expenditures are incurred in providing services to the time revenues are received as compensation for the services.[505]

260. **Pepco.** Pepco conducted a new lead-lag study for this proceeding using calendar year 2021 data. The updated lead-lag study used the same methodology that was the basis of the CWC adjustments approved by the Commission in *Formal Case No. 1139* and provided by Pepco in *Formal Case No. 1156*.[506]

261. According to Pepco, the lead-lag study using 2021 data resulted in higher revenue lags in several categories, whereas expense lag results were primarily consistent with the lead-lag study using the 2017 data. The incremental revenue lag days were primarily caused by slowed customer payment activity and growing receivable balances, which are likely the result of the ongoing impacts of the COVID-19 pandemic in tandem with inflationary pressures.[507]

262. RMA Pepco-26 reflects acceptance of the 2021 lead-lag study in calculating the Company's CWC requirement. Pepco's RMA-26 increases rate base by $16.058 million, $16.143 million, and $16.371 million, and increases revenue requirement by $1.721million, $1.733 million, and $1.759 million in 2024, 2025, and 2026 respectively.[508]

263. RMA Pepco 27 reflects the adjustments to the CWC allowance to account for a fully adjusted cost-of-service amount. RMA 27 also uses the 2021 lead-lag study results for this adjustment.[509] Pepco's RMA-27 reduces the rate base by $223,000, $242,000, and $242,000 and reduces revenue requirement by $24,000, $26,000, and $26,000 in 2024, 2025, and 2026 respectively.

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505 Pepco (C) (Holden Direct) at 21:10-22:11.

506 Pepco (C) (Holden Direct) at 22:15-20.

507 Pepco (C) (Holden Direct) at 23:2-15.

508 Pepco (C)-1 (Holden Direct Exhibit) at 14.

509 Pepco (C) (Holden Direct) at 14:5-9.

264. **AOBA.** With regards to the lead-lag study, AOBA disagrees with the use of 2021 data, as the study's results were significantly impacted by the COVID-19 pandemic when "customers were exempted from late payment fees and from shut-offs of utility service due to non-payment."[510] The exemptions are no longer effective and, hence, should not be relied upon to evaluate payment lags. AOBA questions Pepco's conclusion and asks for supporting documents detailing the trends in customer payment behavior.[511] In response to the request, Pepco provided the monthly analysis of its accounts receivable balances and billing amounts from January 2020 to January 2023. According to the data, Pepco's 2021 accounts receivable balances and billing amounts are consistent with those as of 2022 and the first quarter of 2023.[512]

265. AOBA Witness B. Oliver recommends that the Commission reject RMA 27 because the new CWC allowance is based on the 2021 lead-lag study that recorded a higher number of lag days due to COVID-19, as previously explained. Witness Oliver advises the Commission to determine Pepco's CWC requirements based on the 2017 lead-lag Study. This adjustment would decrease Pepco's rate base by $16M for each of its MRP years.[513]

266. **Pepco Rebuttal.** In rebuttal testimony, Pepco Witness Holden argues that the 2021 lead-lag Study is appropriate, and therefore, the new CWC allowance based on the 2021 lead-lag study is also valid.[514]

DECISION

267. The Commission adopts the 2021 lead-lag study as the basis for Pepco's CWC calculations and denies AOBA's recommendation to reject the 2021 lead-lag study and related CWC adjustment. While we acknowledge AOBA's concerns that the 2021 data may be influenced by the unique conditions of the COVID-19 pandemic—such as exemptions from late payment fees and disconnections due to non-payment—the 2021 study remains more recent and reflective of current market conditions than the older 2017 study. The 2021 data accounts for more recent economic challenges, including inflationary pressures and shifts in customer payment behavior, providing a clearer picture of the utility's cash flow dynamics. The shortened two-year MRP period helps alleviate some of the risks associated with an outdated lead-lag study.

268. To address concerns about the potential temporary effects of the pandemic on customer payment patterns, the Commission directs Pepco to conduct an updated lead-lag study after this two-year *Formal Case No. 1176* Modified MRP Extended Pilot and file it before the next rate case. This updated study would be a valuable tool for the next rate-setting process, ensuring that any residual pandemic-related anomalies in the 2021 data are accounted for and that the utility's future rates are based on the most recent and accurate data. The Commission finds this

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510 AOBA (A) (B. Oliver Direct) at 80:17-18.

511 AOBA (A) (B. Oliver Direct) at 80:20-22.

512 Pepco Response to AOBA Data Request 2-20.

513 AOBA (A) (B. Oliver Direct) at 81:7-9.

514 Pepco (3C) (Holden Rebuttal) at 7:5-6.

reasonable because it allows Pepco to plan its next lead-lag study so that up-to-date results are available upon the start of the next rate case.

269. By requiring an updated study at the end of the two-year *Formal Case No. 1176* Modified MRP Extended Pilot, the Commission can ensure that future calculations for cash working capital are aligned with more stabilized post-pandemic conditions. This approach balances the need for timely, relevant data with the understanding that certain economic disruptions—such as those caused by the pandemic—may have only temporary effects. It also safeguards against relying on outdated data that may not reflect current market realities while ensuring rate-setting processes' continued accuracy and fairness.

270. The Commission agrees with Pepco's methodology in calculating CWC. RMA Pepco-26 reflects adjustments to Pepco's CWC allowance related to using the 2021 lead-lag study in calculating the Company's CWC. Pepco-26 increases rate base by \$16.058 million, \$16.143 million, and \$16.371 million and increases revenue requirement by \$1.721million, \$1.733 million, and \$1.759 million in 2024, 2025, and 2026, respectively. By adopting Pepco's 2021 lead-lag study, the Commission also accepts RMA Pepco-26 with its related 2021 lead-lag study adjustments to Pepco's CWC allowance. The Commission also accepts adjustments to the Company's proposed CWC through RMA Pepco-27. The adjustments approved in this Order reduce Pepco's CWC and rate base by \$503,000, \$521,000, and \$521,000 in 2024, 2025, and 2026, respectively, and reduce revenue requirement by \$50,000, \$52,000, and \$52,000 in 2024, 2025 and 2026, respectively.

8. RMA Pepco-29 – Capital Projects Update

271. **Pepco.** Pepco asserts that it has budgeted capital investments for 2023 to 2026 in its MRP. The MRP has 332 projects, identified by Investment Tracking Numbers, classified into twelve (12) Executive Categories. Pepco historically presented CapEx in three main categories: load, reliability, and customer-driven. The Company now defines and presents capital spent by Executive Categories to provide a more detailed and descriptive breakdown of the annual capital budget. The investments exclude those 100% applicable to transmission customers, 100% applicable to Pepco Maryland-only customers, and AFUDC. Projects were selected based on the results of the Company's LRP, which the Company uses to identify necessary investments for system reliability, resiliency, and growth.[515] The Company argues that using the forecasted spending instead of an index escalation factor benefits ratepayers by ensuring they only pay for actual expected expenditures while ensuring the Company's revenue is aligned with its cost of service.[516]

272. Pepco contends that the capital investments made in 2023 and over the MRP period (2024-2026) are intended to support the Company in maintaining first-quartile reliability,[517]

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515 Pepco response to AOBA DR 1-25.

516 Pepco Response to DCG DR 4-1. *See also*, Pepco (H) (Cantler Direct) at 12. The Company provides a table showing actual amounts for 2022 and budgeted MRP CapEx amounts for 2023-2026 by executive categories.

517 Pepco has been steadily improving its reliability performance over the last few years, and it has been reported that in 2022 the Company maintained first quartile rankings as compared to its peers for both SAIFI and SAIDI indices. Since 2018, Pepco has improved its SAIFI by 43 percent and improved its SAIDI by 35 percent. The Company plans

allowing for necessary capacity expansion, installing new business connections to support additional development, and driving initiatives designed to improve the performance of the grid, including those to add resiliency and address both the effects of climate change and the District and Company's climate and cleaner energy goals.[518] Together, these initiatives will allow the Company to continue modernizing the grid to pursue endeavors such as its ambitious Climate Solutions Plan, consistent with the District's policy goals and as prescribed in the Clean Energy DC Omnibus Amendment Act of 2018.[519]

273. Further, Pepco asserts that it continues to increase its investment to enhance the overall reliability of the distribution system for its customers. Projects undertaken for reliability within the District generally occupy two broad areas of focus- feeder reliability projects and substation reliability projects. The purpose of reliability-driven projects at Pepco is to improve reliability in portions of the system that are aging and not performing as expected or to maintain reliability through emergency restoration efforts during outages.[520]

274. Pepco contends that projects it has initiated to improve reliability typically occur on existing infrastructure deemed capable of handling forecasted loads but have exhibited less-than-desirable reliability performance in the recent past. These projects typically address past performance issues or emergent trends in a particular asset's performance or condition.[521]

275. Pepco, in its rebuttal testimony, adopts many of OPC's proposed adjustments to its capital plan, and the only one that the Company contests is OPC's recommendation to remove the Downtown Resupply projects from its revenue requirement. RMA 29 incorporates removing various projects from the Company's proposed revenue requirement, including those recommended by OPC Witness Mara, excluding Downtown Resupply.[522] RMA 29 reflects the impact on the rate base and operating income associated with Pepco, removing certain projects from the rate base that were included in the Company's initial application. Pepco acknowledges that certain projects, including Waterfront Substation Install 5th Transformer and two projects at the Alabama Avenue Substations, can be deferred beyond the MYP period. The Company also agrees to defer Battery Energy Storage System projects at the Alabama Avenue and Mt. Vernon Substations. Lastly, the Company also removed two projects that were located in Maryland and had specific components inadvertently labeled as sub-transmission and, therefore, had a portion allocated to DC. Those projects are the distribution portions of the White Flint Substation and the National Harbor Substation.[523]

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to maintain its first quartile status in the years ahead to ensure that service is reliable for customers while also planning a resilient system given the challenges expected as a result of climate change.

518 Pepco (H) (Cantler Direct) at 2-3.

519 Pepco (H) (Cantler Direct) at 3: 1-10.

520 Pepco (H)-1 (Cantler Direct Exhibit) at 44.

521 Pepco (H)-1 (Cantler Direct Exhibit) at 44.

522 Pepco (3B) (Leming Rebuttal) at 20:11-21:17.

523 Pepco (3B) (Leming Rebuttal) at 20:11-21:17.

276. OPC. OPC asserts that Pepco has demonstrated a lack of ability to forecast its future CapEx by project with reasonable accuracy.[524] In the past, Pepco has departed substantially in its actual spending from the forecasted CapEx budgets on a project-by-project basis during the periods used for ratemaking purposes. Given such departures from budgeted costs, there can be no legitimate claims that the Company has been transparent in presenting costs on which it proposes to set rates.

277. OPC also states that the Downtown Resupply project has been unjustifiably changed, representing an increase in its budget of $667 Million, so those modifications should be removed from the MRP.[525] Further, some CapEx projects should be delayed, such as the addition of a fifth transformer at the Waterfront Substation, a fourth transformer at the Alabama Avenue Substation, as well as battery energy storage systems that are no longer required to delay capacity expansion at the Alabama Avenue Substation and the Mt. Vernon Substation.[526]

278. Further, OPC asserts that over 90% of the projects identified in the MRP as part of Pepco's "climate ready grid" modernization initiative are routine reliability projects that any prudent utility would undertake. OPC also contends that some costs should be allocated to sub-transmission or Maryland.[527] Pepco's data responses in this proceeding demonstrate that at least two projects in Maryland were inadvertently flagged by Pepco as sub-transmission when, in fact, these projects should not have been allocated to the District.

279. OPC states that most of the requested rate increase is related to system-wide benefits (including supporting reliability and resiliency). Associated goals already set require Pepco to maintain top-decile electric reliability performance. Order No. 21135 noted that the goals were to achieve a balanced approach between high reliability and affordability. However, Pepco's spending continues to grow despite achieving this high level of reliability.[528] OPC asserts that reliability spending has grown by 223% from 2017 to the 2026 budget.[529]

280. While OPC has long advocated on behalf of District ratepayers to improve service reliability in the District, it must also be recognized that the cost of achieving these reliability improvements imposes a burden on District ratepayers. There is a tradeoff between the level of reliability desired by ratepayers and their ability or willingness to pay for that level of reliability. OPC believes that any MRP spending should be evaluated based on its cost relative to its expected reliability benefits.[530]

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524 AOBA Limited Brief at 5-12.

525 OPC (E) (Mara Direct) at 6:3-11.

526 OPC (E) (Mara Direct) at 5:8-11.

527 OPC (E) (Mara Direct) at 5:14-20.

528 OPC (2E) (Mara Surrebuttal) at 7:6-13.

529 OPC (2E) (Mara Surrebuttal) at 8:5-7.

530 OPC (2E) (Mara Surrebuttal) at 9:3-9.

281. **AOBA.** AOBA has identified numerous capital projects for which the Company has not provided substantial support for the budgeted dollar amounts Pepco presents for those projects. The Commission and the Parties to this proceeding lack the necessary information to assess the reasonableness of the capital expenditures Pepco has budgeted for the identified projects. AOBA proposes to remove unjustified capital projects from each year of the Company's proposed MRP. This adjustment would encompass more than a $167 million reduction to the Company's cumulative revenue requirement, resulting in a cumulative revenue requirement decrease of $16.3 million.

282. Further, AOBA contends that when Pepco had significant service reliability problems, increased reliability-related capital expenditures were understandable. However, that is no longer the case. Pepco has met and exceeded the reliability standards established by the Commission and the standards set forth in the Pepco-Exelon merger conditions.[531] In addition, AOBA contends that Pepco's history documents substantial improvements in the Company's service reliability metrics that were accomplished without an MRP. Pepco is already among the best performing utilities in the region with respect to the levels of system reliability it has already achieved.[532]

283. AOBA asserts Pepco continues to plan large annual reliability expenditures that necessitate continued growth in the Company's charges for distribution service. No reasonable or rational result can come from this proceeding without greater alignment of the Company's capital expenditures with the needs and financial resources of a system with little growth.[533]

284. **DCG.** DCG states that Pepco has incentives to increase CapEx over operating expenses to increase the return to investors.[534] The MRP shows a capital plan that would result in an expected rate base growth of 7.9% over the period, including about $3.7 billion in new capital investments for Pepco.[535] There are incentives for the utility to overestimate future costs to maximize its allowed revenues under an MRP and minimize the chance of overruns. For these reasons, cost forecasts are likely to be higher than necessary. DCG argues that this risk to ratepayers is particularly concerning when comparing the increase in Pepco's requested capital budget in the MRP with the actual capital spent in previous years.

285. DCG affirms that Pepco has not adequately justified why increased spending on reliability and resiliency is required to achieve the District's energy policies and climate goals. DCG contends that under Pepco's proposed MRP, the Company would quickly recover costs associated with reliability investments (including a return) as part of its capital plan, thereby providing a strong incentive for the utility to spend ratepayer funds to enhance reliability. In

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531 AOBA (A) (B. Oliver Direct) at 22:6-8.

532 AOBA (A) (B. Oliver Direct) at 37:8-10 and 53:2-4.

533 AOBA (A) (B. Oliver Direct) at 126:10-12.

534 DCG (A) (Lane Direct) at 11:9-16.

535 DCG (A) (Lane Direct) at 11:14-16.

addition, Pepco should be required to track its capital investments by whether the investment primarily pertains to grid modernization, reliability, resiliency, or support of climate goals.[536]

286. DCG has favored PIMs since they are necessary to track whether the investments within the MRP align with and advance the District's climate and energy goals.[537] However, it would be a mistake to create a PIM that rewards Pepco for achieving higher levels of reliability because it would duplicate the Company's existing incentives. This creates a risk of overcompensating the Company for investments it would have made regardless of the existence of the PIM.[538]

287. DCG states that Pepco does not identify specific investments as part of the Climate Ready Grid.[539] When asked to identify the projects in Pepco's Distribution Construction Program Report, Pepco did not provide a list.[540]

288. Finally, according to DCG, Pepco's Climate Ready Grid represents traditional reliability investments that, if approved, will substantially increase customer bills.[541] The first-year bills would increase by 6.37%, followed by an additional increase of 5.96% in the second year and another increase of 5.61% in the third year.[542]

DECISION

289. RMA Pepco-29 accepts most of OPC's capital project adjustments via RMA 29, removing from the rate base over the proposed MRP period approximately \$4.6 million, \$8.576 million, and \$21.253 million for 2024, 2025, and 2026, respectively.[543] The only projects contested by OPC that were not removed by Pepco via RMA 29 were the Downtown Resupply projects that Pepco stated were not included as Plant In Service during the MRP period and thus not included in the rate base for this request. The Commission has reviewed the Company's proposed RMA 29 and found it to be just and reasonable. Therefore, the Commission accepts Pepco RMA 29 as proposed.

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536 DCG (2A) (Lane Surrebuttal) at 16:3-10.

537 DCG (2A) (Lane Surrebuttal) at 16:7-13.

538 DCG (A) (Lane Direct) at 25:17-19.

539 DCG (2A) (Lane Surrebuttal) at 16:7-13.

540 DCG(A) (Lane Direct) at 3-5, at 31.

541 DCG(A) (Lane Direct) at 5-6, at 9.

542 DCG (A) at 28, (Lane Testimony) 28:12-15 and 68:8-10, at 25.

543 Pepco (3B)-1 (Leming Rebuttal) at 22.

9. RMA-14 EPIS Adjustment[544]

290. Additionally, Pepco proposed a total of approximately $742 million in Capital Projects over 2025 and 2026.[545] In various filings, the Company provided details on planned projects included in Rate Base additions for each year sorted by Investment Tracking Number (ITN).[546]

DECISION

291. The Commission agrees with AOBA, DCG, and OPC that Pepco has continued to improve reliability performance beginning in 2017. However, continuing to maintain top decile reliability is essential in meeting customer expectations for uninterrupted service, quick restoration of outages, and increasing electrification efforts. Additional investments are crucial to address aging infrastructure, which can lead to future failures if not replaced or upgraded. The Commission believes that continuing to implement smart grid technologies and advanced monitoring systems will help to integrate additional DER, prevent outages, and improve resiliency in the District.

292. The Commission has reviewed Pepco's proposed capital project expenditures[547] and the concerns raised by the Parties, including the LRP, proposed projects, and discrepancies in forecasted system/load requirements. Based on our review of Pepco's proposed capital additions in 2025 and 2026 and the Parties' comments, the Commission reduces the recovery of the Company's CapEx spending for 2025 and 2026 by 28%, which is higher than all parties' recommendations.[548] Our EPIS Adjustment (RMA 14) is in addition to the accepted reductions proposed in RMA Pepco-29. The Commission believes that this will protect ratepayers by shifting investment risk onto the Company rather than the ratepayers while still allowing Pepco to pursue necessary investments that ensure system reliability, growth, and safety.

293. The Commission carefully reviewed and considered each ITN submitted by the Company in its capital investment plans.[549] This allowed the Commission to identify non-critical projects with uncertain in-service dates (marked as "various"/"monthly") and in-service dates beyond the period of the MRP. Therefore, we reduce the Company's allowable capital expenditure recovery for years 2025 and 2026 during the MRP period by approximately $211 million (28%). This reduction is achieved by reducing plant additions approved for recover in this Order by $77 million in 2025 and by $134 million in 2026. This adjustment results in an overall reduction in rate

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544 All Commission adopted RMA's are formatted "RMA-(#)".

545 Pepco (H) (Cantler Testimony) at 12.

546 Pepco (H), Pepco (H)-2, Pepco (H)-3, Pepco Response to Commission Staff Data Request 3-1 and Pepco Response to Commission Staff Data Request 3-2.

547 Pepco (H), Pepco (H)-2, Pepco (H)-3, Pepco Response to Commission Staff Data Request 3-1 and Pepco Response to Commission Staff Data Request 3-2.

548 OPC proposed a total rate base reduction of $43 million, AOBA recommended a rate base reduction of $36 million.

549 Pepco (H), Pepco (H)-2, Pepco (H)-3, Pepco Response to Commission Staff Data Request 3-1 and Pepco Response to Commission Staff Data Request 3-2.

base by $37.261 million in 2025 and $138.635 million in 2026, and a reduction in revenue requirement by approximately $5.94 million in 2025 and $19.953 million in 2026, to the benefit of ratepayers.

294. Pepco has sufficiently justified that the remaining projects are expected to be used and useful during the MRP period and support system growth while allowing safe and continuing top decile reliability performance in the District. Additionally, the Company has the burden of justifying the recovery of expenditures for all capital addition projects. Pepco can seek recovery of any additional investments in a future rate case after the completion of the MRP period.

295. Finally, while establishing direct correlations between investments and specific reliability improvements can be challenging, the Company's ongoing enhancements in its reliability demonstrate the positive impact of some of its investments to date. Our decision to reduce the recovery of approved expenditures by 28% in CY 2025 and CY 2026 addresses concerns raised by the Parties that Pepco may be incentivized to invest in reliability projects without sufficient evidence of their benefits. The Commission reminds Pepco that it is responsible for maintaining a safe and reliable system in the District.

10. RMA-16 BSA Regulatory Asset to Account for COVID-19 Pandemic Impact on GT-LV Rate Class

296. **Pepco.** Pepco contends that the BSA should be continued under the MRP as it is complementary to the MRP structure and supports DC clean energy goals by decoupling energy usage from revenue. Pepco defends the BSA against suggestions for its discontinuation, arguing that it supports stability in billing and aligns with the Clean Energy Act's goals by encouraging energy efficiency and demand response programs. Pepco highlights in its testimonies and briefs that in response to the Commission's direction to review and audit the BSA.

297. **AOBA.** AOBA's testimony also supports a return on the regulatory asset.[550] This regulatory asset should be recovered over ten years, as proposed by Pepco, AOBA, and other Parties, to mitigate the financial impact on customers who are still recovering from the pandemic.[551] By isolating the pandemic-related impacts from broader revenue recovery, this approach would distribute the cost more evenly over time, reducing immediate bill shocks for customers.

298. AOBA Witness Oliver testifies that AOBA proposes to remove the referenced $39.7 million of identified COVID-19-related under-recoveries from Pepco's BSA Deferred Revenue Balance and allow the Company to amortize the recovery of that regulatory asset with a ten-year amortization period with a return on the unamortized balance thereby increasing rate base by $39.7 million with a corresponding $3.9 million increase to the revenue requirement.[552] AOBA calculates a separate amount for GT-LV by looking at the monthly BSA reports. AOBA asserts that between March 2020 and the end of June 2021, $39,743,624 of revenue under-recoveries reported by Pepco for its GT-LV rate class in the District should be primarily attributed to

[550] AOBA(B) (T. Oliver Direct) at 27.

[551] Pepco (B) (Barnett Direct) at 55: 3-56:7 and AOBA (B) (T. Oliver Direct) at 27:11-22.

[552] AOBA(B) (T. Oliver Direct) at 27:16-22.

governmental restrictions on business and personal activities during the pandemic and identified for recovery outside of the BSA mechanism.[553]

299. **GSA**. GSA also supports moving the COVID-19 pandemic-related deferral balance into a regulatory asset over ten (10) years but does not list a specific amount.[554]

300. **Pepco Rebuttal.** In Rebuttal Testimony, Pepco opposes AOBA's claims that the MRP is duplicative of the BSA due to the MRP's forecasted billing determinants, forecasted costs, and annual reconciliation. Pepco rebuts that while MRP forecasting can mitigate some risk, the Company cannot perfectly predict customer usage, and without the BSA, Pepco could not recover the under-collection until the end of the MRP. Furthermore, Pepco reiterates that the BSA enables Pepco to support load-reducing programs and energy efficiency programs that further the clean energy goals of the district. Pepco proposes to create a separate regulatory asset to account for the BSA deferral balance related to the COVID-19 pandemic for the GT-LV rate class.[555]

DECISION

301. The Commission agrees with Pepco that the unprecedented COVID-19 pandemic-related BSA deferral growth should be addressed to mitigate the financial impact on customers who are still recovering from the pandemic. By isolating the pandemic-related impacts from broader revenue recovery, this approach would distribute the cost more evenly over time, reducing immediate bill shocks for customers.

302. The proposal to create a regulatory asset for pandemic-related costs would not be unique to the District. Many jurisdictions developed similar approaches to manage the risks and costs associated with COVID-19. Across the US and Canada, the most common regulatory response to the pandemic included implementing disconnection moratoriums (or suspending disconnections in response to non-payment), expanding customer payment plans to customers facing disconnection, and allowing for the tracking and deferral of costs arising from the pandemic.

303. The Commission believes that the deferral of costs is an appropriate tool to balance utility financial integrity and regulatory certainty with protections for customers from rate increases, especially during extraordinary economic events like COVID-19. The Commission notes that multiple jurisdictions have implemented some form of deferral accounting during the pandemic.

304. The Parties recommend varying amounts to be amortized. While no methodology proposed by the Parties is perfect, the Commission accepts AOBA's proposal to establish a BSA Regulatory Asset of $39.7 million applicable to only the GT-LV customer class with a 10-year amortization and a carrying cost equivalent to the cost of debt of 5.02% in 2025 and 5.04% in 2026. The Commission believes that the 10-year amortization, with a return set to the cost of debt, is appropriate and will not be overly burdensome to GT-LV customers. The Commission is not persuaded that spreading the recovery of the asset across other classes of service is justified.

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553 AOBA (A) (B. Oliver Direct) at 60:21-61:9.

554 Pepco (K) (Efimova Direct) at 5:19-6:3.

555 Pepco (4A) (O'Donnell Rebuttal) at 6:22-7:3

305. RMA-16 establishes a BSA Regulatory Asset to account for the COVID-19 impact on the GT-LV rate class with a 10-year amortization beginning in 2025. This results in an increase in rate base by $35.77 million and $31.796 million in 2025 and 2026 and an increase in revenue requirement by approximately $6.451 million and $6.184 million in 2025 and 2026, respectively.

VIII. FORECASTS OF LOAD, REVENUE SALES AND NUMBER OF CUSTOMERS

A. Forecasted Demand

306. **Pepco.** Pepco Witness Efimova testifies that load forecasting is part of the process to project billing determinants that, together with energy sales and the number of customers, produce estimates of revenue requirements allocated among the different rate classes and rate components.[556] Pepco Witness Efimova states that Pepco leverages the experience of its forecasters and uses data and sophisticated models to develop forecasts that have the best chance of being accurate.[557] Pepco Witness Efimova states that in forecasting, there are no 100% accurate forecasts given the inherent uncertainty about the future. Ms. Efimova states that the goal is to make sure the models perform within an acceptable range guided by data and industry practices and to produce forecasts within a reasonable range based on recent historical trends, drivers of those historical trends, and expectations of how those trends and drivers may change in the future.[558]

307. **OPC.** OPC Witness Mara testifies that Pepco has made a significant change in its load forecasting methodology, resulting in a significant reduction of projected load[559] that warrants several disallowances.[560] Mr. Mara acknowledges that the current method is yielding more accurate results that should produce more reasonable capital spending.[561] OPC Witness testifies that the MRP budget submitted in this proceeding is based on the higher load forecasts produced by Pepco's prior load forecasting methodology,[562] contributing to a reduction of the projected load for 2025 of 528 MVA,[563] justifying a revision of the forecasted values.[564]

308. **AOBA.** AOBA Witness Bruce Oliver asserts that the MRP framework increases incentives for utilities to over-forecast costs and reduces incentives to control their actual

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556 Pepco (K) (Efimova Direct) at 4:6-16.

557 Pepco (K) (Efimova Direct) at 5:19-5:22.

558 Pepco (K) (Efimova Direct) at 5:22-6:3.

559 OPC (E) (Mara Direct) at 5:1-5.

560 OPC (E) (Mara Direct) at 18-1:21:4.

561 OPC (E) (Mara Direct) at 16:5-9.

562 OPC (E) (Mara Direct) at 17:9-13.

563 OPC (E) (Mara Direct) at 5:2-5.

564 OPC (E) (Mara Direct) at 18:1-21:4.

expenditures,[565] and therefore, a revision of the forecasted values may be required.[566] This reduction in demand should lead to a reduction in the projected investment amounts for distribution system expansion.[567]

309. **DCG.** DCG Witness Lane asserts that the use of a Company-specific cost forecast shifts risks to customers, and therefore, a revision of the forecasted values might be required.[568]

310. **Pepco Rebuttal.** The Company's supplemental direct filing requests the Commission reject OPC Witness Gorman's recommendation to hold the forecast of residential usage per customer constant over the MRP period.[569] In addition, responding to DCG, Pepco indicates that there is no incentive to inflate cost forecasts in a construct where those forecasts are reviewed for reasonableness, actual costs are reviewed for prudency, and over-forecasts accrue carrying costs for the benefit of customers. If, however, the utility overspends its authorized revenue requirement, no carrying costs would apply. Taken together, this approach effectively incentivizes the utility to properly forecast and control costs.[570]

DECISION

311. The Commission accepts that Pepco's updated forecast methodology yields projections that are more reasonable than previous methods.[571] The Commission directed management audit ordered herein covering the years 2023 through 2026 will include an examination of the accuracy of utility forecasts of electric demand, electric energy use, and customer counts. The accuracy of Pepco's forecasts will be an important component of the *Formal Case No. 1176* MRP Lessons Learned proceeding and will help determine what will be required for future MRPs.

B. Forecasted Revenue Sales and Number of Customers

312. **Pepco.** Pepco Witness Efimova testifies that Pepco forecasts distribution revenues through its billing determinants forecasting, which relies on historical data from customer bills or meters.[572] Ms. Efimova testifies that there are three types of billing determinants—billed sales

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565 AOBA (A) (B. Oliver Direct) at 31:12-15.

566 AOBA (A) (B. Oliver Direct) at 27:3-14.

567 AOBA (A) (B. Oliver Direct) at 14:8-12.

568 DCG (A) (Lane Direct) at 22:9-23:3.

569 Pepco (4A) (O'Donnell Rebuttal) at 5:8-14.

570 Pepco (4A) (O'Donnell Rebuttal) at 13:13-18.

571 OPC (E) (Mara Direct) at 17: 1-13.

572 Pepco (K) (Efimova Direct) at 5:5-6:23.

(kWh), customer count (count of contracts), and billed demand (kW)—each of which is impacted by so-called "drivers" that explain historical trends and forecasted future billing determinants.[573]

313. **OPC.** OPC Witness Gorman argues that Pepco's forecasting methodology has led to the underestimation of the weather-normalized monthly average energy use per residential customer (625 kWh in 2024, 615 kWh in 2025, and 605 kWh in 2026) in the MRP period that is below the five-year average weather normalized use per customer (at 636 kWh), which underestimates revenues and overstates the Company's claimed revenue deficiency.[574] OPC Witness Gorman testifies the Company includes factors that decrease use per customer sales, such as energy efficiency, but excludes factors that may increase use per customer, which leads to an imbalanced MRP test year forecast because Pepco includes the costs related to electrification but ignores the increased sales that will be produced by electrification.[575] OPC Witness Gorman also questions the Company's EE forecast.

314. **DCG.** DCG Witness Lane notes that a study by the Brattle Group concludes that EE and load flexibility measures could mitigate load growth from electrification and could reduce the load growth rate to less than 1% per year; moreover, heating electrification is anticipated to shift the system from summer to winter peaking, where the system's winter peak is lower than summer peak, meaning that the system would be able to accommodate additional heating load without needing any new infrastructure.[576] Ms. Lane also argues that Pepco does not quantify the extent to which proposed investments will facilitate the achievement of energy policy and grid modernization goals.[577]

315. **AOBA.** AOBA Witness Bruce Oliver argues that the Company uses "substantially inaccurate estimates" of the number of customers to support its application for an expansion of authorized revenues and is not supported by changes to the Company's cost of providing service, especially for its medium and large demand-metered customers.[578] Mr. Oliver testifies that Pepco's underestimation of customer count for the GT-LV class since *Formal Case No. 1156* has had two effects: it has inflated the expectations of revenue per customer, and—because customer count is reported in the Company's monthly BSA filings—it has resulted in allowed revenues for this class exceeding the revenues approved by the Commission in *Formal Case No. 1156*.[579] AOBA Witness Oliver states that the Company has not taken responsibility for its forecasts in the *Formal Case No. 1156* Modified EMRP Pilot.

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573 Pepco (K) (Efimova Direct) at 7:1-3.

574 OPC (B) (Gorman Direct) at 16:4-10.

575 OPC (B) (Gorman Direct) at 11:4-14.

576 DCG (A) (Lane Direct) at 42:3-7 and 43:1-2.

577 DCG (A) (Lane Direct) at 46:3-9.

578 AOBA (A) (B. Oliver Direct) at iii.

579 AOBA (A) (B. Oliver Direct) at 57:3-16.

316. **Pepco Rebuttal.** Pepco Witness Efimova reiterates that it does not explicitly include electrification in its forecast of billing determinants.[580] Pepco Witness Efimova testifies that the Company expects building electrification to have a more significant impact on customer usage in the years after the MRP term and, therefore, does not believe it is necessary to evaluate in greater depth for the current load forecast.[581] Ms. Efimova adds that the impact of building electrification on residential sales is "far from certain and not precise enough to include in this forecast."[582]

317. Pepco Witness Efimova disagrees with OPC Witness Gorman's conclusion that Pepco produced an "imbalanced" forecast, arguing that the Company does account for electrification impacts.

318. **OPC Surrebuttal.** OPC Witness Gorman continues to advocate for keeping sales level, arguing that the decline in weather-normalized use-per-customer may be more moderate than forecasted by Pepco and that the Company still does not consider how electrification will impact consumer behavior.[583]

DECISION

319. While Pepco has improved its billing determinants forecast by working with external experts, Parties such as OPC, DCG, and AOBA argue that critical factors like electrification are not adequately included and are, as such, underestimated. Understating the impacts of electrification leads to understating sales, which could result in inflated revenue requirements and higher consumer bills. Furthermore, the Parties argue that the DSM, EE, and DER growth have not been adequately accounted for in the forecasts, which might reduce the need for large infrastructure investments.

320. As stated previously, the accuracy of Pepco's customer, energy, and demand forecast will be examined as part of our Management Audit covering CY 2023-2026. The results of the audits will inform the *Formal Case No. 1176* MRP Lessons Learned process and will help the Commission determine forecasting requirements for future MRP rate applications. Additionally, in the IDSP proceeding we are opening, the Commission will examine the planning framework for proposed future capital investments, including, but not limited to, the accuracy and reasonableness of Pepco's customer, energy, and demand forecasts. Future Pepco utility forecasts should include an examination of DER growth, EE and DR impact assumptions, expected EV penetration levels, and a detailed forecast of the impact of electrification, among other matters. These matters will also be examined in *Formal Case No. 1167*.[584]

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580 Pepco (2K) (Efimova Rebuttal) at 3:8-9.

581 Pepco (2K) (Efimova Rebuttal) at 3 6-12.

582 Pepco (2K) (Efimova Rebuttal) at 7:4-6.

583 OPC (2B) (Gorman Surrebuttal) at 11:5-12:10.

584 *Formal Case No. 1167*, *In the Matter of the Implementation of Electric and Natural Gas Climate Change Proposals*, Order No. 22313, rel. October 10, 2024.

IX. OPERATING EXPENSES

321. In Pepco's proposed MRP, the Company uses a historical test period cost of service for the 12 months ended December 31, 2022, adjusted for certain items, where appropriate. Pepco presents 2022 actual O&M expense and 2023-2026 projected O&M expense from its LRP. Pepco's MRP Test year O&M expenses include the costs of labor, materials, and other expenses necessary to operate and maintain the Company's electric distribution system adjusted for known and measurable changes to make it reflective of the rate-effective period.[585]

322. Operating expenses include expense items such as O&M, depreciation, amortization, and taxes. Pepco projects a total operating expense increase of 22.2%, from $445.2 million in the HTY 2022 to $544.2 million by 2026. Pepco's proposed O&M expenses are projected to grow by 15.7 % from $164.2 million in the HTY 2022 to $189.9 million by 2026. Depreciation expenses are expected to increase from $123.5 million in the HTY 2022 to $173.9 million by 2026 or by 40.8%.[586]

A. Unopposed/Uncontested Operating Expense Adjustments

323. Many of the Company's operating expense adjustments that are reflected in the MRP are unopposed by the Parties, including:

a. RMA Pepco-1, Remove DC Power Line Undergrounding (DC PLUG) initiative costs;
b. RMA Pepco-2, Remove Supplemental Executive Retirement Plan (SERP) costs;
c. RMA Pepco-3, Remove Certain Executive Incentive Plan costs;
d. RMA Pepco-4, Remove adjustments to deferred compensation balances;
e. RMA Pepco-5, Remove employee association costs;
f. RMA Pepco-6, Remove industry contributions and membership fees;
g. RMA Pepco-7, Remove institutional advertising/selling expenses;
h. RMA Pepco-8, Customer Deposit Interest Expense and Credit Facility Expense and Maintenance Costs;
i. RMA Pepco-9, Remove Executive Perquisite Expenses;
j. RMA Pepco-10, Adjustment of BSC Billed Depreciation (Merger Commitment 39);
k. RMA Pepco-11(A), Remove Benning Environmental Accrual;
l. RMA Pepco-11(B), Remove Benning Regulatory Asset - Actual RI/FS Costs;
m. RMA Pepco-11(C), Remove Benning Regulatory Asset - Forecasted RI/FS Costs;
n. RMA Pepco-13, Remove Buzzard Point Environmental Remediation Costs;
o. RMA Pepco-14, Remove GAAP BSA Revenue Recognition Reserve;

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585 Pepco (B) (Leming Direct) at 37:3-14.

586 *See generally,* Pepco Exhibit (3B)-1; 1 of 26 (Leming Rebuttal Exhibit).

p. RMA Pepco-28, Interest Synchronization;[587]

q. RMA Pepco-29, Reflection of Capital Project Updates; and

r. RMA Pepco-30, Removal of D.C. CREF Meters.

324. The Commission has reviewed these adjustments, which are either unopposed or uncontested, and finds them to be just and reasonable. Therefore, we approve these ratemaking adjustments that have a net impact on the MRP net operating income totaling $3.876 million in 2024, $3.421 million in 2025, and $3.577 million in 2026.

B. Other Ratemaking Adjustments

325. The Commission reviewed Pepco's proposed O&M costs during the MRP period and directs the following changes.

1. RMA-15, O&M Adjustments

326. RMA-15 pertains to O&M adjustments due to the following two issues: (a) Forecasted O&M costs in the 2023 bridge year; and (b) BSC Costs – Separation of Exelon Generation.

a. Forecasted O&M Costs

327. **Pepco.** Pepco's forecasted O&M expenses include the costs of labor, materials, and other expenses necessary to operate and maintain Pepco's electric distribution system.[588] Pepco DC distribution O&M is projected to increase 9.2% in 2023, from $164.2 million in 2022 to $179.4 million in 2023. Pepco DC distribution O&M is projected to increase by 3.3% in 2024, from $179.4 million in 2023 to $185.2 million in 2024. Pepco DC distribution O&M is projected to increase 0.5% in 2025, from $185.2 million in 2024 to $186.2 million in 2025. Pepco DC distribution O&M is projected to increase 2.0% in 2026, from $186.2 million in 2025 to $189.9 million in 2026.[589]

328. Pepco Witness Leming states the Company has effectively controlled costs despite the challenges posed by broader economic conditions, including inflation and supply chain disruptions. Although the Consumer Price Index rose by an average of 6.7% in 2021 and 2022, the Company has managed to limit its O&M cost growth to 3.7% per year since 2022. Looking ahead,

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587 Pepco RMA-28, Interest Synchronization adjusts District of Columbia and Federal income tax expenses to reflect the impact on synchronized income taxes of the ratemaking adjustments to rate base. While OPC and AOBA include adjustments for interest synchronization to reflect the impact of their proposed rate base adjustments, no party contests the methodology. Based on the Commission's final approved rate base of $3,228.6 million, and $3,302.7 million, and 5.02% and 5.04% approved cost of debt for 2025 and 2026, respectively. RMA 28 reduces revenue requirement by $43 million in 2025, and increases revenue requirement by $842 million in 2026.

588 Pepco (B) (Leming Direct) at 37:3-4.

589 Pepco (G) (Barnett Direct) at 8:11, Table 3.

from 2023 to 2026, Pepco projects an annual growth rate of 1.9% in revenue requirements for O&M, which Pepco states is significantly lower than the current inflation rate.[590]

329. **OPC.** OPC Witness Gorman asserts that although Pepco limited its projected escalation of O&M expense during the MRP to 1.93%, its projected O&M escalation was 9.2% in the 2023 bridge year compared to the 2022 HTY. The overall O&M annual growth rate included in the MRP forecast (2022 to 2026) is 3.7%.[591] Witness Gorman asserts that Pepco did not provide its O&M planning assumptions, *e.g.*, an inflation estimate for the MRP. Instead, Pepco cites the average Consumer Price Indices for 2021 and 2022 of 6.7% as evidence that purportedly shows its O&M cost increases during the MRP are reasonable and describes 6.7% as the current inflation rate. Inflation has declined significantly in 2023 relative to 2021 and 2022, and consensus economists' forecasts for future inflation are lower than current rates of inflation. The current inflation rate is often described as a ceiling for the LRP; therefore, it is important to ensure Pepco's forecasted costs reflect up-to-date inflation estimates.[592]

330. Witness Gorman asserts that Pepco states that it has factored in recent inflation levels in its MRP forecast and notes that inflation has decreased significantly since the Company developed its LRP. According to the Blue Chip Financial Forecasts, inflation was 3.2% in Q3 of 2023 and is expected to be 3.1% in Q4 of 2023 and 2.4% through 2024. This is a significant decrease from the 6.7% inflation rate Pepco cites in its testimony, and the Company has not demonstrated that its proposal is reasonable. Pepco's 2023 inflation forecast exceeded actual inflation in 2023.[593]

331. Witness Gorman testifies that a significant driver of Pepco's forecasted O&M increases is the PHISCO and Exelon Business Services Company ("BSC") costs allocated to Pepco. Pepco estimates that PHISCO allocated labor costs will increase by $10.6 million between 2022 and the end of the MRP, and the BSC allocated labor costs will increase by $17.4 million during the same period. Pepco assumes that between 2022 and 2023, PHISCO and BSC labor costs allocated to Pepco will increase by $19.7 million, or 39%. Witness Gorman asserts that part of the cost increase may be attributed to Pepco's excessive and unreasonable inflation assumption for 2023.[594]

332. Witness Gorman, discussing the increase in allocated service company costs from PHISCO and BSC, states that Pepco Witnesses Barnett, Vavala, and Bell-Izzard do not adequately describe the additional services Pepco's DC operations are expected to receive to justify the significant cost increases, nor do they argue the service company charges are correctly allocated to Pepco.[595] Witness Gorman states that Pepco Witness Leming supports the allocation of service

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590 Pepco (B) (Leming Direct) at 5:19-23 to 6:1-4.

591 OPC (B) (Gorman Direct) at 19:17-18 to 20: 1-2.

592 OPC(B) (Gorman Direct) at 26:5-13.

593 OPC (B) (Gorman Direct) at 27:9-11 to 28:1-5.

594 OPC (B) (Gorman Direct) at 29: 8-12 to 30:1-4.

595 OPC(B) (Gorman Direct) at 31: 22 to 32:1-3.

company fees to Pepco, but he does not provide workpapers supporting the allocation of PHISCO and BSC costs to Pepco relative to other affiliates. Witness Gorman states that Witness Leming provides CONFIDENTIAL Exhibit PEPCO (B)-9, but it only describes the allocation process and does not support the actual allocation factors used to allocate costs to Pepco.[596]

333. Witness Gorman testifies that Pepco has failed to provide factual or analytical support for the significant increase in service company charges and hence recommends the Commission to limit the amount of these charges in the MRP, pending justifications from Pepco that includes a full accounting of the allocated costs, reasons for the increase, support for each allocation factor used to allocate costs from PHISCO and BSC, how that allocation compares to other PHISCO and BSC affiliates, and evidence that the service company charges paid by Pepco are no more than those that would be charged by an independent third party. Specifically, Witness Gorman recommends capping the service company labor charges at the forecasted 2023 level. Capping these costs at the forecasted 2023 level will lower the total distribution O&M expense during the MRP by $3.6 million in 2024, $6.4 million in 2025, and $8.3 million in 2026. The allocated DC distribution impact is $1.6 million in 2024, $2.8 million in 2025, and $3.7 million in 2026.[597]

334. Witness Gorman, in his surrebuttal testimony, asserts that the fact Pepco's CAM was reviewed previously is not necessarily support for the forecast of allocated costs during the MRP or show that Pepco is forecasting the allocation of these costs accurately and fairly. The calculation of Pepco's allocation factors will be impacted by changes in affiliate companies receiving services from PHISCO and BSC. Therefore, it is important for the Commission to review the calculation of these allocation factors relative to other affiliates in the context of a rate case.[598]

335. **AOBA.** AOBA Witness B. Oliver asserts that Pepco's actual O&M expenditures for 2022 reflect a closer alignment with its total forecasted O&M budget for 2022. Pepco budgeted $171.1 million of O&M costs for 2022, and it reported actual expenditures of $173.9 million; thus, in aggregate, Pepco overspent its O&M budget by roughly $2.8 million or just 1.6%. The overall result hides substantial deviations between Pepco's actual and budgeted expenses for a significant number of accounts.[599]

336. **DCG.** Witness Lane states that while Pepco concludes that it was able to come within 1.9 percent of its overall O&M expenditure level projections, there is no counterfactual to compare these savings to what would have occurred under cost-of-service regulation.[600]

337. **Pepco Rebuttal.** Witness Barnett states the 9.2% increase in O&M costs from 2022 to 2023 is driven by an increase in Pension/Other Post Retirement Employee Benefit (OPEB)

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596 OPC (B) (Gorman Direct) at 32:9-13.

597 OPC (B) (Gorman Direct) at 32:15-20 and 33:1-7.

598 OPC (2B) (Gorman Surrebuttal) at 8:7-13.

599 AOBA (A) (B. Oliver Direct) at 33:11-16.

600 DCG (A) (Lane Direct) at 64:5-7.

costs for 2023 as a direct result of weak asset performance in the stock market and fixed income sector, higher costs for critical IT projects, and higher storm costs, all costs that the Company does not control. Excluding the unusual items noted above, the increase in 2022 to 2023 O&M costs would decrease from 9.2% to 3.3%[601]

338. Pepco addresses the Parties' claims by stating that: (i) The service company charges that OPC examined are not a true reflection of the overall BSC and PHISCO costs, but rather a segmented view of the allocated portion of costs for distribution labor and overtime for Pepco;[602] (ii) OPC incorrectly suggests that the increase seen in service company costs may be attributable to Pepco's excessive and unreasonable inflation assumptions for 2023 as the increase in service company costs includes higher inflation and is driven by critical IT projects and changing market conditions;[603] (iii) there was an increase in pension/other post-retirement employee benefit costs for 2023;[604] (iv) Pepco annually files its Cost Allocation Manual (CAM) with the Commission, which includes the cost accounting process of the allocations and policies and procedures to accumulate costs of service companies and methodologies used to assign and allocate costs.[605] Since the merger with Exelon in March 2016 there have been fourteen examinations of the CAM, all of which have found the allocation and charges were in accordance with the CAM.[606]

b. BSC Costs – Separation of Exelon Generation

339. OPC Witness Gorman states that the BSC costs allocated to Pepco increased in 2022 despite total charges across all affiliates decreasing by 17% that year.[607] These decreases were largely due to Exelon's completing the spin-off of its generation business on February 1, 2022. Witness Gorman asserts it is necessary to take a fresh look at the affiliate allocation factors as the BSC "client" companies change to ensure that the costs being allocated to the DC jurisdiction are being fairly calculated. OPC contends that Pepco's testimony has not provided transparency into its allocation factors, and Pepco has not developed the factual support necessary to prove the reasonableness of its projections.[608]

DECISION

340. **Forecasted O&M Costs.** Pepco uses 2022 actual O&M costs as a base to forecast 2023-2026 O&M costs. Pepco's actual 2023 O&M costs were $174.04 million, or $5.294 million lower than the 2023 forecasted costs in the MRP filing. Considering that the Company has not

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601 Pepco (3G) (Barnett Rebuttal) at 11:5-20.

602 Pepco (3G) (Barnett Rebuttal) at 7:5-7.

603 Pepco (3G) (Barnett Rebuttal) at 8:13-15.

604 Pepco (3G) (Barnett Rebuttal) at 11:7-8.

605 Pepco (B) (Leming Direct) at 73:13-15 and Pepco (3G) (Barnett Rebuttal) at 3:18-21.

606 Pepco (B) (Leming Direct) at 73:21-74:10.

607 OPC (B) (Gorman Direct) at OPC Exhibit (B)-9; 31:11-12.

608 OPC (B) (Gorman Direct) at 31: 10-18.

performed any specific analysis around the 2023 O&M variance drivers between budget and actuals,[609] the Commission believes that the Company's O&M forecasts for years 2024, 2025, and 2026 are overstated and need modification.

341. Additionally, the Company did not justify why the cost increases identified in 2023 would continue during the proposed MRP period.[610] The Commission shares OPC's concerns regarding the lack of details concerning the increase in labor costs; however, the Commission disagrees with OPC's method of capping service company labor cost at the forecasted 2023 level in the absence of actual data. Therefore, the Commission modifies Pepco's forecasted total O&M costs for 2024 – 2026 using 2023 actual O&M costs as a baseline.

342. The Commission notes that Pepco's actual 2023 total O&M expenses were less than the 2023 forecasted total O&M expenses by $5.294 million. The Commission escalates the $5.294 million 2023 overstatement amount using Pepco's O&M annual growth rate of 1.93% for the 2023-2026 period[611] to estimate the 2024, 2025 & 2026 adjustments. Accordingly, the Commission makes a downward adjustment of $5.396 million for 2024, $5.500 million for 2025, and $5.606 million for 2026.

343. **BSC Non-IT Costs Directly Assigned to Pepco.** The Commission estimates approximately $77.3 million of CY 2022 BSC Non-IT costs previously allocated to Exelon Generation were allocated to the remaining Exelon affiliate companies, including Pepco and PHISCO.[612] The $77.3 million of excess BSC Non-IT costs, noted above, are projected to increase to approximately $137 million for CY 2026.[613]

344. The Commission observes that Pepco DC distribution share of BSC Non-IT costs directly assigned to Pepco increased post Exelon Generation Spinoff. The Commission compared the Pepco DC distribution's share of the BSC Non-IT Costs directly assigned to Pepco for CY 2022 versus CY 2021 and found that they increased by approximately $3.362 million or 22.3%. The Commission escalates the $3.362 million by 3.81%, the annual growth rate for Pepco DC distribution share of BSC Non-IT costs directly assigned to Pepco for the 2022-2026 period.[614] Accordingly, the Commission makes a downward O&M adjustment of $3.623 million for 2024, $3.761 million for 2025, and $3.904 million for 2026.

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609 Pepco's response to Staff DR 6-3, Table 3.

610 Pepco (3G)-1 (Barnett Rebuttal): 11:5-12:1.

611 Pepco (G) (Barnett) at 8:11, Table 3.

612 *Formal Case No. 1176* Pepco response to Staff DR 12-1, Table A. The estimation formula is [Total BSC Non-IT Costs (CY 2022 less CY 2021) less BSC Non-IT Costs allocated to Exelon Generation (CY 2022 less CY 2021)].

613 *Formal Case No. 1176* Pepco response to Staff DR 12-1, Table A. The estimation formula is [Total BSC Non-IT Costs (CY 2026 less CY 2021) less BSC Non-IT Costs allocated to Exelon Generation (CY 2026 less CY 2021)].

614 *Formal Case No. 1176* Pepco response to Staff DR 12-1.

345. **BSC Non-IT Costs Assigned to Pepco by PHISCO.** The Commission observes that Pepco DC distribution share of BSC Non-IT costs assigned from PHISCO to Pepco increased post Exelon Generation Spinoff. The Commission compared the BSC Non-IT Costs assigned to Pepco from PHISCO for 2022 versus 2021 and found that they increased by approximately $0.335 million or 15%. The Commission escalates the $0.335 million by 10.69%, the annual growth rate for Pepco DC distribution share of BSC Non-IT costs assigned to Pepco from PHISCO for the 2022-2026 period.[615] Accordingly, the Commission makes a downward adjustment of $0.411 million for 2024, $0.455 million for 2025, and $ 0.503 million for 2026.

346. Therefore, the Commission modifies Pepco's forecasted total O&M expenses accordingly, as noted above, resulting in $9.430 million, $9.716 million, and $10.015 million reduction in the revenue requirements for 2024, 2025, and 2026, respectively.[616]

2. RMA-17 - DC State Tax Alignment Adjustment

347. **Pepco.** Pepco proposes to shift from using the District's marginal tax rate alone to a combined tax rate that includes both DC and Maryland rates, reflecting how operations in both jurisdictions generate tax obligations. According to Pepco, to determine the cost-of-service component of the revenue requirement, the Company uses the District's marginal tax rate of 3.15% to calculate the state income taxes on Pepco's operating income. Pepco proposes to change from this method to an apportionment basis using a combined marginal state tax rate. Making this change will increase the District's state income tax rate from 3.15% to 8.25%.[617]

348. Pepco claims it is appropriate to make this change to ensure both costs of service and rate base calculations are reflective of the total state income tax benefits and expenses that Pepco recognizes. This methodology will align with the manner in which state deferred income taxes are being calculated for purposes of determining rate base. Pepco also argues that this new approach is reflective of how operations in the District generate tax benefits and obligations in both Maryland and the District, ensuring total taxes related to utility operations are appropriately reflected in rates. Changing to Pepco's proposed method increases the overall revenue requirement in this case by $2.3 million, $2.0 million, and $1.2 million in CY 2024, CY 2025, and CY 2026, respectively.

349. None of the other parties commented on this issue.

DECISION

350. The Commission has reviewed Pepco's proposal to change from the current method of using the District's marginal tax rate of 3.15% to a combined marginal tax rate of 8.25% and rejects it for the following reasons:

(1) The Company did not demonstrate in the record of this proceeding that the currently used District Marginal Tax rate of 3.15% is

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615 *Formal Case No. 1176*, Pepco response to Staff DR 12-2.

616 Because the Commission modified RMA Pepco-15, we adopt RMA-15 to reflect this O&M adjustement.

617 Pepco (B) (Leming Direct) at 29:1-16.

> unreasonable given that this methodology has been used by the company in previous rate cases, which was found to be just and reasonable by the Commission.
>
> (2) The Company did not justify its claim that the combined marginal tax rate approach will be better aligned with its deferred income taxes if the existing method is changed. Further, the Company did not provide adequate support and related workpapers showing how it derived the proposed ratemaking adjustments.

351. The Commission directs the Company to provide adequate support and related workpapers, including the rationale necessitating this change and the impact on ratepayers, in the next rate case. The impact of denying this adjustment reduces Pepco's overall revenue requirement by $2.0 million and $1.2 million in 2025, and 2026, respectively.

X. DEPRECIATION

352. Depreciation is the method companies use to recover the original cost of their investment as well as any net salvage. Net salvage is the difference between the remaining market value of an asset at retirement and its cost of removal. The Supreme Court has defined depreciation as "the loss, not restored by current maintenance, which is due to all factors causing the ultimate retirement of the property. These factors embrace wear and tear, decay, inadequacy, and obsolescence."[618] The Court further held:

> [T]he company has the burden of making a convincing showing that the amounts it has charged to operating expenses for depreciation have not been excessive. That burden is not sustained by proof that its general accounting system has been correct. The calculations are mathematical, but the predictions underlying them are essentially matters of opinion.[619]

A. Overall Position of the Parties

353. **Pepco.** Pepco proposes new depreciation rates be approved in this case as provided in the 2021 Depreciation Study filed on January 31, 2023, in *Formal Case No. 1156* and as Exhibit Pepco (L)-1 in this proceeding. Pepco's last depreciation study was filed in 2017 in *Formal Case No. 1139*, and the current depreciation rates were approved in a settlement agreement in that case.[620]

354. Pepco proposes to follow recent Commission precedent and adopt the Financial Accounting Standards No. 143 method of calculating the net salvage component of depreciation

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618 *Lindheimer v. Illinois Bell Tel. Co*., 292 U.S. 151, 167 (1934).

619 *Lindheimer v. Illinois Bell Tel. Co*., 292 U.S. 151, 169 (1934).

620 Pepco (B) (Leming Direct) at 17:7-9.

rates based upon the inflation rate.[621] Pepco indicates that Moody's commented that the Company's credit metrics are driven by a high level of capital spending and a low level of depreciation and thus low compared to similarly rated peers, highlighting the importance of the Commission approving the depreciation rates proposed by Company Witness Allis to enable the Company to recover its current composition of assets based on recent investments through rates.[622]

355. Pepco Witness Leming states that the forecasted depreciation expense in the revenue requirement calculations is based on approved depreciation rates authorized in *Formal Case No. 1150*.[623] Mr. Leming states that to reflect the results of the new depreciation rates supported by the depreciation study included in the Direct Testimony of Company Witness Allis, RMA 25 calculates forecasted depreciation expense using the depreciation rates calculated in the study and compares it to depreciation expense calculated using the depreciation rates previously authorized in *Formal Case No. 1150*.[624] According to Mr. Leming, the difference represents the increase in depreciation expense attributable to the change in depreciation rates resulting from the study.[625] Similarly, the impact of the accumulated depreciation is calculated by comparing the change to the reserve using the depreciation rates calculated in the study and comparing it to the change to the reserve using the depreciation rates previously authorized in *Formal Case No. 1150*. Leming states that RMA 25 reflects an increase in total projected depreciation expense of $11.9 million, $12.8 million, and $13.7 million for 2024, 2025, and 2026, respectively, as well as the associated accumulated depreciation impact.[626]

356. Pepco Witness Allis testifies that "Pepco's proposed depreciation rates use the same methods for estimating service lives, net salvage, and calculating depreciation for the original cost of plant that have been used in previous depreciation studies."[627] Additionally, Allis states that the "proposed depreciation rates are consistent with Commission precedent and incorporate well-established methods for estimating service lives. As such, they are reasonable for use over the MRP period, at least in the context of Commission precedent."[628] Allis states that "the use of the DC Present Value Method means that the Company's proposal is at the lower end of the level of depreciation expense that would fall within a range of reasonableness."[629] Allis testifies that the

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621 Pepco (B) (Leming Direct) at 17:16-18.

622 Pepco (B) (Leming Direct) at 17:18-18:3; *See also*, Moody's Investors Service, Potomac Electric Power Company, Credit Opinion (April 5, 2023).

623 Pepco (B) (Leming Direct) at 18:4-8.

624 Pepco (B) (Leming Direct) at 18:8-12.

625 Pepco (B) (Leming Direct) at 18:12-14.

626 Pepco (B) (Leming Direct) at 18:17-19.

627 Pepco (L) (Allis Direct) at 4:18-20.

628 Pepco (L) (Allis Direct) at 5:4-7.

629 Pepco (L) (Allis Direct) at 5:7-9.

Company's proposal results in an overall increase in annual depreciation expense of $11.7 million as of December 31, 2021.[630]

357. Pepco Witness Allis testifies that "[n]et salvage represents the cost to retire an asset, as well as any residual value of the asset, at the end of its service life,"[631] averring that there are three distinct types of depreciation methods (allocating depreciation expense over the service life): straight-line, accelerated, and deferred.[632] The "traditional" method is the straight-line type in "which costs are allocated in equal amounts over the life of an asset."[633] The "DC Present Value Method is a deferred method in which less net salvage is recovered in the early years of an asset's life than in the later years."[634] Pepco's table below shows a comparison of depreciation expense using different net salvage methods.

Table 11: Pepco's Comparison of Results of Depreciation Study Using Different Net Salvage Methods[635]

			DC Present Value Method			
	Traditional Method		**Handy Whitman**		**2.5% Inflation**	
Function	**Accrual**	**Rate**	**Accrual**	**Rate**	**Accrual**	**Rate**
Distribution Plant	$139.2	3.33%	$114.1	2.73%	$123.9	2.97%
General Plant	$11.4	5.21%	$11.3	5.16%	$11.3	5.18%
Total	$150.6	3.43%	$125.4	2.85%	$135.2	3.08%

358. Pepco's 2021 Depreciation Study completed by Gannett Fleming recommends the traditional method as the most appropriate method for the recovery of net salvage.[636] Additionally, this study states that "[o]ne of the reasons for the increase in depreciation is that the previous rates have been insufficient to recover net salvage costs that the Company incurred, which has a resulted in a negative accumulated depreciation balance for net salvage ('reserve for net salvage')."[637]

359. Pepco Witness Allis testifies that "the Company has not collected a sufficient level of cost of removal to date, even if the future were to be very similar to the past. Indeed, due to past use of the DC Present Value Method, spending on cost of removal has exceeded the amount

630 Pepco (L) (Allis Direct) at 4:12-14.

631 Pepco (L) (Allis Direct) at 6:26-27.

632 Pepco (L) (Allis Direct) at 23:21-24:1.

633 Pepco (L) (Allis Direct) at 24:1-3.

634 Pepco (L) (Allis Direct) at 24:5-6.

635 Pepco (L) (Allis Direct) at 28:11-12.

636 Pepco (L)-1 (Allis Direct) at 8.

637 Pepco (L)-1 (Allis Direct) at 8.

recovered through depreciation, meaning that the Company has not recovered any future cost of removal through depreciation to date."[638] Witness Allis further explains that Present Value Methods are sensitive to the discount rate, especially when there is a long period over which costs are discounted.[639]

360. Therefore, Pepco Witness Allis recommends the use of the 2.5% discount rate based on both historical and projected long-term inflation[640] because the 2.5% inflation-based discount rate better satisfies the Commission's objectives in *Formal Case No. 1076* than using discount rates based on Handy Whitman indexes.[641] Pepco Witness Allis testifies that the Commission's objective in adopting the Handy Witman net salvage method appears to have been to produce net salvage depreciation accruals that resulted in customers paying equal amounts of depreciation expense in inflation-adjusted terms over the lives of the Company's assets.[642]

361. Allis states that one of the most common measures of inflation is the Consumer Price Index ("CPI").[643] Allis explains that while the CPI measures general price changes in the economy and the fall in the purchasing value of money, the Handy Whitman Indices measure specific costs of specific goods or services. Allis argues that general price inflation can impact a Handy Whitman Index, but many other factors also impact these indices, such as material prices or work requirements. Allis testifies that it would be more consistent with the Commission's language in Order No. 15710 to use an inflation-based discount rate than discount rates based on the Handy Whitman Indexes.[644]

362. Pepco RMA-25 reflects the depreciation rates that were calculated in the updated depreciation study filed by Pepco. RMA-25 calculates the forecasted depreciation expense by comparing the new depreciation rates to the depreciation expense calculated using previously approved depreciation rates in *Formal Case No. 1150*. Pepco utilizes the difference to find the increase in depreciation expense that can be attributed to the new depreciation rate.[645]

363. Additionally, Pepco recommends the following survivor curves for the following accounts. For Account 362, Station Equipment, Pepco recommends continuing the current approved 50-R2.5 survivor curve.[646] For Account 364, Poles, Towers, and Fixtures, the current approved is a 50-R2 survivor curve, and Pepco recommends extending 5 years to a 55-R2 survivor

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638 Pepco (L) (Allis Direct) at 21:21-22:2.

639 Pepco (L) (Allis Direct) at 25:6-7.

640 Pepco (L) (Allis Direct) at 27:20-21.

641 Pepco (L) (Allis Direct) at 29:10-11.

642 Pepco (L) (Allis Direct) at 26:11-14.

643 Pepco (L) (Allis Direct) at 27:9.

644 Pepco (L) (Allis Direct) at 27:11-18.

645 Pepco (B) (Leming Direct) at 69:11-16.

646 Pepco (L)-1 (Allis Direct) at 56.

curve.[647] For Account 365, Overhead Conductors and Devices, the current approved is a 45-S2 survivor curve, and Pepco recommends extending 5 years to a 50-R2 survivor curve.[648] For Account 366, Underground Conduit, the current approved is a 65-R4 survivor curve, and Pepco recommends extending 5 years to a 70-R3 survivor curve.[649] For Account 367, Underground Conductors and Devices, Pepco recommends continuing the current approved 60-R2.5 survivor curve.[650] For Account 368, Line Transformers, Pepco recommends continuing the current approved 35-R1.5 survivor curve.[651] For Account 369.2, Services-Underground, the current approved is a 50-S4 survivor curve, and Pepco recommends extending 5 years to a 55-S4 survivor curve.[652] For Account 369.3, Services-Underground Cable, the current approved is a 55-S1.5 survivor curve, and Pepco recommends extending 5 years to a 60-R2.5 survivor curve. For Account 396, Power Operated Equipment, Pepco recommends continuing the current approved 25-S3.

364. **OPC.** OPC Witness Dismukes testifies that OPC Witness Goman's proposed MRP revenue requirement reduction includes depreciation expense reductions of $25.2 million in 2024, $24.6 million in 2025, and $23.6 million in 2026.[653] Dismukes states that the major driver of the increase in Pepco's depreciation rates is the proposed increase in net salvage rates. For the 14 distribution accounts, Pepco has proposed to increase the net rates (make more negative) for 10 accounts, according to Dismukes. OPC agrees with Pepco's depreciation study, which was conducted using a depreciation system consisting of the Straight Line Method, the ALG Procedure, and the Remaining Life Technique to calculate its proposed depreciation rates. OPC also states that the calculations utilized to calculate Pepco's proposed depreciation rates appear to have been performed correctly. However, OPC believes Pepco's depreciation rates are overstated.[654]

365. OPC Witness Andrews states in part: "[t]here are three main areas of difference between the BCA [OPC] Depreciation Study and Pepco's depreciation study: (1) the ASLs [Average Service Life] for nine accounts; (2) the net salvage rate for Account 362; and (3) the use of the Handy-Whitman inflation rates to determine the present value of future net salvage costs."[655]

366. Witness Andrews asserts that the inflation rates to conduct the net salvage present value analysis should be based on the Handy-Whitman indices consistent with past Commission preference and that Pepco's use of a single 2.5% inflation rate for all accounts should be

647 Pepco (L)-1 (Allis Direct) at 56.

648 Pepco (L)-1 (Allis Direct) at 56.

649 Pepco (L)-1 (Allis Direct) at 56.

650 Pepco (L)-1 (Allis Direct) at 56.

651 Pepco (L)-1 (Allis Direct) at 56.

652 Pepco (L)-1 (Allis Direct) at 56.

653 OPC (A) (Dismukes Direct) at 5:15-16.

654 OPC (D) (Andrews Direct) at 13:16-22.

655 OPC (D) (Andrews Direct) at 14:12-15.

rejected.[656] OPC's adjustments proposed in the BCA Depreciation Study would result in a $22.59 million reduction to Pepco's 2021 Depreciation Study's year depreciation expense. OPC recommends the Commission approve OPC's proposed depreciation rates.[657]

367. OPC Witness Andrews further testifies that the DC Present Value Method for net salvage costs is a method that has been used in the District and Maryland for at least 13 years.[658] Andrews states that the method was first approved for Pepco in Order No. 15710 in March 2010 in *Formal Case No. 1076*. Additionally, OPC Witness Andrews testifies that the DC Present Value Method recognizes that current dollars are more valuable than future dollars and that the traditional method of net salvage recovery results in the same level of nominal dollars provided each year for net salvage costs, ignoring the purchasing power of those dollars.[659]

368. OPC Witness Andrews testifies that the Commission's preference is to use updated inflation-based discount rates raised on Handy-Whitman Indices as the SFAS-143 discount rates.[660] OPC Witness Andrews explains that the Handy-Whitman Index is a long-standing publication that provides index numbers for construction cost trends in the electric, gas, and water utility industries.[661] Andrews states that the indices track cost trends by FERC account, with 1973 being the base year, and that these indices are used to create FERC account specific inflation rates for the most-recent 20-year period.[662] Therefore, OPC proposes the Commission use the Handy Whitman Discount Factor.

369. Witness Andrews proposes a 25% estimated future net salvage percent for Account 362, Station Equipment.[663] OPC Witness Andrews testifies that over the past 10 years, the net salvage rate has never been more negative than -30% and that 8 out of the 10 previous years have shown net salvage rates between -18% and +88%. The five most recent 10-year net salvage rates have all been between -7% and -9%, according to Andrews. Andrews argues that a -30% net salvage rate, as proposed by Pepco, is excessive and not supported by the recent retirement history, and he recommends that the net salvage rate for this account be set at -25%, which will still provide Pepco a substantial amount of net salvage recovery for this account.[664]

370. Witness Andrew testifies that for each of the nine accounts where OPC proposes a survivor curve that differs from Pepco's recommendation, the Sum of Squared Difference ("SSD")

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656 OPC (D) (Andrews Direct) at 15:5-7.

657 OPC (D) (Andrews Direct) at 15:8-11.

658 OPC (D) (Andrews Direct) at 20:8-9.

659 OPC (D) (Andrews Direct) at 20:20-21:2.

660 OPC (D) (Andrews Direct) at 21:5-6.

661 OPC (D) (Andrews Direct) at 21:9-10.

662 OPC (D) (Andrews Direct) at 21:17-19.

663 OPC (D) (Andrews Direct) at 19:10-11.

664 OPC (D) (Andrews Direct) at 19:19-20:3.

is lower, and therefore, all of his recommendations result in survivor curves that mathematically and statistically fit Pepco's data better than those recommended by Mr. Allis.[665] OPC submits a comparison of survivor curves between OPC and Pepco, and a lower SSD indicates a better mathematical fit to actual data, as shown in Table 12 below.

Table 12: Comparison of Proposed Survivor Curves[666]

			Pepco Proposed		**OPC Proposed**	
Account		**Current Approved**	**Curve**	**SSD**	**Curve**	**SSD**
a	**b**	**c**	**d**	**e**	**f**	**g**
362.00	Station Equipment	50-R2.5	50-R2.5	3,495	53-R2	746
364.00	Poles, Towers, and Fixtures	50-R2	55-R2	10,050	60-R2.5	3,419
365.00	Overhead Conductors and Devices	45-S2	50-R2	1,489	54-R2	495
366.00	Underground Conduit	65-R4	70-R3	5,870	75-R3.5	1,998
367.00	Underground Conductors and Devices	60-R2.5	60-R2.5	4,114	67-R2.5	848
368.00	Line Transformers	35-R1.5	35-R1.5	838	37-R2	272
369.20	Services - Underground	50-S4	55-S4	55,448	60-R4	22,633
369.30	Services – Underground Cable	55-S1.5	60-R2.5	5,573	65-R3	1,483
396.00	Power Operated Equipment	25-S3	25-S3	3,868	27-R3.5	335

371. OPC recommends amendments to depreciation rates, including: (1) different average service lives for nine accounts; (2) different net salvage percentage for one account; and (3) continued use of the Commission approved Handy-Whitman based discount rate.[667] OPC testifies that the reduction to the depreciation rates for these nine accounts is necessary because these accounts exhibit Average Service Life ("ASL") greater than those being proposed by Pepco. The depreciation rates proposed by Pepco would depreciate the assets in these accounts too quickly, which is a burden on current customers.[668]

372. For Account 362, Station Equipment, OPC recommends increasing the average service life by 3 years using a 53-R2 survivor curve.[669] For Account 364, Poles, Towers, and Fixtures, OPC recommends extending 10 years to a 60-R2.5 survivor curve.[670] For Account 365,

665 OPC (D) (Andrews Direct) at 17:16-19.

666 OPC (D) (Andrews Direct) at 17:21-18:1.

667 OPC (D) (Andrews Direct) at 14:12-15.

668 OPC (D) (Andrews Direct) at 18:7-10.

669 OPC (D)-3 (Andrews Direct) at 142.

670 OPC (D)-3 (Andrews Direct) at 142.

Overhead Conductors and Devices, OPC recommends extending 9 years to a 54-R2 survivor curve.[671] For Account 366, Underground Conduit, OPC recommends extending 10 years to a 75-R3.5 survivor curve.[672] For Account 367, OPC recommends increasing the average service life by 7 years using a 67-R2.5 survivor curve.[673] For Account 368, Line Transformers, OPC recommends increasing the average service life by 2 years using a 37-R2 survivor curve.[674] For Account 369.2, Services-Underground, OPC recommends extending 10 years to a 60-R4 survivor curve.[675] For Account 369.3, Services-Underground Cable, OPC recommends extending 10 years to a 65-R3 survivor curve. For Account 396, Power Operated Equipment, OPC recommends increasing the average service life by 2 years using a 27-R3.5 survivor curve.

373. OPC Witness Andrews disputes the depreciation rate that Pepco calculated under RMA-25. While Andrews agrees with the "straight line" method that Pepco employed to calculate its proposed depreciation rates, OPC believes that Pepco has overstated its depreciation rates. Pepco proposes a depreciation rate of 3.08%, which is an 8.5% increase from the currently approved rate of 2.84%.[676] This increased depreciation rate translates to an increased annualized depreciation expense of $10.62M. OPC's proposed depreciation rates, consistent with the BCA Depreciation Study, would decrease Pepco's 2021 Depreciation Study's year depreciation expense by $22.59 million.[677]

374. OPC asserts that the inflation rates to conduct the net salvage present value analysis should be based on the Handy-Whitman indices consistent with past Commission preference and that Pepco's use of a single 2.5% inflation rate for all accounts should be rejected.[678] OPC's adjustments proposed in the BCA Depreciation Study would result in a $22.59 million reduction to Pepco's 2021 Depreciation Study's year depreciation expense. OPC recommends the Commission approve OPC's proposed depreciation rates.[679]

375. **Pepco Rebuttal.** Pepco Witness Allis reiterates that the DC Present Value method under-collects future net salvage due to inherent problems with the method, and as a result, Pepco has spent millions of dollars more on net salvage than it has recovered through depreciation. Allis explains that due to this under-recovery, depreciation rates using the remaining life technique need to be adjusted higher to account for these past under-recoveries. Witness Allis recommends the

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671 OPC (D)-3 (Andrews Direct) at 142.

672 OPC (D)-3 (Andrews Direct) at 142.

673 OPC (D)-3 (Andrews Direct) at 142.

674 OPC (D)-3 (Andrews Direct) at 142.

675 OPC (D)-3 (Andrews Direct) at 142.

676 OPC (D) (Andrews Direct) at 12:9-12.

677 OPC (D) (Andrews Direct) at 15:8-10.

678 OPC (D) (Andrews Direct) at 15:5-10.

679 OPC (D) (Andrews Direct) at 15:8-11.

DC Present Value Method as the discount rate, which Allis argues is consistent with the Commission's guidance.[680]

376. Pepco Witness Allis testifies that while it is true that the issue may have been raised in front of the Commission before, the Commission has not explicitly addressed the use of CPI or the Handy Whitman index in a case that focused on that aspect of the DC Present Value Method.[681] Allis argues that, therefore, the Commission precedent cited by OPC Witness Andrews does not preclude Pepco from raising this issue, nor is it accurate that the Commission has repeatedly ruled on this issue.[682]

377. Pepco Witness Allis also disagrees with the two adjustments OPC Witness Andrews proposes to the net salvage depreciation rates: (1) the adjustment to the discount rates used in the DC Present Value Method and (2) the net salvage estimate for Account 362, Station Equipment.[683]

378. Pepco Witness Allis testifies that the longer-term historic net salvage averages are a better reflection of the overall experience for Account 362, Station Equipment. Witness Allis explains that most years prior to 2012 experienced negative net salvage well in excess of -30% and that 2020 and 2021 experienced -27% and -30% net salvage, so both were close to my estimate of -30%. According to Witness Allis, the three-year moving average, which is smoother and a better reflection of trends, indicates that almost every year prior to 2012 experienced at least -30% net salvage (and most years much more negative). Witness Allis further testifies that while negative net salvage was lower for some of the last 10 years, it has trended higher in the past couple of years, with the overall average for the full period studied at -31%, which is supportive of his estimate.[684]

379. Pepco Witness Allis testifies that for service lives estimates, OPC's depreciation consultant relies almost exclusively on fitting curves to historical retirement experience for his proposals, as he does not discuss any considerations related to the future (or anything other than statistical analysis). Witness Allis states that the future will be different from the past due to the District's GHG reduction goals and widespread electrification of energy uses currently based on fossil fuels. Adopting OPC's proposals would be short-sighted and likely to result in the need for significant increases in depreciation in future cases, particularly because OPC's proposals are based on unreasonable and unrealistic assumptions about the future service life characteristics of the Company's assets, according to Allis.[685]

380. Pepco Witness Allis further explains that Pepco's depreciation study results in an overall increase in depreciation and that the increase is not due to reductions in service lives. The

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680 Pepco (2L) (Allis Rebuttal) at 2:12-19.

681 Pepco (2L) (Allis Rebuttal) at 25:6-8.

682 Pepco (2L) (Allis Rebuttal) at 26:16-18.

683 Pepco (2L) (Allis Rebuttal) at 24:14-17.

684 Pepco (2L) (Allis Rebuttal) at 27:17 - 28:6.

685 Pepco (2L) (Allis Rebuttal) at 3:13-22.

increase in depreciation can be explained by the past under-recovery of depreciation expense, more negative net salvage estimates, and updates to the inflation-based discount rates used for the DC Present Value Method. Allis argues that Pepco has spent millions of dollars more in net salvage than it has recovered through depreciation and states that the proposed depreciation rates are on the lower end of the "range of reasonableness."[686]

381. **OPC Surrebuttal.** OPC Witness Andrews retorts: "[t]o the contrary of claims made by Witness Allis, all of the average service life recommendations are within the range of reasonableness, and my net salvage recommendations will continue to provide Pepco with sufficient cash flow to more than cover annual net salvage costs."[687]

382. OPC Witness Andrews further testifies in surrebuttal that the Handy-Whitman Indices are most appropriate as there is no other measure of inflation that is directly tied to individual FERC Accounts.[688] Additionally, OPC Witness Andrews testifies that Mr. Allis prefers to use the CPI inflation, which includes the cost for more than 200 categories arranged into eight major groups.[689]

383. OPC Witness Andrews also testifies that over the five-year period preceding Pepco's depreciation study (2017-2021), Pepco incurred $89.2 million of net salvage costs, with an average of $17.8 million per year."[690] Andrews states that with OPC's proposed depreciation rates, Pepco would recover $23.2 million per year, based on the December 31, 2021, plant balances. According to Andrews, this is $5.4 million, or 30%, more than Pepco incurs for net salvage costs in an average year. Andrews testifies that under Pepco's proposed depreciation rates, the Company would recover $34.6 million or $16.8 million (94%) more than the annual average net salvage costs incurred.[691] According to OPC, Pepco's suggestion that certain service life recommendations made by OPC are outside a range of reasonableness is incorrect. OPC further states that Pepco has incorrectly portrayed the range of reasonable service life recommendations.[692]

384. OPC Witness Andrews testifies that Pepco's assertion that due to the District's electrification and decarbonization goals, Pepco's assets will have shorter lives and will need to be replaced more frequently. The reality, according to OPC, is that Pepco makes all of these statements without providing any studies supporting these assertions. OPC states that while it does not dispute that changes may come from electrification and decarbonization, there is nothing in

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686 Pepco (2L) (Allis Rebuttal) at 1:19-2:7.

687 OPC (2D) (Andrews Surrebuttal) at 2:13-16.

688 OPC (2D) (Andrews Surrebuttal) at 5:11-12.

689 OPC (2D) (Andrews Surrebuttal) at 5:7-10.

690 OPC (2D) (Andrews Surrebuttal) at 5:16-17.

691 OPC (2D) (Andrews Surrebuttal) at 6:3-7.

692 OPC (2D) (Andrews Surrebuttal) at 2:5-8.

the record that supports claims that Pepco's service lives should be shortened in any quantifiable manner.[693]

DECISION

385. Pepco filed its new 2021 Depreciation Study on January 31, 2023, in *Formal Case No. 1156*, and proposes new depreciation rates based on the new study in *Formal Case No. 1176*. Pepco proposes to follow recent Commission precedent and adopt the Financial Accounting Standards No. 143 method of calculating the net salvage component of depreciation rates based upon the inflation rate.[694] OPC also filed a depreciation study (BCA Depreciation Study) as part of its filed testimony.[695] There are three main areas of contention in the depreciation issues in this proceeding, which leads to the difference between OPC's Depreciation Study and Pepco's depreciation study: (1) Discount Rate to Determine Pepco's Net Salvage/Net Removal Costs; (2) the Net Salvage Rate for Account 362; and (3) ASL for Nine Accounts.

386. **Discount Rate to Determine Pepco's Net Salvage/Net Removal Costs.** In *Formal Case No. 1076*, the Commission ruled on the methodology that should be used for Pepco's calculation of its net salvage value, a component of its depreciation rates.[696] In that proceeding, the Commission directed using the SFAS-143 Present Value Method to determine Pepco's depreciation net salvage costs. In *Formal Case No. 1076*, the Commission used the Handy-Whitman Index-based inflation rate as the discount factor for the present value calculation.[697] Subsequently, in *Formal Case No. 1103*, the Commission disagreed with OPC's argument that Pepco should not be allowed to propose a change in its depreciation methodology, instead ruling that parties "are welcome to bring an issue back to the Commission with new arguments or if circumstances change, as we have done in earlier orders in this case. However, a party that seeks to change an existing Commission policy has the burden of persuasion, and that burden is a heavy one."[698] However, we expressed our preference for the Handy-Whitman Index as the discount rate for computing the net salvage component of the annual depreciation rate. In *Formal Case No. 1176*, one of the three depreciation issues centers on what discount rate should be used if the SFAS-

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693 OPC (2D) (Andrews Surrebuttal) at 4:6-12.

694 Pepco (B) at 17:7-18 (Leming Direct).

695 Exhibit OPC (D)-3 (Andrews Direct) BCA Depreciation Study.

696 *Formal Case No. 1076*, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 15710, ¶ 252, rel. March 2, 2010 ("Order No. 15710").

697 *Formal Case No. 1076*, Order No. 15710, ¶ 252.

698 *Formal Case No. 1103, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Rates and Charges for Electric Distribution Service*, Order No. 17424 ¶ 350, rel. March 26, 2014.

143 method or DC Present Value method is utilized. Pepco argues that the inflation rate of 2.5% (based on the CPI) should be used,[699] while OPC advocates for the Handy Whitman index.[700]

387. While Pepco is free to propose an alternate discount rate from previously Commission-approved methods, in this instance, we are not persuaded to use the 2.5% inflation factor proposed by Pepco and find that the Handy Whitman Index continues to be a reasonable discount rate to use in discounting the net salvage costs under the SFAS 143 present value method.

388. Therefore, the Commission denies Pepco's requested 2.5% inflation rate and approves OPC's request for the continued use of the Commission-approved Handy-Whitman Index discount rate. The Commission has relied on the use of the Handy-Whitman based discount rates since *Formal Case No. 1076* as the Handy-Whitman Index is a long-standing publication that provides FERC account specific index numbers for construction cost trends for utilities instead of the non-utility specific CPI based inflation rate which is based on a broad group of goods and services.

389. **Net Salvage Percentage.** OPC proposes a -25% estimated future net salvage percent for Account 362, Station Equipment.[701] OPC Witness Andrews testifies that over the past 10 years, the net salvage rate has never been more negative than -30% and that 8 out of the 10 previous years have shown net salvage rates between -18% and +88%. The five most recent 10-year net salvage rates have all been between -7% and -9%, according to Witness Andrews. Andrews argues that a -30% net salvage rate, as proposed by Pepco, is excessive and not supported by the recent retirement history, and he recommends that the net salvage rate for this account be set at -25%, which will still provide Pepco a substantial amount of net salvage recovery for this account.[702]

390. Pepco Witness Allis testifies that the longer-term historic net salvage averages are a better reflection of the overall experience for Account 362, Station Equipment. Allis explains that most years prior to 2012 experienced negative net salvage well in excess of -30% and that 2020 and 2021 experienced -27% and -30% net salvage, so both were close to my estimate of -30%. According to Witness Allis, the three-year moving average, which is smoother and a better reflection of trends, indicates that almost every year prior to 2012 experienced at least -30% net salvage (and most years much more negative). Witness Allis further testifies that while negative net salvage was lower for some of the last 10 years, it has trended higher in the past couple of years, with the overall average for the full period studied at -31%, which is supportive of his estimate.

391. The Commission finds Pepco's proposal to retain the current approved -30% estimated future net salvage to be just and reasonable. The overall historic net salvage ratio is -

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699 Pepco (L) (Allis Direct) at 27:20-28:2.

700 OPC (D) (Andrews Direct) at 22:8-9.

701 OPC (D) (Andrews Direct) at 19:10-11.

702 OPC (D) (Andrews Direct) at 19:19-20:3.

31% in the depreciation study[703] which is similar to the current approved -30% estimated future net salvage percent.

392. **Average Service Lives.** OPC testifies that for each of the nine accounts where it proposes a survivor curve that differs from Pepco's recommendation, the SSD is lower, and therefore, all of his recommendations result in survivor curves that mathematically and statistically fit Pepco's data better than those recommended by Mr. Allis.[704] Table 13 below presents a comparison of survivor curves between OPC and Pepco. A lower SSD indicates a better mathematical fit to actual data.

393. Pepco Witness Allis testifies that for service lives estimates, OPC's depreciation consultant relies almost exclusively on fitting curves to historical retirement experience for his proposals, as he does not discuss any considerations related to the future (or anything other than statistical analysis). Witness Allis states that the future will be different from the past due to the District's GHG reduction goals and widespread electrification of energy uses currently based on fossil fuels. Adopting OPC's proposals would be short-sighted and likely to result in the need for significant increases in depreciation in future cases, particularly because OPC's proposals are based on unreasonable and unrealistic assumptions about the future service life characteristics of the Company's assets, according to Allis.[705]

394. The Commission finds Pepco's proposed Average Service Life-Survivor Curves to be just and reasonable. For the accounts in which OPC recommends a longer average service life, Pepco recommends either a longer average service or keeping the current approved average service life. OPC is correct that the historical data indicates longer lives for some of those nine accounts; however, historical data is not the only consideration. Pepco's proposal does extend the average service life for five of the nine contested accounts. Based on our review of the expert testimonies from Pepco and OPC and our independent examination of the supporting record and evidence, we adopt Pepco's recommended service lives for the nine accounts as provided in the following Table 13.

Table 13: Comparison of Proposed and Commission-Approved Survivor Curves

Account		Current Approved	Pepco Proposed	OPC Proposed	Commission Approved
a	b	c	d	e	f
362.00	Station Equipment	50-R2.5	50-R2.5	53-R2	50-R2.5
364.00	Poles, Towers, and Fixtures	50-R2	55-R2	60-R2.5	55-R2
365.00	Overhead Conductors and Devices	45-S2	50-R2	54-R2	50-R2
366.00	Underground Conduit	65-R4	70-R3	75-R3.5	70-R3

703 Pepco (L)-1 (Allis Direct) at 121.

704 OPC (D) (Andrews Direct) at 17:16-19.

705 Pepco (2L) (Allis Rebuttal) at 3:13-22.

367.00	Underground Conductors and Devices	60-R2.5	60-R2.5	67-R2.5	60-R2.5
368.00	Line Transformers	35-R1.5	35-R1.5	37-R2	35-R1.5
369.20	Services - Underground	50-S4	55-S4	60-R4	55-S4
369.30	Services – Underground Cable	55-S1.5	60-R2.5	65-R3	60-R2.5
396.00	Power Operated Equipment	25-S3	25-S3	27-R3.5	25-S3

395. Accepting Pepco's proposed depreciation parameters and the continued use of the Handy-Whitman based discount rates proposed by OPC results in an increase in depreciation rates from the current composite depreciation rate of 2.84% to 2.85%. This adjustment results in an increase in Pepco's rate base by $4.294 million, $13.185 million, and $22.577 million, and a reduction in revenue requirement by $11.309 million, $11.253 million, and $11.029 million for 2024, 2025, and 2026, respectively.

XI. CLASS COST OF SERVICE

396. CCOSS is developed to assign and allocate the Company's rate base, revenues, and expenses amongst its customer classes based on the principle of cost causation. The study relies principally on historical or known costs. Pepco developed both a Jurisdictional and a Class Cost of Service Study ("JCCOSS") to guide the allocation of Pepco's costs during the test period. During the rate-design process, the Commission relies upon these studies, as well as other parties' criticisms of it, to determine whether the revenue allocated to Pepco and to each of Pepco's customer classes is adequate and covers the costs of that class. The JCOSS allocates the electric distribution costs between Pepco's Maryland and District service territories. Once the electric distribution costs have been allocated between Maryland and the District of Columbia, the CCOSS allows the Commission to focus on the allocation of costs within Pepco's Maryland rate classes.

397. The CCOSS estimates the ROR for each customer class and calculates the Relative Rate of Return ("RROR") based on the system average ROR for all customer classes. The principles of cost causation and gradualism largely determine the final ROR for each class. Regarding the ROR, a class with a return equal to the system average ROR has an RROR of 1.00. An RROR over 1.00 indicates that this customer class is over-earning and effectively subsidizing other classes. Similarly, an RROR under 1.00 indicates that this customer class is under-earning and effectively being subsidized by other classes. The common goal of rate design is to move all class RRORs closer to an RROR of 1.00. Historically, the Commission has balanced that goal against the principle of gradualism to avoid sudden and sharp rate increases within customer classes.[706]

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[706] *See Formal Case No. 1053, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 14712, ¶ 275; *see also*, Order No. 207255, ¶ 388.

398. **Pepco.** Pepco explains the three key processes involved in the CCOSS, which include functionalization, classification, and allocation.[707] According to Pepco, for greater accuracy, the CCOSS results for *Formal Case No. 1176* are based on the jurisdictional cost-of-service study (JCOSS) from Pepco's *Formal Case No. 1156* Annual Informational Filing for CY 2021. The historical cost data was based on the 12-month period ending December 31, 2021.[708]

399. The Company did not file multiple class cost-of-service studies for the MRP. Rather, Pepco argues that the single filed CCOSS serves as a guide when designing new rates for both the traditional and MRP requests.[709] Pepco proposes several modifications to the class cost-of-service with respect to AFUDC functionalization, primary/secondary split functionalization, surcharge allocation, four-year per customer average demand allocation, and meter allocation.[710]

400. Pepco asserts that the ROR at present rates provides a representation of each class's contribution to the Company's revenue requirement.[711] It provides a way of comparing an individual rate class's ROR to the system-average rate of return.[712] According to the results, the GT-LV class has the highest customer unit cost, while GS-HV has the highest ROR at present rates. Both the residential and SL classes have negative rates of return.[713]

401. Unit costs are then determined by the CCOSS. For each class, the customer unit cost is the monthly level of customer-related costs the Company incurs when a customer in that class imposes a kW of demand on the system. The energy unit cost is the level of energy-related costs Pepco incurs when a customer in the class consumes one kWh of energy. In the proceeding, surcharges are the only energy-related costs.[714]

402. **AOBA.** AOBA Witness Bruce Oliver identifies several issues that undermine the accuracy and reliability of Pepco's CCOSS, including: (1) lack of transparency of the CCOSS model;[715] (2) inappropriate assignment of costs for customer installations;[716] (3) failure to account for disproportionate contributions in aid of construction ("CIAC") by rate class;[717] (4) uneven

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707 Pepco (D) (Gardiner Direct) at 3:4-22.

708 Pepco (D) (Gardiner Direct) at 5:5-8.

709 Pepco (D) (Gardiner Direct) at 5: 5-11.

710 Pepco (D) (Gardiner Direct) at 6:8-12:14.

711 Pepco (D) (Gardiner Direct) at 14:4-5.

712 Pepco (D) (Gardiner Direct) at 14:5-6.

713 *See* Gardiner (D) at 14:10-16.

714 Pepco (D) (Gardiner Direct) at 15:5-7.

715 *Formal Case No. 1139*, Order No. 18846, ¶¶ 422, 430, and 599.

716 AOBA (A) (B. Oliver Direct) at 89:5-95:21.

717 AOBA (A) (B. Oliver Direct) at 96:13-100:14.

growth rates among rate classes;[718] (5) misallocation of income tax responsibilities;[719] (6) mismatch of forecasted revenue requirements and reliance on historic data for class cost allocation;[720] and (7) inaccurate estimates for the GT-LV class.[721]

403. Overall, AOBA advocates for increased transparency, accuracy, and fairness in Pepco's CCOSS, stressing these as crucial for effective regulatory review and rate design. AOBA urges the Commission to reject Pepco's request for proprietary treatment and mandate the filing of a printed copy of its CCOSS analyses with the same level of detail as presented in *Formal Case No. 1156*. AOBA also recommends providing electronic copies of the CCOSS model to ensure complete transparency in cost allocations. Additionally, AOBA emphasizes that if Pepco wishes to pursue multi-year rate plans based on forecasted costs and usage, it must also adopt a more dynamic assessment of class cost-of-service responsibilities rather than relying solely on historical data.[722]

404. **Pepco Rebuttal**. In his Rebuttal Testimony, Witness Gardiner states that Pepco agrees with the recommendation to revise the allocation of Customer Installation costs between the GT-LV and MGT-LV rate classes. Gardiner also mentions that Pepco will further review this allocation between rate cases and provide any recommendations in the next base rate case. This revision substantially reduces the calculated monthly customer costs for the GT-LV class from $4,231.22 to $1,341.16, a decrease of over 68%.[723]

405. Pepco also agrees to provide CCOSS analyses comparable to those provided in *Formal Case No. 1156* and remove their proprietary label. Pepco disagrees that the CCOSS model lacks transparency because of the presence of hardcoded values. Witness Gardiner also rebutted AOBA's positions on CIAC, the use of a historical CCOSS, and income tax allocation:[724] (1) Pepco argues that CIAC amounts are not a part of rate base and have no relevance in the determination of rate base allocations and customer unit costs; (2) Pepco disagrees that a historical CCOSS is an inappropriate guide for rate-making purposes during the entirety of an MRP. The Company does not forecast demand and customer expense accounts at the rate class level, and as a result, needs to rely on historical test-year allocators; and (3) Pepco continues to allocate income tax based on taxable income for each customer class at the Company's overall effective tax rates in accordance with Commission precedent. This method ensures that the same tax rate is applied to all customer classes.

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718 AOBA (A) (B. Oliver Direct) at 101:6-103:7.

719 AOBA (A) (B. Oliver Direct) at 88:26-28 and 129:11-14.

720 AOBA (A) (Bruce R. Oliver Direct) at 8:11-9:3 and 21:12-13.

721 AOBA's Post Legislative Style Hearing Brief at 53.

722 AOBA (2A) (B. Oliver Surrebuttal) 44:18-20

723 Pepco (2D) (Gardiner Rebuttal) at 7:1-2.

724 Pepco (2D) (Gardiner Rebuttal) at ii.

DECISION

406. The CCOSS filed in this proceeding is similar to that filed in prior proceedings, with minor revisions in functionalization and allocation—discussed below. The Commission accepts the CCOSS at this time with the modifications identified below for future proceedings. The parties primarily raise issues with respect to transparency of the CCOSS model, assignment of customer installation costs, CIAC by rate class, income tax responsibilities, and alignment between revenue requirement forecast and historical data.

407. The Commission directs Pepco to recognize in the Company's books the actual receipt of CIAC in its next CCOSS and appropriately allocate to each class to ensure a more accurate reflection of cost allocation in its next distribution rate case. As noted earlier, Pepco Witness Gardiner consistently asserts that CIAC is not included in the Company's rate base. Pepco tracks the CIAC revenues from customers, totaling more than $257 million in 2021. As AOBA has pointed out, these revenues are not allocated proportionally across rate classes based on base rate revenues. In future applications, Pepco should recognize the actual receipt of CIAC to promote a more transparent and fair allocation of costs. In this instance, the Commission accepts Pepco's CCOSS as reasonable.

408. AOBA has also raised concerns regarding Pepco's reliance on historical data for class cost responsibilities while basing revenue requirements on forward-looking forecasts. AOBA argues that this approach is imbalanced and potentially unfair to certain rate classes. The Commission agrees that this disconnect between historical cost data and forecasted revenue requirements may result in an inaccurate and inequitable distribution of costs. To address these concerns, the Commission directs Pepco to develop a more flexible CCOSS model in the next rate case. Such a model could incorporate adjustments over the forecast period, such as those that would ensure that the CCOSS reflects past costs and future changes in the Company's operating environment. This would help to ensure more dynamic and responsive cost allocation methods and, as a result, a more equitable distribution of costs across all customer classes. This improved process will be evaluated as part of the MRP Lessons Learned proceeding.

XII. JURISDICTIONAL COST ALLOCATION STUDY

409. **Pepco.** Pepco Witness Leming indicates that the jurisdictional cost of service ("JCOS") presented at Pepco (2B)-3 assigns and allocates each element of Pepco's unadjusted test period rate base, revenues, and expenses to the Company's District jurisdiction. Costs assigned and allocated to customers outside of the District are in the "Other" jurisdiction, as shown in Pepco (2B)-3.[725] The jurisdictional allocations and assignments presented in the JCOS are consistent with those presented in *Formal Case No. 1156*, which the Commission found reasonable. The allocations in the Company's JCOS are driven primarily by direct jurisdictional assignments and allocations of plant, depreciation, and O&M expenses.[726] Plant additions are developed at the project level, which is jurisdiction-specific (except general and software projects).

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725 Pepco (2B) (Leming Conformed Supplemental Direct Testimony) at 28:3-10.

726 Pepco (2B) (Leming Additional Supplemental Direct) at 28:3-8 (*citing Formal Case No. 1156*, Order No. 20755 at ¶ 366).

410. The majority of the Company's distribution facilities are primary- and secondary voltage systems, which include substations, overhead and underground lines, and line transformers. These facilities allow the Company to serve local customers; as such, they are directly assigned to the local jurisdiction.[727] A lesser portion of the Company's EPIS assets are sub-transmission facilities; these facilities serve customers across Pepco's service territory and were therefore allocated between the Company's jurisdictions based on the Average and Excess Non-coincident Peak Demand ("AED-NCP") method, consistent with Commission precedent, including most recently in *Formal Case No. 1156*. Pepco indicates in the bridge, and MRP years, projected sub-transmission investment is identified by project and allocated using the AED-NCP method.[728]

411. The Company allocated distribution-general and intangible plants to jurisdiction based on the sub-transmission and distribution plant less the AFUDC ratio.[729] The Commission previously approved this method in *Formal Case No. 1156*. Pepco allocated depreciation expense based on plant-related records and O&M between operating jurisdictions based on direct assignments, where applicable, or relevant plant ratios based on the FERC O&M account.[730]

412. **OPC.** OPC Witness Gorman cites concerns that Pepco does not have labor and non-labor O&M expenses for the District jurisdictional level. Witness Gorman argues that O&M expense forecasts should be tracked on a jurisdictional basis as opposed to being tied to operations consolidated across the Company. He argues that it is also necessary to "take a fresh look" at allocation factors associated with the BSC to ensure that those costs are being allocated to the District fairly.

413. OPC Witness Mara notes that some capital costs included in the Company's capital budget that were incurred in Maryland should not be charged to the District. These include: (1) White Flint Substation (ITN 74120) in Maryland, in which portions not chargeable to the District ratepayers were inappropriately included in the Company's proposed rates in this proceeding, and (2) Proposed National Harbor Sub (ITN 72730), also located in Maryland and is not chargeable to District ratepayers and should be removed from any MRP budget approved in this proceeding.

414. Based on OPC's calculation, the required budget reduction to remove the cost allocated to the District associated with White Flint is $159,303 in 2023, $31,467 in 2024, and $3,817 in 2025; associated with the National Harbor substation are $232,395 in 2023, $723,984 in 2024, $1,205,273 in 2025, and $1,941,729 in 2026.[731]

415. **AOBA.** According to AOBA Witness Bruce Oliver, the representation of actual project costs in Exhibit Pepco (H)-2 (capital project forms) is highly suspect because the costs are

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727 Pepco (B) (Leming Direct) at 47:3-6.

728 Pepco (B) (Leming Direct) at 45:9-11.

729 Pepco (B) (Leming Direct) at 45:12-15.

730 Pepco (B) (Leming Direct) at 47:3-6.

731 *Formal Case No. 1176*, Post-Legislative Hearing Brief of the Office of the People's Counsel for the District of Columbia, filed August 30, 2024.

identical to those claimed for the same projects in Maryland. He states that "[e]ither Pepco is seeking full recovery for the costs of the listed projects in both jurisdictions (*i.e.*, double recovery of those costs) or Pepco has chosen to allocate those cost between the two jurisdictions using an undocumented and unsupported 50/50 allocation. A review of the Company's Jurisdictional Cost-of-service Study ('JCOSS') in this proceeding finds no allocation factors for which costs are divided precisely on a 50/50 basis between 'DC Distribution' and 'Other Distribution' (*i.e.*, Maryland). Likewise, there are no allocations in Pepco's jurisdictional cost allocation study in Pepco's pending Maryland MRP rate case for which Pepco's Maryland service territory is assigned precisely 50% of the costs in an account or subaccount."[732]

DECISION

416. The Jurisdictional Cost of Service Study ("JCOSS") allocates elements of rate base, revenues, and expenses to either Pepco's DC jurisdiction or to the "other" category of jurisdiction. The purpose of this exercise is to fairly allocate the costs associated with providing electric service in a particular jurisdiction to the ratepayers in that jurisdiction. The JCOSS approach taken in *Formal Case No. 1176* is similar to the same approach approved by the Commission in *Formal Case Nos. 1156 and 1139*.[733] AOBA and OPC raise concerns that some costs may have inappropriately been allocated to the District. Accordingly, RMA Pepco-29 removes various projects that: (1) can be deferred beyond the MRP period; (2) were inadvertently labeled as sub transmission; and (3) were removed based on discovery.[734] The Commission accepts Pepco's proposed RMA Pepco-29 removing of items identified by OPC. With the accepted RMA Pepco-29 adjustment, the Commission finds that Pepco's JCOSS is consistent with Commission precedent and is reasonable for the purposes of this proceeding.

XIII. CLASS REVENUE ALLOCATION

417. Class revenue allocation distributes a utility's revenue requirement across different customer classes, determining how much each group contributes toward the utility's costs and, as a result, their rates. Pepco's proposed changes focus on raising rates for under-earning classes, namely, residential customers, to correct for the cross-subsidization of rate classes using a four-step methodology to adjust rate increases based on class performance. The Parties primarily raise concerns about the fairness of this approach, arguing that it could disproportionately impact residential and low-income customers and fail to account for differences in class costs using universal multipliers.

A. Pepco's Position

418. Pepco Witness Bonikowski's Direct Testimony discusses the methodology of class revenue allocation and rate design.[735] The distribution of revenue requirements among rate classes

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732 AOBA (2A) (B. Oliver Surrebuttal) at 30:8-19.

733 *See Formal Case No. 1156*, Order No. 20755 at ¶ 366; *Formal Case No. 1139*, Order No. 18846.

734 Pepco (3B) (Leming Rebuttal) at 39:13 - 40:7.

735 Pepco (E) (Bonikowski Direct) at 4:5-40:16.

is categorized into three overarching components: (1) class rate of return analysis;[736] (2) four-step method revenue allocation analysis,[737] and (3) four-step method to design rate schedule of revenue requirements (discussed under Rate Design, Section XIV).[738]

419. The class rate of return analysis summarizes the rate class-specific distribution revenue, net of operating income, net rate base, and rate of return based on the CCOSS. Next, a unitized rate of return ("UROR") is calculated for each rate class, which provides a measurement of the contribution of each rate class to the overall system required rate of return (*i.e.*, all rate classes taken together). A UROR greater than 1.0 means the rate class provided a greater-than-average return during the test period (*i.e.*, over-earning), and a UROR of less than 1.0 means the rate class provided a lower-than-average return during the test period (*i.e.*, under-earning).[739]

420. The results of the class rates of return and UROR analysis for the twelve (12) month period ending December 31, 2021, show that all of the commercial classes, as well as the MMA, RT, TS, and TN rate schedules, have positive RORs, with URORs above 1.0, indicating that these rate schedules provided a greater-than-average return, or contributed more than their fully allocated cost-of-service. The R and SL-E rate schedules have negative RORs with URORs below zero, indicating these rate schedules provided a negative return or contributed less than their fully allocated cost-of-service. Rate schedule SL-S has a positive ROR with a UROR below 1.0, indicating this class also provided a below-average return.[740]

421. Pepco contends the four-step method of revenue allocation analysis is key to determining the revenue increase for each rate class. The size of the allocation in each step is selected to ensure that: (1) a rate class with an existing class ROR does not shift to a further ROR from the system average; (2) the final proposed return for a rate class does not increase or decrease to a level significantly below the system average; (3) the final proposed return for a rate class with an existing ROR significantly below the lower limit of the system average does not decrease or move to a level significantly above the system average ROR; and (4) the maximum increase is limited to any individual rate schedule in a manner that reflects consideration of the Commission's guiding ratemaking principles.[741] Pepco describes the four-step method of revenue allocation as follows:

Step 1 – Exclusion: Rate classes with URORs greater than or equal to 3.0 are identified as outliers and are not allocated any incremental distribution revenue. Pepco identified

[736] Pepco (E) (Bonikowski Direct) at 5:22-28. The Witness summarizes the class ROR results, the associated revenue surpluses or deficiencies from the CCOSS, then developed a UROR Analysis to determine whether each rate schedule is providing higher or lower than system average ROR, based on its fully allocated cost of service.

[737] Pepco (E) (Bonikowski Direct) at 6:1-5.

[738] Pepco (E) (Bonikowski Direct) at 5:6-10.

[739] Pepco (E) (Bonikowski Direct) at 6:12-21.

[740] Pepco (E) (Bonikowski Direct) at 6:23-7:7.

[741] Pepco (E) (Bonikowski Direct) at 12:10-13:3.

Schedules GS-3A and TN as rate schedules with URORs greater than three times the system average rate of return and excluded these classes from the distribution rate increase.

Step 2 – Steady State: Classes with URORs between 0.9 and 1.1 are allocated the same percentage distribution revenue increase as the total system distribution revenue increase (in percentage terms). No rate classes were identified under this category.

Step 3 – Under-Earning Class: Classes with URORs below 0.9 are assigned a percentage revenue increase greater than the system average increase (in percentage terms). The magnitude of the increase is determined by the Multiplier, *i.e*., 2.3 in this filing, multiplied by the System Average Increase.

Step 4 – Remaining Over-Earning Classes: The remaining distribution revenue increase is allocated to rate classes with URORs between 1.1 and 3.0 in proportion to their current annualized distribution revenues. The Multiplier for over-contributing classes is 0.7.[742]

422. Pepco Witness Bonikowski argues that based on the Company's cost-of-service studies filed in prior Commission proceedings, the residential class has had a negative ROR for more than twenty (20) years. The total annual subsidy under current rates is more than $132 million.[743] The Commission has repeatedly found that corrective action is needed to address the severe disparity in residential and commercial class RORs.[744]

423. Pepco Witness Bonikowski states that the determination of 2.3 as the Multiplier applied to the System Average Increase is informed by the results of the class rate of return analysis and a review of the level of revenue increase the Commission has allocated to these particular rate schedules in past rate cases.[745]

424. Pepco has proposed to allocate the distribution rate increase more heavily to rate classes that have an existing rate of return below the average rate of return. This is because the residential class currently provides substantially less revenue than is required to cover the cost that Pepco incurs to serve those customers. Under the Company's proposed revenue allocation, residential customers would be responsible for 43% of the proposed three-year MRP revenue increase. Two commercial classes would be assigned 23% (MGT-LV) and 16% (GT-LV) of the revenue increase, for a total of 39%.[746] Pepco Witness Bonikowski's Rebuttal testimony provides Table 14, which presents an overview of the proposed revenue allocation for each rate schedule by year.

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742 Pepco (E) (Bonikowski Direct) at 11:2-12:7; *See also*, Pepco (2E) (Bonikowski Supplemental Direct) at 6:2-7:1 and Table 2.

743 Pepco (E) (Bonikowski Direct) at 9:16-19 and 10, and Table 2.

744 Pepco (E) (Bonikowski Direct) at 8, *citing Formal Case No. 1087, In the Matter of the Application of Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service,* Order No. 16930, at ¶ 329.

745 Pepco (E) (Bonikowski Direct) at 14:19-22 and 16:14-18.

746 Pepco (E) (Bonikowski Direct) at 17, Table 3.

Table 14: Proposed Distribution Revenue Allocation[747]

Proposed Revenue Allocation (%)				
Rate Schedule	**MRP Total**	**2024**	**2025**	**2026**
R	42.70%	22.83%	77.01%	74.25%
MMA	1.68%	2.26%	0.67%	0.75%
GS ND	2.37%	3.19%	0.95%	1.06%
T	0.16%	0.21%	0.06%	0.07%
GS LV	4.51%	6.07%	1.81%	2.03%
GS 3A				
MGT LV	22.93%	30.88%	9.20%	10.31%
GT LV	15.67%	21.10%	6.29%	7.04%
GT 3A	8.26%	11.12%	3.31%	3.71%
GT 3B	0.07%	0.10%	0.03%	0.03%
RT	1.09%	1.46%	0.44%	0.49%
SL-S	0.32%	0.43%	0.13%	0.14%
SL-E	0.22%	0.30%	0.09%	0.10%
TS	0.03%	0.04%	0.01%	0.01%
TN				
Total	**100%**	**100%**	**100%**	**100%**

425. Pepco Witness Bonikowski claims that the proposed four-step revenue allocation methodology addresses the Commission's requirements in Order Nos. 20755, 18846, 17424, 16930, and 15710 in *Formal Case Nos. 1156*, *1139*, *1103*, *1087, and 1076*, respectively. Witness Bonikowski indicates that the methodology addresses disparities in rate class-specific rates of return as part of an approach to allocating revenue requirements while also adhering to the guiding ratemaking principles.[748]

426. In response to AOBA's submissions, Pepco Witness Bonikowski proposes in his Rebuttal Testimony to apply an approximate $50,000 revenue decrease over the term of the MRP to schedules GS 3A and TN, which currently have rates of return more than three times higher than the system average rate of return. This proposal is expected to bring rates of return for these classes in line with other commercial classes without significantly impacting bills for any other rate class.[749]

427. Pepco Witness Bonikowski also finds AOBA Witness Bruce Oliver's proposal for more detailed revenue allocation for over-earning rate classes to be reasonable. AOBA suggests that classes with unit rates of return above 2.35 receive 0.9 times the system average increase, and

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747 Pepco (3E)-2 (Bonikowski Rebuttal Exhibit) at 1.

748 Pepco (E) (Bonikowski Direct) at 10:4-11.

749 Pepco (3E) (Bonikowski Rebuttal) at iii and 43:5-10.

those with URORs between 1.1 and 2.35 receive about 0.95 times the system average increase.[750] If the Commission adopts this approach but chooses a different Multiplier for under-earning classes, the Multipliers for over-earning classes would need to be adjusted.[751] For example, with the Company's proposed 2.3 multiplier for under-earning classes, the Multipliers for over-earning classes would be about 0.84 for URORs between 1.1 and 2.0 and 0.67 for URORs above 2.0.[752]

428. For other aspects of the Parties' recommendations, Pepco's positions remain unchanged from its original application. OPC Witness Dismukes argues that the Company's proposed revenue allocation would make residential rates unaffordable for the bottom 20% of District households, those living at or below 200% of the Federal Poverty Limit. However, in its Rebuttal Testimony, Pepco argues that this claim ignores the RAD program, which fully offsets the distribution portion of qualifying customers' bills, meaning RAD customers would not be affected by any revenue increase or allocation changes approved in this proceeding. [753]

B. Parties' Positions

429. Parties highlight key issues with Pepco's proposed revenue allocation, citing concerns over outdated data, fairness in rate class adjustments and multipliers in the four-step revenue allocation process, and the disproportionate impact on residential and low-income customers. They argue the methodology fails to address differences in class rates of return and creates affordability challenges, particularly for households already facing financial strain. They also acknowledge the existing cross-subsidy issue.

430. **AOBA.** AOBA Witness Bruce Oliver finds Pepco's four-step revenue distribution process reasonable in intent but believes the methodology, especially the multipliers for rate class adjustments, needs refinement.[754] He argues that applying below-average increases to classes with negative returns is inappropriate, counterproductive, hinders Pepco's opportunity to achieve its authorized return, and is unfair.[755] AOBA Witness Oliver argues that allowing the residential customers, a major class of customers, to make no positive contribution to Pepco's return on investment for almost two decades conflicts with the concept of cost-based ratemaking and lacks fairness and equity in rate determinations.[756] According to Witness Oliver, the UROR for the GT-LV and MGT-LV classes, as computed by Pepco, is 2.52, which shows a lack of progress in

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750 Pepco (3E) (Bonikowski Rebuttal) at 42:8-15.

751 Pepco (3E) (Bonikowski Rebuttal) at 42:15-17.

752 Pepco (3E) (Bonikowski Rebuttal) at 42.

753 Pepco (3E) (Bonikowski Rebuttal) at 41:9 – 42:7.

754 AOBA (A) (B. Oliver Direct) at 105:18-106:2.

755 AOBA (A) (B. Oliver Direct) at 106:2-11.

756 AOBA (A) (B. Oliver Direct) at 106:12-16.

moving these rate classes closer to jurisdictional averages and actually moves these classes further away from the system average between rate cases.[757]

431. AOBA Witness Oliver also states that Pepco's proposed four-step method for allocating its requested revenue increase fails to adequately or fairly adjust rates of return for classes with URORs exceeding 2.0, which are more than double the Company's overall rate of return for its District distribution service.[758] Witness Oliver complains that the current GT-LV customer charge is approximately 8 times greater than the current monthly customer charge billed to any other rate class and that Pepco's proposed rates further amplify the relative size of the GT-LV customer charge.[759]

432. In addition, AOBA opposes the Commission's approval of Pepco's revenue allocation methodology for four reasons: (1) it relies on outdated percentages; (2) past results have been ineffective; (3) it does not address differences in class rates of return; and (4) it fails to consider changes in class costs.[760] Regarding rate increase percentages for classes with high URORs, AOBA criticizes Pepco's approach of applying no increase to these classes and using a single multiplier for others, calling it ineffective and inappropriate.[761]

433. Lastly, AOBA notes that Pepco's revenue increase allocation assumes full approval of its request, which is unlikely based on the Commission's past decisions.[762] AOBA suggests that limits should be placed on the deviations from the average rate increase percentage for a more equitable distribution of any approved increase to avoid rate shock, especially if the request is reduced.[763]

434. In summary, AOBA recommends a restructured revenue increase allocation that: (1) reduces the URORs for the GS-3A and TN classes to 1.5 (*i.e.*, 50% above Pepco's overall rate of return); (2) applies a multiplier of 1.4 to the system average rate increase to compute the rate increases for under-earning rate classes (*i.e.*, R, SL-E, and SL-S); (3) applies a multiplier of 0.9 to the system average increase for classes with current URORs in excess of 2.35 (*i.e.*, the GT-LV, GR-3A, and MGT-LV classes); and (4) applies a multiplier of 0.948 to the system average increase percentage for rate classes with URORs "in excess of unity."[764]

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757 AOBA (A) (B. Oliver Direct) at 104:9-16. To show the movement away from system averages, AOBA Witness Oliver notes that in *Formal Case No. 1156* the UROR for the GT-LV and MGT-LV classes was 2.35.

758 AOBA (A) (B. Oliver Direct) at 104:9-11, 108:18-109:12, at Attachment A, AOBA's Comments Pursuant to Order No. 21599, at Attachment A at 7, filed June 5, 2023. *See* AOBA (A) (B. Oliver Direct) at 109:16-110:5. *See also* AOBA's Post Legislative Style Hearing Brief at 83-85.

759 AOBA (A) (B. Oliver Direct) at 114:6-18.

760 AOBA (A) (B. Oliver Direct) at 107.

761 AOBA (A) (B. Oliver Direct) at 111.

762 AOBA (A) (B. Oliver Direct) at 113:20-22.

763 AOBA (A) (B. Oliver Direct) at 113.

764 AOBA (A) (B. Oliver Direct) at 113:1-13.

435. **GSA.** GSA agrees that negative residential rates of return have been a chronic problem for Pepco for around two decades; in other words, residential rates have been highly subsidized by other rate classes.[765] Pepco's proposed revenue spread using the four-step method indicates that residential rates are moved closer to the cost-of-service, but the annual residential subsidy during the MRP's term could remain in excess of $100 million.[766] GSA thinks residential rates have not been increased enough in previous rate cases to eliminate the negative ROR problem.[767]

436. GSA also stresses that Pepco classifies approximately 12% (around 38,000) of its residential customers as low- to moderate-income ("LMI") based on their enrollment in energy assistance programs. Of these LMI customers, about 68% (around 26,000) are enrolled in the RAD program, which insulates participants from distribution rate increases.[768]

437. GSA Witness Goins takes issue with OPC Witness Dismukes' lack of concern for non-residential customers that annually pay the large (over $100 million) interclass subsidy for residential customers.[769] GSA believes the Commission should reject OPC's revenue spread recommendations and adopt Pepco's four-step revenue allocation methodology.[770]

438. **OPC.** OPC recommends rejecting Pepco's revenue distribution plan, which disproportionately increases residential rates by 2.3 times the system average.[771] OPC states that despite the Commission's goal to gradually address negative returns for residential customers, this method has not effectively improved their rate of return.[772] OPC suggests limiting rate increases for classes with a relative rate of return ("RROR") of below 0.90 to 1.25 times the system average to ensure gradualism and maintain affordability.[773]

439. OPC argues that fully allocating revenue based on cost-of-service can unfairly impact underperforming classes, particularly residential customers. OPC raises residential affordability concerns, arguing that Pepco's proposal will result in unaffordable rates for at least

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765 GSA (A) (Goins Rebuttal) at 7:9-12.

766 GSA (A) (Goins Rebuttal) at 8-9.

767 GSA (A) (Goins Rebuttal) at 13.

768 GSA (A) (Goins Rebuttal) at 15.

769 GSA (A) (Goins Rebuttal) at 15:19-20.

770 GSA (A) (Goins Rebuttal) at 16:4-10.

771 OPC (A) (Dismukes Direct) at 51:8-13.

772 OPC (A) (Dismukes Direct) at 51:8-22.

773 OPC (A) (Dismukes Direct) at 8:22 and 9:1-2.

the bottom 20% of District households.[774] OPC recommends reconsidering the policy of assigning higher revenue increases to eliminate negative RRORs, as it results in unsustainable rate hikes.[775]

440. OPC highlights that previous large rate increases for residential customers failed to significantly improve their RROR. For example, after a 2.21 times system average increase in *Formal Case No. 1087*, the RROR declined, and even a Multiplier of 2.48 from *Formal Case No. 1103* only led to a slight improvement in results. OPC criticizes Pepco's static approach to revenue distribution, which overlooks dynamic cost trends.[776]

441. OPC also contends that it is unfair to place larger investment costs on residential customers when larger customers benefit most from these investments. It argues that larger customers should cover these costs instead. [777]

442. OPC Witness Dismukes proposes an alternative revenue distribution that would lower the proposed increase in base rates to residential customers to 15.5%, as opposed to the proposed increase to these same customers of 28.53%.[778]

DECISION

443. In our most recent decision on class revenue allocation, we found that:

> The Commission has wide discretion in setting class revenue requirements. Traditionally, in setting class revenue requirements for Pepco, we have considered the cost of service for each class, as well as a broad range of other cost and non-cost factors. While the Commission has a policy of gradually lessening the disparities between rate classes and moving towards a UROR, there is no requirement of uniformity among the rates of return from different customer classes.[779] For example, customer class rates of return may vary based on the risk to Pepco, because the level of risk is a

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774 OPC (A) (Dismukes Direct) at 31:12-15.

775 OPC (A) (Dismukes Direct) at 48:14-17.

776 OPC (A) (Dismukes Direct) at 48.

777 OPC (2A) (Dismukes Surrebuttal) at 26.

778 OPC (A) (Dismukes Direct) at 52:3-6OPC (A)-7 (Dismukes Direct Exhibit).

779 *See, e.g.*, *Washington Gas Light Co. v. Public Serv. Comm'n*, 450 A.2d 1187, 1207 (D.C. 1982); *Apartment House Council of Metro. Washington, Inc. v. Public Serv. Comm'n*, 332 A.2d 53, 57 (D.C. 1975) ("equal return from customer classes is not required"); *Formal Case No. 1076*, Order No. 15710, ¶ 340 ("The courts have never imposed a requirement of uniformity among the rates of return from different customer classes."), ¶ 342 ("Historic rate patterns in the District of Columbia have been that the residential classes pay lower class RORs than the commercial class RORs"), ¶ 340 n.687 (one factor in setting class RORs is that "at the retail level the costs of electricity are commonly tax deductible business expenses for retail business customers but not for retail Residential customers").*See also, Formal Case No. 1139*, Order No. 18846, ¶ 453, rel. July 25, 2017 ("Order No. 18846").

> valid factor to be considered in rate design.[780] Differences can be based not only on quantity, but also on the nature, time, and pattern of use, to achieve reasonable efficiency and economic operation.[781] Other valid non-cost factors that may be considered in setting both customer class revenue requirements and rate designs include "equitable considerations" such as value of service and ability to pay, the quality of service delivered, historical rate patterns, the need to conserve energy resources, and other market-place realities, as well as principles of gradualism and rate continuity.[782]

444. Pepco proposes a revenue allocation approach focusing on raising rates for the under-earning classes and provides a 2.3 multiplier to increase the allocation to those classes to address the under-earning. The methodology could also include a multiplier for over-earning classes of 0.84 for URORs between 1.1 and 2.0 and a multiplier of 0.67 for over-earning classes URORs above 2.0. OPC challenges Pepco's revenue allocation methodology, arguing that it disproportionately impacts low-income customers because it significantly moves/increases the revenue allocation percentage for residential classes. GSA supports the adoption of Pepco's four-step revenue allocation methodology and noted that the low-income RAD program insulates participants from distribution rate increases. AOBA agrees in concept that Pepco's four-step process is reasonable but thinks that the methodology needs modifications by restructuring the revenue increase allocation and multipliers for rate class adjustments.

445. The Commission believes that a balanced approach to class revenue allocation that considers gradualism in moving rates toward cost causation, equitable treatment for all customer classes, and Pepco's financial stability is just and reasonable. Pepco's proposal is consistent with our policy to gradually eliminate negative class rates of return, particularly for the residential class, which has been subsidized for over two decades.[783]

446. While Pepco's proposal to allocate most of the revenue increase to residential customers would help address the cross-subsidy issue, we believe it is important to consider the financial burden of rate increases on low- and moderate-income households. OPC has raised concerns that disproportionately increasing residential rates would unfairly impact those least able to afford higher bills, particularly the bottom 20% of households in the District. However, GSA supports the adoption of Pepco's four-step process since the RAD program shields low-income participants from the distribution rate increase and rejects OPC's proposal. In addition, RAD customers are able to avail themselves of Pepco's Arrearage Management Program, and the impact

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780 *See, e.g.*, *Formal Case No. 1053*, Order No. 14712, ¶ 337.

781 *See, e.g.*, *Apartment House Council of Metro. Washington,* 332 A.2d at 57; *Formal Case No. 1076*, Order No. 15710, ¶ 340, n.689, rel. March 2, 2010 ("Order No. 15710").

782 *See, e.g.*, *Washington Gas Light Co.,* 450 A.2d at 1199-1209*; Formal Case No. 1076*, Order No. 15710, ¶ 340, n.690; *Formal Case No. 869*, Order No. 9216 at 133-134, rel. March 3, 1989.

783 *See Formal Case No. 1103*, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service* ("*Formal Case No. 1103*"), Order No. 17424, ¶ 436 (rel. March 26, 2014).

of the COVID-19 pandemic has eased. Thus, the Commission is persuaded that Pepco's proposed methodology for class revenue allocations is reasonable and agrees that the GS-3A and TN schedules should be excluded from any distribution rate increase because their UROR is greater than three times the system average and is already paying more than its fair share for distribution services.

447. In addition, we accept Pepco's proposal to address AOBA's position and apply an approximate $50,000 revenue decrease over the term of the MRP to schedules GS 3A and TN. As for step two, there are no classes that are consistent with the "steady state" that are relatively close to the system average. With respect to step three, we believe that those rate classes with URORs of 0.90 or less should be assigned a percentage revenue increase greater than the system average increase as determined by the multiplier of 2.3 multiplied by the system average increase. For step four, consistent with Pepco's proposal, the Commission notes that the remaining revenue requirement increase shall be assigned to the remaining classes in proportion to their annualized distribution revenue. The Commission believes the four-step approach is more equitable to all ratepayers. The resultant revenue allocation is presented in Table 15 below.

Table 15: Revenue Allocation (%)

Rate Schedule	MRP Total	2025	2026
R	40.69%[784]	33.55%	70.79%
MMA	1.60%	1.76%	0.88%
GS ND	2.26%	2.50%	1.25%
T	0.15%	0.17%	0.08%
GS LV	4.29%	4.75%	2.38%
GS 3A	-0.02%	-0.02%	-0.04%
MGT LV	21.84%	24.15%	12.11%
GT LV	19.69%	22.63%	7.30%
GT 3A	7.86%	8.69%	4.36%
GT 3B	0.07%	0.08%	0.04%
RT	1.04%	1.14%	0.57%
SL-S	0.30%	0.33%	0.17%
SL-E	0.21%	0.24%	0.12%
TS	0.03%	0.03%	0.02%
TN	-0.02%	-0.02%	-0.03%
Total	**100.00%**	**100.00%**	**100.00%**

448. AOBA and OPC argue that Pepco's reliance on outdated data and rigid revenue allocation methodologies has resulted in long-standing disparities in class rates of return. To address this, the Commission directs Pepco to incorporate more dynamic cost data in its future filings and reassess allocation factors periodically to reflect current operating conditions. This would ensure that revenue allocation is not solely based on historical data but considers evolving

[784] This allocation is not without precedent. *See* Order No. 17424, ¶ 898 ("In *Formal Case No. 1076*, the Commission ordered 36% of Pepco's authorized revenue increase to go to residential classes. In *Formal Case No. 1087*, we increased the percentage to 45%").

customer needs and cost drivers. Additionally, adopting more detailed and flexible revenue allocation models, as suggested by AOBA, would provide greater accuracy in matching revenue requirements to cost causation.

449. The Commission finds that the revenue requirement increase caused by COVID-19-related BSA Regulatory Asset should be allocated in its entirety towards the GT-LV class, as this rate class causes this revenue requirement increase. Such allocation follows the cost-causation principle, which is a cost sharing mechanism which assesses cost based on a rate class's impact on the system.

450. Additionally, the Commission believes that adopting more detailed and flexible revenue allocation models, as suggested by AOBA, would provide greater accuracy in matching revenue requirements to cost causation. Moreover, future rate cases should incorporate more current cost data and reassess allocation factors, preventing reliance on outdated methods.

451. The Commission will continue to consider AOBA's proposal for differentiated multipliers to ensure that over-earning classes receive lower increases while under-earning classes receive slightly higher ones. The Company should account for differentiated multipliers in their next rate case filing.

XIV. RATE DESIGN

452. Having determined the appropriate revenue requirement for Pepco, the Commission must now determine how to distribute Pepco's revenue increase among the Company's customer classes, as well as the appropriate rate design to charge each class member and the specific changes that should be made to Pepco's existing tariffed rates.[785] Rate Design involves two functions: (1) the design of inter-class rates, which involves the assignments of revenue requirements between the various customer classes (revenue allocation); and (2) the design of intra-class rates, which involves the manner in which the class revenue requirement will be collected from customers within the class. As a guide to determine how much of any rate increase (or decrease) should be assigned to a particular customer rate class, we examine the class rates of return reflected in Pepco's CCOSS. These results are then translated into an RROR, which measures as a percentage the actual individual customer class rate of return compared to the utility's system average or overall rate of return.[786]

453. Once the revenue requirement is allocated among the various classes, intra-class rates may be designed. Intra-class rate design is guided by important policy considerations, including gradualism, energy conservation, economic impacts, and cost causation. Almost all rate classes have a customer charge, which is designed to recover fixed utility costs, such as the cost of meters. Additionally, Pepco customers have a volumetric charge, which is designed to recover

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785 *Formal Case No. 1139*, Order No. 18846, ¶ 401.

786 *Formal Case No. 1139*, Order No. 18846, ¶ 473.

variable costs. That is, each customer's bill has a fixed monthly customer charge and a volumetric per kilowatt-hour ("kWh") charge.[787]

454. **Pepco.** Pepco Witness Efimova testifies to the Company's approach to billing determinants forecasts, which are crucial components for revenue forecasting and rate design.[788] These forecasts estimate future customer numbers, energy sales, and demand, using historical data and factors like weather and economic conditions to set customer rates. The forecasting process incorporates theoretical assumptions about seasonality and empirical modeling with tools like Ordinary Least Squares ("OLS") regressions, adjusting for factors like structural changes, energy efficiency, and solar adoption. While theory guides the process, practical adjustments are made to refine the forecasts.

455. Pepco Witness Bonikowski proposes four steps to design a rate structure for each customer rate schedule. First, determine the level of effective rate adjustment ("ERA"): the adjustment modifies rates to align with the revenue target for each MRP rate year. Pepco proposes allocating this adjustment between volumetric and demand rates proportionally, slightly reducing the impact on high-load factor customers.[789] The ERA in both the proposed MRP and traditional rate case is allocated between distribution rate components in the same manner.[790] Second, determine the level of customer charge: Pepco proposes either a flat increase or a percentage adjustment toward each class's Customer Unit Cost for rate schedules with incremental revenue requirements. No customer charge increase will exceed the class's Customer Unit Cost during this MRP.[791] Third, determine the level of demand charge: for rate schedules with a three-part structure, the demand charge is adjusted by reallocating the revenue after determining the customer charge. In two-part structures, the remaining revenue after setting the customer charge is recovered entirely through the demand charge.[792] Fourth, determine the level of the energy (volumetric) charge: in three-part rate structures, the energy charge is adjusted similarly to the demand charge by proportionally reallocating the remaining revenue. For two-part rate schedules without a demand charge, the remaining revenue after the customer charge is recovered through increased volumetric rates.[793]

456. Witness Bonikowski argues that the Commission has approved similar adjustments to ensure rates and BSA targets produce the same level of revenue in every rate case since the BSA was approved, including in *Formal Case Nos. 1087*, *1103*, *1139*, *1150*, and *1156*.[794]

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787 *Formal Case No. 1139*, Order No. 18846, ¶ 474.

788 Pepco (K) (Efimova Direct) at 5:5-6:3.

789 Pepco (E) (Bonikowski Direct) at 23:13-18 and 27:3-5.

790 Pepco (2E) (Bonikowski Supplemental) at 13:1-2.

791 Pepco (E) (Bonikowski Direct) at 28:4-16.

792 Pepco (E) (Bonikowski Direct) at 28:18-29:6.

793 Pepco (E) (Bonikowski Direct) at 29:8-19.

794 Pepco (E) (Bonikowski Direct) at 26:9-12.

457. Pepco is not proposing to make any structural changes to the rate design for any existing rate schedule, *i.e.*, the type of distribution rate component (customer charge, energy charges, and demand charge) that currently exists for each rate schedule.[795] The detailed revenue requirement changes to each rate schedule that Pepco proposed for the MRP years are as follows:[796]

a. For **Residential Service** (Schedule R), Pepco proposes a $1.00 increase for each year of the three-year MRP, raising the charge from $16.09 as in current rates to $19.09 by MRP year 3. The remaining distribution revenue will be recovered through summer and winter volumetric rate blocks, maintaining the current revenue proportions for each rate component.[797]

b. For **Master Metered Apartment ("MMA") Service** (Schedule MMA), Pepco will decrease the MMA customer charge by $3.20 to $2.24 in 2024. Further, Pepco proposes to move the resulting customer charge 50% of the way toward the class's CCOSS unit cost of $1.30 through equal customer charge reductions in MRP year 2 and MRP year 3. Consequently, the customer charge in MRP year 3 will be $1.78. The remaining distribution revenue requirement is recovered through a volumetric rate structure of a single annual energy charge instead of a seasonal blocked volumetric rate structure.[798]

c. For **General Service – Non-Demand** (Schedule GS-ND), Pepco proposes to increase the customer charge by $1.80 in each rate year from the current charge of $32.88. By MRP year 3, the customer charge will be approximately equal to the 2021 test period unit cost of $38.29. Similar to Schedule R, the remaining distribution revenue requirement is recovered through the seasonal volumetric charges.

d. For **Temporary Service** (Schedule T), Pepco proposes setting customer charges at the same level as those of Schedule GS-ND; the remaining distribution revenue requirement will be recovered through seasonal volumetric charges.

e. For **General Service – Low Voltage (Schedule GS-LV)**, Pepco proposes decreasing the customer charge by $0.46 in MRP year 1, bringing it to $38.29, which matches the class's unit cost. The remaining distribution revenue will be recovered through demand and volumetric charges, proportional to the class's share of non-customer-related revenue.

f. For **General Service – Primary Service** (Schedule GS 3A), which consists of a customer charge, a demand charge, and a seasonally differentiated volumetric charge, Pepco is not proposing to allocate any proposed revenue increment.

g. For **Time Metered Medium General Service—Low Voltage** (Schedule MGT-LV), comprised of a customer charge, a demand charge, and a volumetric charge, Pepco

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795 Pepco (E) (Bonikowski Direct) at 30:3-5.

796 Pepco (E) (Bonikowski Direct) at 30-39.

797 Pepco (E) (Bonikowski Direct) at 31:15-18.

798 Pepco (E) (Bonikowski Direct) at 33:10-14.

proposes decreasing the customer charge by $8.81 in each rate year from the current level of $237.00. By MRP year 3, the customer charge will be roughly equal to the test period unit cost of $210.58. In addition, Pepco proposes that the remaining distribution revenue requirement be recovered the same way as in Schedule GS-LV.

h. For **Time Metered General Service – Low Voltage** (Schedule GT-LV), consisting of a customer charge, demand charge, and volumetric charge, Pepco proposes to increase the customer charge over the term of MRP. The current customer charge is $1,908.28, and the unit cost is $4231.22. Pepco proposes to increase the customer charge by $387.16 in each rate year. By MRP year 3, the customer charge will be approximately 73% of the test period unit cost. Further, Pepco proposes that the remaining distribution revenue requirement be recovered the same way as for Schedules GS-LV and MGT-LV.

i. For **Time Metered General Service—Primary Service** (Schedule GT-3A), which consists of a customer charge, a demand charge, and a volumetric charge, Pepco proposes increasing the customer charge by $13.82 in each rate year from the current charge of $197.49. By MRP year 3, the customer charge will be approximately equal to the test period unit cost of $238.95. The remaining distribution revenue requirement will be recovered similarly to Schedules GS-LV, MGT-LV, and GT-LV.

j. For **Time Metered General Service – High Voltage** (Schedule GT-3B), which consists of a customer charge and a demand charge, Pepco proposes to decrease the customer charge by $38.07 in each rate year from the current customer charge of $311.66. By MRP year 3, the customer charge will be approximately equal to the test period unit cost of $197.46. Additionally, Pepco proposes eliminating the seasonal differentiated demand charge in favor of a single year-round demand charge.

k. For **Rapid Transit Service** (Schedule RT), for which the sole distribution rate component is a monthly customer charge, Pepco does not propose any change to the current rate design. The customer charge will recover the entire revenue requirement allocated to the class for each rate year.

l. For **Street Lighting Service** (Schedule SL-E), consisting of a customer charge and a volumetric charge, Pepco proposes to decrease the customer charge by $1.38 in each rate year from the current charge of $25.17. By MRP year 3, the customer charge will be approximately equal to the test period unit cost of $21.03. The remaining revenue requirement will be recovered through the volumetric charge.

m. For **Traffic Signal Service** (Schedule TS), which consists of a customer charge and a volumetric charge, Pepco proposes increasing the customer charge by $1.75 in each rate year from the current charge of $4.26. By MRP year 3, the customer charge will be approximately 65% of the test period unit cost of $14.74. The remaining revenue requirement will be recovered through the volumetric charge.

n. For **Street Lights Served from Overhead Lines** (Schedule SSL-OH) and **Street Lights Served from Underground Lines** (Schedule SSL-UG), the rate components for both classes have been adjusted to the same percentage amount to recover the proposed revenue requirement.

o. For **Telecommunications Network Service** (Schedule TN), which consists of a customer charge and a volumetric charge, Pepco does not propose to allocate any proposed incremental revenue.

458. **OPC.** OPC Witness Dismukes states that "errors in the internal reporting of billing information may lead to the development of inaccurate rates during rate case proceedings."[799] According to OPC, Pepco previously overstated billing determinants used in *Formal Case No. 1150*. This overstatement resulted in the incorrect establishment of the demand rates for applicable rate classes for the rate case period and an under-recovery of revenue that Pepco partially recovered afterward through BSA. In particular, two customer classes, Schedules MGT-LV and GT-LV, repeatedly reported large under-recoveries of their class-specific authorized revenues, according to Witness Dismukes. Witness Dismukes further testifies that, consequently, the error led to larger monthly BSA adjustments for the demand rates of commercial customers, which increased BSA deferral balances. Pepco later explained that the error was caused by double-counting customer demand when a rate change occurred in the middle of a month. Dismukes testifies that the error likely overstated volumetric rates set in prior base rate cases to reconcile overall class revenues, which likely resulted in a cross-subsidization between customers within the rate class.[800] According to OPC, Pepco has not taken any fiscal responsibility for its double-counting error.

459. Additionally, OPC is opposed to changes in customer charges for any rate class based on the results of a survey of residential and small commercial customer charges of regional utilities. The survey shows that Pepco's current residential customer charge of $16.09 per month is noticeably higher than the regional average of $11.36 per month.[801] OPC, therefore, opposes modifying residential customer charges because it believes that current customer charges reasonably recover each class's customer-related costs. OPC further argues that increasing customer charges has the potential to adversely affect low-usage customers and reduce economic incentives for energy efficiency investments and energy conservation.

460. **AOBA.** In terms of billing determinants, AOBA believes that Pepco has been given multiple opportunities to revise its billing determinants since June 2020. After being directed to provide new billing determinants and rates for use in 2023, Pepco's revised billing determinants were rejected by the Commission in Order No. 20755, according to AOBA.[802] AOBA concludes that "Pepco's BSA revenue under-recoveries are substantially driven by the Company's inability to update its billing determinants and have limited substantive foundation."[803]

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799 OPC (A) (Dismukes Direct) at 88:18-89:2.

800 OPC (A) (Dismukes Direct) at 92:8-14.

801 OPC (A) (Dismukes Direct) at 55:6-8.

802 AOBA (A) (B. Oliver Direct) at 53:5-13, *referencing Formal Case No. 1156*, Order No. 20755, rel. June 8, 2021.

803 AOBA (A) (B. Oliver Direct) at Attachment B – Motion of the Apartment and Office Building Association of Metropolitan Washington for Leave to Respond and Response to Pepco's Reply Comments Regarding the Atrium Economics, LLC Preliminary Draft BSA Audit Report, filed June 30, 2023, at 7.

461. Furthermore, AOBA recommends that the ERAs should be discarded. According to AOBA Witness Oliver, Pepco's ERAs "are inappropriate and can greatly amplify the actual bill impacts Pepco's customers in the District will experience."[804] Furthermore, Pepco's ERAs are "particularly inappropriate where the billing determinants used in the design of rate can reflect calculations of revenues by class that are based on forecasted data, not actual experience."[805] For example, AOBA considers Pepco's ERAs, especially for the GT-LV class, excessive and potentially harmful. The GT-LV class faces a 60.5% revenue increase, which AOBA argues could lead to significant bill impacts and should, as such, not be approved. [806]

462. AOBA also raises concerns about the high customer charges for the GT-LV class, driven by unevenly allocated Customer Installation costs (*i.e.*, flawed CCOSS unit costs), which make up 75% of the class's total unit costs. Pepco allocates over $12 million of these costs to the GT-LV class but none to the MGT-LV class, even though the MGT-LV class has more customers. AOBA finds this allocation unjustified, especially since these two classes were a single class until *Formal Case No. 1150*. AOBA recommends redistributing these costs between the GT-LV and MGT-LV classes more fairly, based on customer numbers.[807]

463. **Pepco Rebuttal.** Pepco Witness Bonikowski testifies that over the entire MRP, Pepco's updated revenue requirements and rate design result in an average annual change in residential customer bills related to the incremental revenue requirement of $6.00 per month, equating to a 5.51% compound annual growth rate ("CAGR") between 2023 and 2026.[808]

464. Witness Bonikowski states that the base distribution rate designs support the Company's adjusted required net increases in distribution revenue of approximately $116.3 million, $34.5 million, and $35.8 million in MRP year 1, year 2, and year 3, respectively.[809]

465. Witness Bonikowski states that as explained in Pepco Witness Gardiner's Rebuttal Testimony, the Company has modified its Schedule MGT-LV and GT-LV customer unit costs under CCOSS in the manner recommended by AOBA. The Company proposes updated customer charges for Schedules GT-LV and MGT-LV to move each rate class 50% of the way toward its CCOSS unit cost by the end of the proposed MRP term or as part of the TTY filing.[810] This leads to a proposed decrease in the GT-LV customer charge instead of a sharp increase.[811]

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804 AOBA (A) (B. Oliver Direct) at 110:10-11.

805 AOBA (A) (B. Oliver Direct) at 110:12-14.

806 AOBA (A) (B. Oliver Direct) at 109:9-12.

807 AOBA (A) (B. Oliver Direct) at 95:4-8.

808 Pepco (3E) (Bonikowski Rebuttal) at iii.

809 Pepco (3E) (Bonikowski Rebuttal) at 1.

810 Pepco (3E) (Bonikowski Rebuttal) at 49:5-9.

811 Pepco (3E)-3 (Bonikowski Rebuttal) at 1.

466. Additionally, Pepco incorporates AOBA's recommendation to apply a revenue reduction to Schedules GS-3A and TN such that each class's URORs are equal to 1.5 based on Pepco's CCOSS test year results.[812]

467. Pepco opposes AOBA's recommendation to eliminate the ERA. The ERA ensures Pepco's authorized revenue matches changes in the number of customers. Removing the ERA would not affect the total base distribution revenue requirement of $665.5 million but would decrease the bridge year distribution revenue by $47.3 million, increasing the incremental revenue requirement by the same amount. The Company recommends that the $47.3 million be reallocated among rate classes like the incremental revenue requirement if the ERA is eliminated.[813]

DECISION

468. Pepco proposed a rate design methodology to generally move customer charges for all classes toward cost-based rates from the CCOSS, with the remaining revenue increase applied to demand (if applicable) and volumetric charges. The Commission adopts Pepco's proposal for adjusting customer charges, demand charges, and volumetric charges. The methodology is consistent with past practice.[814]

469. Given the Parties' concerns regarding billing determinants, customer charges, and rate design, the Commission believes it is necessary to ensure transparency and fairness and protect customers, particularly low-income and low-usage customers, while maintaining revenue recovery for Pepco.

470. The Commission strongly believes that Pepco should enhance the accuracy of the Company's billing determinant forecasts since errors in previous cases have led to under-recovery of revenues and cross-subsidization within rate classes.[815] This process would address the concerns raised by OPC and AOBA, who have pointed out previous instances of overstating or double-counting customer demand for commercial customers. Therefore, the Commission is taking a number of actions that will address these concerns, including: (1) changing the BSA from an individual customer counts basis to a rate class basis which will remove the customer forecast concern; (2) writing off $15.3 million of the BSA deferral due to the prior billing determinant error to incentivize strong utility controls; (3) reconvening the BSA Working Group to look at BSA improvements, (4) conducting an audit that includes examination of the utility forecast for the 2023 to 2026 period; and (5) using those audit results to help develop MRP lessons learned and inform the Commission on how to move forward.

471. The Commission approves proposed increases to residential customer charges. Specifically, the Commission approves an increase in the monthly residential customer charge by $1.00 in 2025 and an additional $1.00 in 2026. We acknowledge that Parties raised valid concerns about how these increases could disproportionately affect low-income and low-usage customers,

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812 Pepco (3E) (Bonikowski Rebuttal) at 50:9-11.

813 Pepco (3E) (Bonikowski Rebuttal) at 44:11-45:9.

814 *See* Order No. 20755, ¶ 444.

815 OPC (A) (Dismukes Direct) at 88:18-89:12.

discouraging energy conservation and undermining investments in energy efficiency. However, because costs should be allocated on cost causation principles and cross-subsidization should be minimized, when possible, we believe that the proposed customer charge is reasonable and would move costs closer to their cost-of-service levels in an acceptably gradual manner. Moreover, the existing RAD program will help the most vulnerable customers avoid a cost increase.

472. The Commission approves the use of the ERA to establish a baseline for current authorized revenues per class. The mechanism (previously known as the BSA Revenue Annualization) is necessary for BSA classes whose class revenue changes as customer counts grow or shrink. Currently, Pepco's authorized revenue per class is calculated monthly: the authorized revenue per customer for the specific month multiplied by the actual customer count for that month. As the customer counts change, the "tariffed revenue," which is the tariffed rates multiplied by approved billing determinants, does not match the authorized revenue previously described. The ERA is the difference between the tariffed revenue and the authorized revenue.

473. We do not believe that AOBA's complaint that the ERA is "adding" revenues to the GT-LV class before any increase is applied is valid. The magnitude of the ERA for certain large commercial classes, especially GT-LV, is concerning, effectively showing the disconnect between tariffed rates approved in 2021 and actual authorized revenues since the conclusion of the *Formal Case No. 1156* Modified EMRP Pilot. The misalignment is amplified by two factors: the growth in customers in the class, which leads to a larger authorized revenue, and the inaccuracy of Pepco's forecasts in setting rates in the *Formal Case No. 1156* Modified EMRP Pilot. If Pepco's forecasts were more accurate (acknowledging that COVID-19 pandemic impacts were a large part of the inaccuracy), the magnitude of the ERA would have shrunk. Likewise, if the billing determinants were able to be reset in the interim period, the billing determinants would have incorporated more recent historical data and been more accurate than those established in *Formal Case No. 1156*. The proposed change to a flat per-class revenue (with customer growth built-in) and an annual BSA surcharge (as opposed to monthly) aligns tariffed revenues and authorized revenues.

XV. <u>BILL STABILIZATION ADJUSTMENT</u>

474. **Pepco.** Pepco supports the continuation of the BSA under the MRP, arguing that it complements the MRP by decoupling revenue from energy usage, thus supporting the District's clean energy goals. Pepco states an independent audit (Atrium Audit) concluded that the BSA is well-designed and adheres to industry best practices. Despite criticism from the Parties, Pepco argues that the MRP cannot perfectly predict customer usage, and the BSA helps recover under-collections during the MRP period.

475. Pepco proposes the continuation of the BSA mechanism in the MRP with four enhancements/modifications: (1) a change from revenue per customer targets by class to a flat revenue target for each rate class; (2) transition from monthly to annual revenue reconciliation and annual surcharge adjustments; (3) the introduction of a demand component to the Company's BSA surcharges for demand metered rate classes; and (4) display the BSA surcharge as a separate line item on customer bills. Pepco contends that together, these proposals simplify the BSA mechanism

and improve transparency. Pepco also supports recovering COVID-19-related deferral balances for the GT-LV class through a separate regulatory asset.[816]

476. Pepco argues that changing the revenue target structure from a per-customer target to a flat revenue target per class would simplify the structure of the BSA and reduce the complexities associated with customer growth or loss within a particular class. It would also help ensure more stable revenue recovery, avoiding distortions caused by fluctuations in customer numbers, especially in classes with large users.

477. Pepco also recommends a transition to annual reconciliations, as monthly reconciliations can introduce volatility in customer bills due to the need for frequent adjustments. Moving to annual reconciliations would smooth out these fluctuations, providing customers with more predictable billing. This change would also reduce the administrative burden for the utility, the Parties, and regulators. An annual surcharge, if not structured properly, has the potential to increase the uncollected deferral rate class balances. Pepco proposes adding an adjustment to the surcharge if all of the following conditions are met: (a) any BSA class experiences a sharp increase in deferral balances;[817] (b) the class's current BSA surcharge is below the 10% cap; and (c) if it is projected that a class's under-collection will not be able to be collected over the following year's BSA surcharge (subject to 10% cap). If those conditions are met, Pepco would file for an adjustment to increase that class's BSA surcharge to the 10% cap until the rates are recalculated and reset mid-February, applicable to bills in March.[818]

478. Pepco suggests that incorporating a demand charge would improve equity among customers within demand-metered classes. This component would better align charges with the actual demand placed on the system by high-usage customers, ensuring that those who contribute more to peak demand pay their fair share.

479. Pepco proposes to separate the BSA surcharge as a distinct line item on customer bills to improve transparency. This would allow customers to have better insight into how the adjustment is applied to their bills.[819]

480. Pepco asserts that any remaining BSA deferral balances resulting from the GT-LV Normalization Adjustment under the *Formal Case No. 1150* Settlement are recoverable. The adjustments in customer count led to revenue under-recoveries, which were partially recovered through the BSA. Pepco noted that as of December 2023, approximately $3.4 million remained uncollected.[820]

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[816] Pepco (3E) (Bonikowski Rebuttal) at 18:3.

[817] Pepco will monitor the deferral balances monthly. If the projected deferral balance cannot be fully collected in the following year, then Pepco will request to increase the surcharge up to the 10% cap. *See* Pepco (E) (Bonikowski Direct) at 64:11-65:4 (Bonikowski Direct).

[818] Pepco (E) (Bonikowski Direct) at 64:11.

[819] Pepco (3EE) (Bonikowski Direct) at 66-14-16:14

[820] Pepco's Post Legislative Style Hearing Brief at 54-55; Pepco (3E) (Bonikowski Rebuttal) at 31:12-13.

481. Pepco defends the recoverability of BSA deferral balances related to the demand billing determinant error corrected in *Formal Case No. 1156*. It emphasizes that the error resulted in commercial customers paying lower rates than authorized but that recovery of the under-collected amounts through the BSA is appropriate and should not be retroactively disallowed.[821]

482. Pepco supports updating the billing determinants to ensure accuracy and alignment with actual data. The Company argues that the existing billing determinants had previously been overstated, leading to under-recoveries of authorized revenues.[822] For instance, errors identified in previous rate cases, such as double-counting demand billing determinants, resulted in under-recoveries, which the BSA has been adjusting to correct. These adjustments are integral to ensuring that Pepco collects the correct revenue as authorized by the Commission. Pepco has also emphasized the importance of using current Commission-approved billing determinants to avoid discrepancies, as outdated determinants can lead to further inaccuracies and affect the BSA's calculations.[823]

483. **Parties' Positions.** OPC, AOBA, and GSA recommend that the BSA should be discontinued, especially if the MRP is approved, arguing that the BSA is redundant and no longer provides clear benefits to customers. They believe the BSA shifts unnecessary risks to customers and reduces incentives for Pepco to manage its operations prudently. OPC highlights billing determinant errors that contributed to inflated deferral balances, while AOBA points to design and customer rate class transfer errors that further skew the deferred revenue balance for the GT-LV class. Both OPC and GSA support disallowing portions of the BSA deferral balances, with AOBA challenging the accuracy of Pepco's calculations. All three Parties agree on the creation of a separate regulatory asset to recover COVID-19-related deferral balances but vary on the estimated amounts. They generally favor a gradual recovery approach. While OPC, AOBA, and GSA cautiously support some of Pepco's proposed BSA enhancements—such as transitioning to annual reconciliations and adopting flat revenue targets—AOBA and GSA express concerns about the introduction of a demand charge portion of the surcharge.

484. **OPC.** OPC recommends discontinuing the BSA as the mechanism "is not fulfilling its original purpose and reduces incentives for prudent management by the Company."[824] OPC Witness Dismukes argues that the BSA is serving as an "attrition adjustment" to insulate Pepco from declining electric use, primarily by GT rate class customers.[825] OPC Witness Dismukes also highlights Pepco's billing determinant errors, resulting from customer demand double-counting, that led to inaccurate rate development during the previous rate case. OPC claims that this double

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821 Pepco's Post Legislative Style Hearing Brief at 59.

822 Pepco's Post Legislative Style Hearing Brief at 59-60.

823 Pepco (G) (Barnett Direct) at 55: 9-15.

824 OPC (2A) (Dismukes Surrebuttal) at 3:6-7.

825 OPC (A) (Dismukes Direct) at 88:3-4.

counting error on Pepco's part has contributed to the accrual of a sizable portion of the deferred BSA balances.[826]

485. Should the Commission approve the MRP, Witness Dismukes argues that the BSA should be rejected because it is "entirely inconsistent with the current clean energy/clean climate policy environment"[827] and incompatible with the MRP framework.[828] In its Direct Testimony, OPC recommends that the Commission disallow recovery of the portion of the BSA deferral balance related to the Company's past administrative errors from retail customers.

486. In its Surrebuttal Testimony, OPC recommends the removal of $42.2 million of BSA deferral balance from ratepayer recovery as "these balances are associated with the Company's previous acknowledged billing determinant mistake and faulty GT-LV normalization adjustment in Formal Case No. 1150."[829] In addition, OPC rejects the Company's proposal to include the BSA deferral balance as an element of the rate base in the traditional test year, which would allow Pepco to earn a rate of return on this balance.[830] Should the Commission approve the MRP and the BSA, OPC Witness Dismukes finds that Pepco's proposed BSA adjustments under the MRP are reasonable and recommends their approval by the Commission.[831]

487. **AOBA.** AOBA Witness Bruce Oliver proposes that the Commission reject Pepco's proposal to include the BSA because of the duplicative features between the BSA and MRP, the questionable objectivity and reliability of the Atrium Economics BSA Audit, and the lack of evidence that the BSA is benefitting customers as intended.[832]

488. AOBA Witness Oliver further argues that the BSA has not clearly benefitted customers since its inception because the BSA has not stabilized charges that are billed to customers.[833] Witness Oliver also contends that the MRP and BSA are redundant; should the MRP be approved, Pepco can "use forecasted billing determinants and costs to develop MRP rates that will address anticipated revenue recovery issues before they occur."[834] Witness Oliver also criticizes the Atrium Economics report at length, arguing that the report, upon which many of Pepco's proposals are based, should not be considered by the Commission. Specifically, Witness Oliver cites a lack of support for the Atrium Report from any of the interveners and Atrium's failure to examine the relationships that have impacted Pepco's monthly BSA rate adjustment nor

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826 OPC (A) (Dismukes Direct) at 92:8-10.

827 OPC (2A) (Dismukes Surrebuttal) at 18:9-10.

828 OPC (2A) (Dismukes Surrebuttal) at 19:8-15.

829 OPC (2A) (Dismukes Surrebuttal) at 29:6-9.

830 OPC (2A) (Dismukes Surrebuttal) at 3:11-12.

831 OPC (A) (Dismukes Direct) at 11:1-2.

832 AOBA (A) (B. Oliver Direct) at 46:9-15.

833 AOBA (A) (B. Oliver Direct) at 67:9-12.

834 AOBA (A) (B. Oliver Direct) at 68:3-7.

Pepco's reported BSA deferred revenue balance.[835] AOBA reiterated these concerns in its post-hearing brief.[836]

489. AOBA notes that should the Commission approve the MRP and BSA, AOBA Witness Oliver supports three of Pepco's four proposed BSA enhancements. Witness Oliver finds the transition to flat revenue targets per customer class, from monthly to annual surcharge adjustments, and the display of the BSA as a separate line item to be reasonable. However, Witness Oliver questions whether the introduction of the demand component to the BSA will add unnecessary complexity and recommends that it be implemented on an experimental basis, if at all.[837]

490. AOBA notes in its post-hearing brief that a significant portion (over 80%) of Pepco's total BSA deferred revenue balance is attributed to the GT-LV rate class. AOBA contends that Pepco's calculation of "allowed" BSA revenues for this class is inaccurate and inflated, leading to excessive deferrals.[838] AOBA identifies three main factors contributing to the inflated balance: rate design errors, inappropriate customer transfers, and the impact of governmental restrictions during the COVID-19 pandemic.[839] Specifically, AOBA highlights errors in the compliance filings of *Formal Case No. 1139* and *Formal Case No. 1150*, which led to an understatement of the GT-LV demand rates, amplifying the BSA deferred revenue balance.[840]

491. AOBA proposes specific adjustments to the BSA deferred revenue balance, which totals over $112 million. After these adjustments, AOBA claims that the GT-LV rate class has over-recovered its revenue requirements by approximately $11.65 million.[841] Therefore, Pepco's claim that the GT-LV class has been under-recovered is disputed.

492. Furthermore, AOBA challenges Pepco's proposed treatment of the BSA deferred revenue balance and strongly opposes allowing Pepco to earn a return on its BSA regulatory asset.[842] AOBA argues that Pepco has not justified the need for a return on these balances, particularly in light of the inaccuracies in the company's calculation of its BSA "allowed" revenues.[843]

493. AOBA advocates for the creation of a separate regulatory asset to account for the impact of COVID-19 on the GT-LV rate class. AOBA estimates the COVID-19-related impact on

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835 AOBA (A) (B. Oliver Direct) at 48:1-5.

836 AOBA's Post Legislative Style Hearing Brief at 56-65; 73-74; 78-80.

837 AOBA (A) (B. Oliver Direct) at 65:15-22.

838 AOBA's Post Legislative Style Hearing Brief at 56-59.

839 AOBA's Post Legislative Style Hearing Brief at 57.

840 AOBA's Post Legislative Style Hearing Brief at 57.

841 AOBA's Post Legislative Style Hearing Brief at 58-60.

842 AOBA's Post Legislative Style Hearing Brief at 59.

843 AOBA's Post Legislative Style Hearing Brief at 59-61.

the BSA deferral balance at $39.74 million, which it proposes to be recovered separately from the broader BSA deferral balance in a COVID-19 regulatory asset amortized over ten years with a return.[844] AOBA represents that this adjustment is supported by Pepco but with a higher estimate, which AOBA contests as lacking proper justification.[845]

494. **GSA.** GSA states that the BSA does not provide clear benefits to customers as it shifts risk to customers and increases rate volatility for customers. Similar to AOBA and OPC, GSA argues that the BSA is duplicative of MRP, where it uses forecasted billing determinants and an annual true-up, which removes Pepco's risk of billing determinants errors that the BSA was designed to achieve.[846]

495. GSA supports proposals by the OPC and the AOBA to disallow portions of Pepco's BSA deferral balance related to errors in billing determinant estimates and adjustments.[847] Specifically, GSA backs the proposal to disallow any portion of the BSA deferral balance tied to the billing determinant error and GT-LV Normalization adjustment, as customers should not be liable for Pepco's mistakes.[848]

496. GSA supports recovering the BSA deferral balance related to COVID-19 pandemic impacts as a regulatory asset amortized over ten years.[849] Contending this approach would mitigate the immediate financial impact on customers, many of whom are still recovering from the pandemic.

497. GSA agrees with Pepco's proposed modifications to the BSA, viewing them as improvements to the BSA that may reduce future issues.[850] However, GSA also expresses some concerns about whether applying the BSA to the demand and energy portion of the bill will benefit customers, as it may lead to intraclass rate shifting.[851] GSA suggests that before Pepco files its next MRP, the Commission should conduct an audit to evaluate the impact of these changes and reconsider whether the BSA should continue.[852]

498. **Pepco Rebuttal**. In Rebuttal Testimony, Pepco opposes AOBA's claims that the MRP is duplicative of the BSA due to the MRP's forecasted billing determinants, forecasted costs, and annual reconciliation. Pepco rebuts that while MRP forecasting can mitigate some risk, the Company cannot perfectly predict customer usage, and without the BSA, Pepco could not recover

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844 AOBA (A) (B. Oliver Direct) at 134:14-19.

845 AOBA's Post Legislative Style Hearing Brief at 64.

846 GSA's Post Legislative Style Hearing Brief at 29-31.

847 GSA's Post Legislative Style Hearing Brief at 32.

848 GSA's Post Legislative Style Hearing Brief at 32.

849 GSA's Post Legislative Style Hearing Brief at 33.

850 GSA's Post Legislative Style Hearing Brief at 34.

851 GSA's Post Legislative Style Hearing Brief at 34.

852 GSA's Post Legislative Style Hearing Brief at 34.

the under-collection until the end of the MRP.[853] Furthermore, Pepco reiterates that the BSA enables Pepco to support load reducing programs and energy efficiency programs that further the clean energy goals of the district.[854]

DECISION

499. The BSA represents a decoupling mechanism that separates the link between kWh sales and the revenues collected. The separation of the revenue a utility collects and the amount of kWh sold serves to make the utility indifferent to a decline in sales volumes due to the implementation of energy efficiency goals. The Commission implemented a BSA mechanism for Pepco in 2009. The BSA is calculated based on the Commission-approved monthly revenue per customer and is compared with the actual monthly revenue per customer collected. The difference between the approved monthly revenue and the actual revenue is divided by the forecasted kWhs to arrive at a per kWh sur-credit or surcharge. The sur-credit or surcharge is added or subtracted from the tariffed per kWh distribution rate and does not appear as a separate line item on a customer's bill.

500. The Commission is persuaded to continue the BSA alongside the MRP, as it encourages the utility to promote energy efficiency measures and incentives as well as the interconnection of DERs. The Commission supports the continuing use of a revenue decoupling mechanism to delink electric utility revenues from sales. We accept Pepco's annual targets per class, annual surcharge, and separate bill line item proposals as reasonable but will refer Pepco's demand component recommendation to the BSA Working Group as discussed below. The Commission agrees that BSA deferral balances reflect prior errors in billing determinant forecasts, creating a higher deferral balance, and believes that the Company should be held accountable for these mistakes through a penalty write-off. The Commission also supports modifying the treatment of deferral balances associated with COVID-19-related impacts on the GT-LV rate class and specifically approving a carrying charge on the established regulatory asset until recovery is complete.

501. The Commission believes all four proposed Pepco modifications will bolster the BSA mechanism and create better outcomes within the decoupling mechanism, as further explained below. An annual per class target provides more rate certainty for BSA class customers. The demand component will alleviate intraclass subsidies in large commercial classes with customers of varying load and demand levels. However, including a demand component would add complexity to the mechanism, and it is worth exploring with parties through a Working Group before adoption, along with other BSA matters. The Working Group should convene within 90 days to discuss a demand component to the rate as well as other recommended improvements and file a BSA Working Group Report by September 30, 2025.

502. **Revenue Target Per Class.** The Commission accepts Pepco's modification moving to a target revenue per class as it will set the exact amount Pepco is authorized to earn for the specific BSA rate class based on the approved revenue requirement and allocation. It will

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853 Pepco (3E) (Bonikowski Rebuttal) at 9:14-17.

854 Pepco (4A) (O'Donnell Rebuttal) at 17:22-25.

account for forecasted growth within an MRP and be reset at the time of the next distribution rate case.[855]

503. A per-class revenue target also partially addresses AOBA's continued complaints that Pepco is allowed to collect an average revenue per customer for commercial customers that are recently transferred to a higher electric demand or usage class, as those customers are likely to have usage and demand levels lower than the class average.[856] Pepco generally concurs that new customers added to certain classes may not reach the same level of cost of service as the average for the class and believes the move to a flat per-class revenue target, based on forecasted customer and cost of service growth, results in more accurate revenue targets and less inter- and intraclass subsidies.[857] The per-class target will also address concerns raised by AOBA regarding class customer counts.[858]

504. **Annual Reconciliation and Surcharge.** The Commission approves an annual surcharge adjustment since it adds more bill certainty and rate stability for customers, especially commercial customers who are sensitive to frequent changes in utility bills.[859] On or around February 10 of each year, Pepco shall file an annual BSA surcharge calculation based on over/under-collections through year-end. The annual surcharge would still be subject to a 10%+ or- cap based on the approved annual base distribution revenue forecast.[860] The 10%+ or- cap is applicable to the BSA deferral balance as of year-end 2024. To avoid overly burdensome filings for minimal impact on the deferral balances, the requested adjustment must be filed by September 15. This would allow for at least 3 months of updated BSA surcharges before the end of the annual period.

505. **Demand Component of Surcharge.** The Commission does not accept at this time the third proposed modification of adding a demand component to the BSA surcharge/credit. For large commercial classes, the amount of total revenue collected from the demand portion could be significant – for example, the GT-LV rate class collects two thirds of its revenues from demand charges.[861] The allocation of BSA surcharge between volumetric and demand components would be set to maintain the current class rate design revenue ratios.[862] This matter should be considered in the BSA working group, and a discussion should be included in the filed report.[863]

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855 Pepco (E) (Bonikowski Direct) at 62:14.

856 Pepco (E) (Bonikowski Direct) at 62:8.

857 Pepco (E) (Bonikowski Direct) at 60:6.

858 AOBA's Post Legislative Style Hearing Brief at 56.

859 Pepco (E) (Bonikowski Direct) at 63:15.

860 Pepco (E) (Bonikowski Direct) at 64:1.

861 Pepco (E)-8 (Bonikowski Direct Exhibit) at 8.

862 Pepco (E) (Bonikowski Direct) at 66:1.

863 Pepco (E) (Bonikowski Direct) at 66:1.

506. **Separate BSA Line Item.** The Commission accepts Pepco's proposal of adding a separate bill line item for the BSA surcharge/credit. This will increase transparency on customer bills since the impact of the BSA currently includes the distribution volumetric charge.[864]

507. **BSA Working Group**. A BSA Working Group is directed to convene within 90 days of the date of this Order to discuss whether there should be additional modifications to the BSA, including a discussion of the demand component adoption. A Working Group report containing recommended BSA improvements shall be filed with the Commission by September 30, 2025. Any proposed BSA changes are subject to future Commission approval.

508. **BSA Deferral Balance and Disallowance Write-Off for Demand Billing Determinants Error.** A portion of the BSA deferral balance is due to errors in demand billing determinant estimates in *Formal Case Nos. 1139* and *1150*, which inflate Pepco's claims for revenue recovery. Allowing Pepco to recover these balances would unfairly shift the cost of their mistakes onto customers. Therefore, the Commission will disallow portions of the BSA deferral balance linked to Pepco's billing determinant errors.

509. Pepco provided its estimate during a BSA Technical Conference indicating that $15.3 million in deferral balances were accrued between 2018 and 2021 due to the demand billing determinants error across four demand-metered classes: GT-LV, MGT-LV, GT-3A, and GS-LV.[865] OPC Witness Dismukes recommends a BSA deferral write-off of $15.1 million due to Pepco's billing determinant error[866] GSA advocates writing off any deferral balances due to Pepco errors and specifically references OPC Witness Dismukes testimony.[867]

510. The Commission believes that the $15.3 million error calculation presented by Pepco is reasonable and it is fairly consistent OPC and GSA's recommended deferral write-off. Therefore, the Commission directs Pepco to write off $15.3 million in deferral balances resulting from the Company's error due to inadequate controls to manage the BSA calculations appropriately. Because the GT-LV balance has ballooned to over $100 million, while the other commercial classes have deferral balances that are more manageable and potentially recovered in under two years, the $15.3 million write-off will be assessed to the deferral balance for the GT-LV rate class.

511. **Creation of a Separate Regulatory Asset to Account for the Impact of COVID-19 Pandemic on the GT-LV Rate Class**. The proposal to create a regulatory asset for pandemic-related costs would not be unique to the District. In fact, many jurisdictions developed similar

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[864] Pepco (E) (Bonikowski Direct) at 66:13.

[865] *See Formal Case No. 1156*, BSA Technical Conference Meeting Minutes, file January 28, 2022.

[866] OPC (A) at 110:15-23 (Dismukes Direct) and OPC (A)-19 (Dismukes Direct Exhibit). Witness Dismukes states that this figure was obtained from the Atrium Report and is comprised of the *Formal Case No. 1150* billing determinant mistake and the GTLV normalization adjustment. Witness Dismukes Exhibit A-19 shows that this figure is comprised of the Pepco billing determinant error of $15.1 million and the GTLV normalization adjustment of $27.1 million for a total of $42.2 million.

[867] GSA's Post Legislative Style Hearing Brief at 32.

approaches to manage the risks and costs associated with the COVID-19 pandemic.[868] Across the US and Canada, the most common regulatory response to the pandemic included implementing disconnection moratoriums (or suspending disconnections in response to non-payment), expanding customer payment plans to customers facing disconnection, and allowing for the tracking and deferral of costs arising from the pandemic.

512. The deferral of costs is an appropriate tool to balance utility financial integrity and regulatory certainty with protections for customers from rate increases, especially during extraordinary economic events like the COVID-19 pandemic. Jurisdictions that implemented some form of deferral accounting during the pandemic included Alaska, Arkansas, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia, Wisconsin, and the province of Alberta in Canada.[869] Some regulators authorized utilities to establish regulatory assets to record certain expenses and revenues, providing an opportunity for recovery in future rates. Others allowed utilities to defer certain expenses or revenues for accounting purposes only, allowing the regulators to make a determination on any claimed amounts in a future regulatory proceeding.

513. Pepco proposes creating a separate regulatory asset for the GT-LV rate class to account for the portion of the BSA deferral balance related to the COVID-19 pandemic. The Commission accepts the proposal of a regulatory asset with a return, as AOBA suggests.[870] This regulatory asset should be recovered over 10 years to mitigate the financial impact on customers who are still recovering from the pandemic. By isolating the pandemic-related impacts from broader revenue recovery, this approach would distribute the cost more evenly over time, reducing immediate bill shocks for customers while fairly treating Pepco shareholders.

514. The Parties recommend varying amounts to be amortized. Pepco calculates an amount of $46.8 million. OPC cites the total under-recoveries for all classes due to the COVID-19 pandemic. AOBA calculates a separate amount for GT-LV by looking at the monthly BSA reports. For the period of March 2020 through June 2021, AOBA sums the monthly under-recovery for GT-LV (comparing actual revenues to authorized revenues), resulting in $39.7 million.[871] GSA also supports moving the COVID-related deferral balance into a regulatory asset but does not identify a specific amount.

515. While no methodology proposed by the Parties is perfect, the Commission accepts AOBA's proposal as reasonable. It would be applicable only to GT-LV. The Commission believes

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[868] Some decisions with respect to COVID-19 pandemic costs were set into motion through legislation (see, for example, Alaska's Senate Bill 241, Alberta's Utility Payment Deferral Program Act, and California's Assembly Bill 913), others through utility-initiated motions, and others through regulatory state of emergency orders (*See*, for example, Michigan PSC Order in Case No. U-20757 and West Virginia PSC Commission Order No. 262.4). Responses to COVID-19 were either implemented jurisdiction-wide across all utilities or on a utility-by-utility basis.

[869] Lillian Federico. "Regulators seesaw on shut-off policy, move slowly on COVID-19 cost recovery." S&P Global Web. October 5, 2020.

[870] AOBA (B) (T. Oliver Direct) at 27.

[871] AOBA (A) (B. Oliver Direct) at 60:21-61:9.

that a 10-year amortization with a return set to the cost of debt is appropriate and will not be overly burdensome to GT-LV customers. Spreading the recovery of the asset across other classes of service has not been justified.

516. **Additional Annual True-Up.** In an effort to prevent the deferral balances from ever growing further, the Commission is implementing an additional true-up of any over- or under-collections for each calendar year beginning with CY 2025. This true-up would not be subject to the 10%+or-cap applicable to the existing BSA surcharge as modified. The true-up amounts by class shall be included in Pepco's annual BSA surcharge filing on February 10 for Commission approval.

517. This change will result in two annual adjustments to the BSA surcharge amount shown as a separate line item on each distribution bill beginning in 2026: Adjustment 1 – True-up of BSA revenues from the prior calendar year (January 1, 2025 – December 31, 2025), and Adjustment 2 – recovery of existing BSA deferral amount as of December 31, 2024, capped at a plus or minus adjustment of 10%. The two adjustments would be summed by rate class and subject to Commission approval. (In 2025, only Adjustment 2 will be applicable.) Each adjustment is to be tracked separately.

518. The Commission accepts Pepco's proposal to file the BSA adjustments by February 10 of each year, including all calculations and workpapers.[872] The write-off of $15.3 million from the BSA GT-LV deferral balance and the movement of $39.7 million from the GT-LV deferral balance to a new regulatory asset must be included in the February 10, 2025, filing.

XVI. TAX MATTERS

519. **Pepco.** Pepco Witness Leming testifies that grants received under the Infrastructure and Investment Jobs Act of 2021 ("IIJA") are treated as taxable income in the year of receipt for federal and state income tax purposes, which creates deferred tax assets ("DTA").[873] Pepco proposes to include the DTA associated with the IIJA funding as an increment to the rate base, compensating Pepco for the time value deficit. Pepco Witness Leming states that there are currently no IIJA grants reflected in the Company's filing.[874]

520. Pepco Witness Leming states that Pepco proposes a new CAMT, implemented under the IRA in 2023, which imposes a 15% tax on adjusted financial statement income.[875] According to Witness Leming, Pepco pays the greater of 15% of its adjusted financial statement income or its regular federal tax liability. Witness Leming testifies that the adjusted financial statement income is derived from GAAP financial statement net income and adjusted for federal

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872 The true-up collected over 12 months will be based on forecasted kWh usage and differences caused by actual usage levels will be captured in the following year's true-up.

873 Pepco (B) (Leming Direct) at 19:15-21.

874 Pepco (B) (Leming Direct) at 20:11.

875 Pepco (B) (Leming Direct) at 22:3-7.

income taxes, accelerated tax depreciation, pension, and other post-employment benefits.[876] Pepco Witness Leming testifies that Pepco is entitled to a tax credit equal to the amount by which the CAMT liability exceeds the regular tax liability.[877] The amount can be carried forward indefinitely and used when the regular tax liability exceeds the CAMT liability but cannot be carried back to previous years, according to Leming.[878] Pepco, in this proposal, does not have such tax credits.[879]

521. Pepco Witness Leming testifies that Pepco proposes a new rider, the ITA rider, to recover or refund the portion of the revenue requirement related to federal or state statutory corporate income tax rate changes enacted between base rate cases. Pepco proposes a federal tax charge or federal tax credit for the recovery or pass back of the impact of a future change of the federal income tax rate "as of the effective date of such change on the most recent base rates approved by the Commission."[880] Pepco Witness Bonikowski testifies that following the initial filing, the ITA will be filed with the Commission annually in November, establishing rates to be effective with January billings and included in the distribution charge on customer monthly bills.[881] Also, the ITA will include a reconciliation, filed annually in March for the 12 months ended December 31 of the prior year, according to Witness Bonikowski.

522. **AOBA.** AOBA Witness Bruce Oliver states that Pepco's allocation of income tax responsibilities to rate classes is "inconsistent with appropriate application of the U.S. income tax code and hides substantial additional cross-subsidization between rate classes."[882] This failure undermines any assumption that class cost-of-service results for 2021 will accurately reflect cost responsibilities in 2026, as service requirements and costs have not increased uniformly across rate classes.[883]

523. **Pepco Rebuttal.** Pepco Witness Gardiner argues that its approach to allocating income tax based on taxable income for each customer class at the Company's overall effective tax rates ensures that the same tax rate is applied to all customer classes.[884] Witness Gardiner notes that the Commission has deemed this method appropriate in *Formal Case No. 1156.* Lastly, Pepco suggests allocating income taxes by customer class, consistent with the Commission's prior approval in *Formal Case No. 1156*.[885]

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876 Pepco (B) (Leming Direct) at 22:9-15.

877 Pepco (B) (Leming Direct) at 23:9-12.

878 Pepco (B) (Leming Direct) at 24:15.

879 Pepco (B) (Leming Direct) at 23:8-9.

880 Pepco (B) (Leming Direct) at 24:19-22 and 26:1-5.

881 Pepco (E) (Bonikowski Direct) at 68:2-18.

882 AOBA (A) (B. Oliver Direct) at 129:11-14.

883 AOBA (A) (B. Oliver Direct) at 129:16-21.

884 Pepco (2D) (Gardiner Rebuttal) at 13:17-14:10.

885 Pepco (2D) (Gardiner Rebuttal) at 13:17-19 and 14:1.

DECISION

524. **CAMT.** The CAMT is a new tax that was implemented through the IRA. The CAMT imposes a 15% minimum tax on the adjusted financial statement income of large corporations for taxable years beginning after December 31, 2022.[886] Given that the CAMT is a newly implemented federal tax law under the IRA, the Commission approves Pepco's reflection of the CAMT in its revenue requirement. The Commission notes that there is no adjustment related to the CAMT in this proceeding because Pepco's tax liability exceeds the minimum threshold required by the CAMT. However, the Commission requires Pepco to report within thirty (30) days any future tax credits arising from CAMT if the CAMT exceeds regular tax liability to ensure these credits are factored into future rate cases. This will ensure that customers benefit from any potential tax relief in the future.

525. **ITA Rider.** None of the parties in this proceeding addressed Pepco's proposed ITA Rider. While the decision to impose or change a tax may be outside of the control of the utility, tax rates are directly tied to a utility's income. As such, taxes are more predictable and tied to a utility's standard forecasting practices than other types of expenses for which the use of a rider may be justifiable.

526. The Commission recognizes Pepco's concerns about alleviating the administrative burden and regulatory lag in refunding or collecting funds associated with anticipated tax law changes.[887] However, Pepco does not cite to any pending, proposed, or potential tax legislation that would justify the implementation of the proposed ITA Rider. Witness Leming admits that the Company does not indicate the timing of enactment or confirmation of changes in the Federal income tax rate that have been proposed by the Biden Administration.[888] Pepco also does not provide any examples of changes to the tax code or regulations that would be covered by the ITA Rider. The Commission believes that the review of the Company's Annual Informational Filing would provide the appropriate forum to discuss issues related to specific proposed tax changes. Therefore, the Commission finds that the Company's proposal is not justified. To the extent more urgent attention is required for emerging tax legislation, the Company should seek immediate guidance from the Commission through a formal request as was done in *Formal Case No. 1150*, with the passage of the TCJA. Therefore, the Commission rejects Pepco's proposed ITA Rider.

527. **State Income Tax Apportionment.** The Commission finds that there is no compelling evidence on the record for why a change is needed in the State Income Tax Apportionment. The Commission rejects Pepco's proposal to change from the current method of using the District's marginal tax rate of 3.15% to a combined marginal tax rate of 8.25% because the Company did not demonstrate in the record of this proceeding that the currently used District Marginal Tax rate of 3.15% is unreasonable given that this methodology has been utilized by the Company in previous rate cases and has been found just and reasonable by the Commission in those past cases. Additionally, Pepco did not provide adequate support for its claim that the combined marginal tax rate will better align to the manner in which state deferred income taxes

886 Pepco (B) (Leming Direct) at 22:3-7.

887 Pepco (B) (Leming Direct) at 25:17-26:5.

888 Pepco (B) (Leming Direct) at 28:19-29:7.

are being calculated or the need for the alignment to occur now, given previous presentations by the company in prior rate cases. Nor does the Company provide adequate support and related workpapers showing how it derived the proposed ratemaking adjustments related to this change in tax methodology, resulting in an increase in revenue requirements. Therefore, the Commission adopts RMA-17 to reflect this adjustment.

XVII. TARIFF-RELATED MATTERS

528. **Pepco.** Pepco proposes a residential time of use ("TOU") rate that would offer distribution, generation, and transmission TOU rates to all residential customers on an opt-in basis for EV charging.[889] The residential TOU rate incentivizes residential customers to shift energy consumption to off-peak hours, which is when the distribution system is less constrained. The proposed rate design enhances optionality by allowing customers to choose between the traditional fixed-rate structure and the proposed TOU rate structure, coupled with supply services through either Pepco's Standard Offer Service ("SOS") offering or third-party suppliers. Customers can realize bill savings by shifting or reducing energy loads during on-peak hours.

529. The Company is proposing new opt-in commercial TOU rates for separately metered EV charging for demand-metered customer classes, excluding Schedule GT-3B.[890] The key objectives are to encourage customers to shift EV charging to off-peak hours, typically overnight, when the distribution system is less constrained. This approach reduces the likelihood of needing significant distribution system upgrades and promotes affordability by allowing customers to save on bills if they shift or reduce load during peak hours.

530. Pepco next explains the Company's approach to increasing RAD customer enrollment. The RAD program is designed to provide financial assistance to economically vulnerable customers.[891] Specifically, the RAD offers a bill credit that covers nearly all of a customer's distribution charges on their electricity bill and is an essential support mechanism for low-income households in the District. Pepco proposes to expand enrollment in the RAD program through additional marketing and outreach, as well as by expanding the current eligibility requirements to qualify any customer who has already been qualified by any District governmental agency for low-income assistance.[892] This approach has been called "categorical eligibility."[893] According to Pepco, expanding the RAD program aligns with the company's broader efforts to benefit the District's most economically vulnerable residents. Additionally, Pepco proposes to increase the enrollment of eligible customers, which will extend this financial relief to even more residents.

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[889] Pepco (E) (Bonikowski Direct) at 43:13-22.

[890] Pepco (E) (Bonikowski Direct) at 49:10-19.

[891] Pepco (A) (O'Donnell Direct) at 18:21-19:9.

[892] Pepco (A) (O'Donnell Direct) at 19:5-9.

[893] Pepco (E) (Bonikowski Direct) at 32:12-19.

531. Pepco's next tariff proposal sets a $280 flat fee for residential customers interconnecting solar systems of 20 kW or smaller under net energy metering ("NEM"), which is designed to simplify and reduce the cost of interconnection.[894] Under this proposal, all residential customers applying for the interconnection of a small solar generation facility would pay this flat fee regardless of whether additional distribution system upgrades are required. Pepco contends the fee would fund necessary distribution system upgrades, helping to lower barriers to solar adoption and supporting the District's renewable energy goals.

532. **OPC.** OPC Witness Dismukes recommends that the Commission not approve the Company's proposed changes to its RAD low-income programs at the current time and, instead, open a proceeding after the conclusion of the current rate case to examine low-income and affordability issues in a more holistic fashion. In particular, changes to the Company's low-income programs could have important and potentially unintended consequences that affect other District-sponsored programs and other stakeholder initiatives.[895]

533. **AOBA.** AOBA Witness Oliver states that there is "no demonstrated need for EV TOU rates as the limited numbers of customers who can be expected to utilize the proposed TOU rates do not justify the complexity they added to the ratemaking process."[896] Witness Oliver testifies that AOBA opposes the expansion of the RAD program as presented by Pepco, citing concerns that this expansion contradicts the Company's efforts to reduce subsidies currently provided to the overall Residential ("Rate R") customer class,[897] concluding that expanding RAD participation without addressing the financial burden on non-RAD residential customers creates inequities.[898]

534. **DCG.** DCG Witness Lane testifies that Pepco fails to provide the necessary detail to assess the effectiveness of its proposed efforts to increase enrollment in these programs.[899] Lane also states that Pepco fails to discuss the effectiveness of the proposed methods for enrolling customers and that if Pepco would like to make this proposal, it should do so in *Formal Case No. 1125*, which already exists and is dedicated to examining these issues.

535. DCG proposes that the Commission take the following two actions with respect to the two new proposed TOU rates.[900] First, the Commission should direct Pepco to file an annual report evaluating the impact of time-varying rates on customer usage, grid constraints, and the deployment of clean energy technologies. Second, the Commission should reconvene the Rate

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894 Pepco (B) (Leming Direct) at 68:3-12.

895 OPC (A) (Dismukes Direct) at 10:7-12.

896 AOBA (A) (B. Oliver Direct) at 116:21-117:4.

897 AOBA (A) (B. Oliver Direct) at 116:8-15.

898 AOBA (2A) (B. Oliver Surrebuttal) at 34:14-19.

899 AOBA (A) (Lane Direct) at 67:4-68:10.

900 DCG (2A) (Lane Surrebuttal) at 30:4-23.

Design Working Group to monitor the implementation of the new rates and suggest and develop improvements to these rates.

536. DCG underscores that any changes to RAD need to be carefully examined to avoid unintended consequences, such as reducing overall utility assistance by not properly aligning RAD with other assistance programs like the low-income home energy assistance program ("LIHEAP") and Solar for All.[901] DCG states that the proposal would also create administrative complexities and could result in confusion among participants. DCG argues that the proposed changes should not be resolved within the scope of a rate case, as these issues are primarily administrative in nature. Instead, they should be discussed and vetted in *Formal Case No. 1125*, where stakeholders can address any impacts and optimize the expansion of the program.[902]

DECISION

537. **TOU Rates.** The Commission agrees with DCG that more details are needed to evaluate the impact of TOU rates on customer usage, grid constraints, and clean energy technologies. The Commission also notes that there is insufficient rationale for Pepco's proposed peak rate hours. Therefore, the Commission rejects Pepco's TOU proposal and directs the Rate Design Working Group ("RDWG") to convene within 90 days of the date of this Order to review and discuss the proposed rate structure and submit a report to the Commission by July 31, 2025, identifying consensus and non-consensus items.

538. **RAD Expansion**. Parties generally do not favor expanding RAD eligibility without additional information at this time. The Commission agrees with the Parties that additional information about the proposed RAD expansion is required before it can be considered. The Commission is also concerned about Pepco's estimated costs for program expansion, which will be borne by other distribution customers. Therefore, the Commission rejects Pepco's proposed expansion of the RAD program and directs the UDPE Working Group to convene within 90 days of the date of this Order The Working Group is directed to file a report with its recommendations by July 31, 2025.

539. **NEM Cost Sharing**. The Commission is concerned about the fair treatment of all distribution customers and potential utility distribution subsidies for interconnection related capital investments. Therefore, the Commission rejects the NEM cost sharing proposal in this proceeding, pending the outcome of our *Formal Case No. 1050* investigation regarding Pepco's interconnection procedures.[903]

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901 DCG (2A) (Lane Surrebuttal) at 26:20-27:9.

902 DCG (A) (Lane Surrebuttal) at 5:3-7.

903 *See Formal Case No. 1050, In the Matter of the Investigation of the Implementation of Interconnection Standards in the District of Columbia, RM40-2022-01, In the Matter of 15 DCMR Chapter 40-District of Columbia Small Generator Interconnection Rules, ET2023-02, In the Matter of the Petition of the Potomac Electric Power Company to Approve a Tariff Change for 20 kW and Below Residential Solar NEM Interconnections*, Order No. 22312, rel. October 10, 2024.

XVIII. OTHER MATTERS

A. Long Range Plan (LRP)

540. **Pepco.** Pepco Witness Phillip Barnett testifies that the PHI LRP includes five years of projected O&M costs and capital spending, financial statements (*e.g.*, income statement, balance sheet, cash flows), and financial metrics. He testifies that the PHI LRP is used to plan for future expenditures and manage costs.[904] Witness Barnett testifies that O&M costs in PHI's LRP reflect the projected distribution and transmission-related O&M expenses for all PHI entities (*i.e.*, Pepco, DPL, and ACE) and PHISCO and BSC. Witness Barnett testifies that the O&M in the MRP Application reflects PHI's O&M allocated for Pepco District Distribution and is included as part of the MRP revenue requirement.[905] He testifies that a key goal of the PHI LRP process is to integrate and align the PHI and Pepco operational and financial plans. The operational plan includes goals that strive to achieve industry-leading safety and operational performance for reliability and customer satisfaction.[906] Pepco Witness Barnett testifies that the O&M portion of the LRP project cost budget development involves each responsibility area performing a budget and planning process based on ensuring safe and reliable service, business needs, upcoming projects/existing or new initiatives, regulatory/legal requirements, and established goals, which seek to keep O&M cost increases below the inflation rate.[907] Witness Barnett testifies that Pepco has made changes to improve the LRP process for O&M and indicates that these improvements have resulted in Pepco DC distribution's actual O&M in 2021 and 2022 being below the amounts projected in *Formal Case No. 1156*.[908]

541. Pepco Witness Cantler testifies that Pepco's LRP, which integrates and aligns the Company's operational and financial plans, is updated and developed annually.[909] Witness Cantler testifies that each distribution project in the LRP is reviewed monthly throughout the current year to establish a baseline for future-year long-range planning. Current-year budget adjustments are made as the year progresses to account for normal construction lifecycle activity or emergent needs.[910] Pepco Witness Cantler testifies that while the Company does not revise its LRP during the year to reflect shifts due to normal lifecycle activity or emergent need, project deferrals may

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904 Pepco (G) (Barnett Direct) at 10:18-22.

905 Pepco (G) (Barnett Direct) at 4:7-14.

906 Pepco (G) (Barnett Direct) at 11:1-12:19.

907 Pepco (G) (Barnett Direct) at 13:9-22.

908 Pepco (B) (Barnett Direct) at 12:20-13:8 and 14:13-21.

909 Pepco (H) (Cantler) at 25:11-14.

910 Pepco (H) (Cantler) at 25:14-26:2.

be filled with accelerated prioritized projects, as identified by their priority group classification.[911] Witness Cantler testifies that Pepco has improved the LRP process for CapEx.[912]

542. Pepco Witness Leming testifies that the Company has developed its MRP Application with revenues and expenses based on its LRP, which he states is a "reasonable and more appropriate approach."[913] Witness Leming testifies that the LRP's projection of revenues and expenses provides the Parties and customers with transparency into the Company's plans and ensures that there is a basis for the revenue requirements rooted in plans that support the District's goals and policies while ensuring that customers continue to receive reliable service.[914] He testifies that the LRP reflects Pepco's best current estimates regarding the specific distribution programs and initiatives the Company will undertake in the District during the 3-year MRP while considering the impacts of inflation and supply chain issues.[915] Pepco Witness Leming testifies that the Company's plant additions, included in the Construction Report attached as an exhibit to Pepco Witness Cantler's Direct Testimony, are part of the LRP.[916]

543. **District Government.** DCG Witness Courtney Lane testifies that she disagrees with Pepco's proposal to base revenue requirements on forecasts because revenues should not be based on cost forecasts, which shifts risks to customers.[917] She testifies that Pepco's LRP does not provide sufficient information for stakeholders to vet the proposed investments adequately, and using cost forecasts is not as accurate as an external index.[918]

544. DCG Witness Lane testifies that Pepco is not improving the transparency of its planned investments by providing the LRP because including a list of planned investments without a long-term IDSP provides little value to the Parties in this case. Witness Lane testifies that absent the information provided in an IDSP, there is not enough context for how Pepco's planned investments over the MRP term relate to existing or future planned grid modernization investments, how investments pertain to forecasts for DERs and electrification, and whether more cost-efficient solutions exist through NWAs.[919]

545. In response to DCG Witness Lane's recommendation that Pepco should file an IDSP, Pepco Witness Cantler states that the Company does not believe an IDSP is necessary

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911 Pepco (H) (Cantler) at 25:15-26:10.

912 Pepco (H) (Cantler) at 27:19-28:7.

913 Pepco (B) (Leming Direct) at 9:1-5.

914 Pepco (B) (Leming Direct) at 9:6-11.

915 Pepco (B) (Leming Direct) at 9:14-17.

916 Pepco (B) (Leming Direct) at 31:20.

917 DCG (A) (Lane Direct) at 10:3-6 and 22:9-23:3.

918 DCG (A) (Lane Direct) at 10:6-10.

919 DCG (A) (Lane Direct) at 13:10-17.

because it already submits a Commission-mandated construction report and other annual filings.[920] Pepco Witness Cantler testifies that Pepco would be open and amenable to initiating its collaborative process to help identify the informational needs related to its grid modernization plans and further develop effective ways to communicate that information to invested parties.[921]

DECISION

546. The Commission's AFOR overarching framework principles for a utility seeking AFOR treatment state that the AFOR must, among other things, provide an appropriate level of transparency and reporting into the utility's operational and capital plans, ensuring that the plans will be maintained during the duration of the AFOR.[922]

547. The Commission acknowledges that Pepco relies on the PHI LRP to plan for future expenditures and manage costs. As such, projects to be executed during the upcoming years of the *Formal Case No. 1176* Modified MRP Extended Pilot are directly related to the LRP, and any changes to the Company's planned work during the *Formal Case No. 1176* Modified MRP Extended Pilot must necessarily be reflected in the LRP. The Commission expects that Pepco will, therefore, update the LRP to reflect the updated expenditures and cost recovery authorized during the MRP.

548. That said, it is crucial to emphasize the importance of having an updated LRP that includes financial benchmarking at the Pepco District level. This updated LRP must clearly outline capital expenditures aligned with long-term strategic goals, project timelines, and expected outcomes, thereby promoting sustainable growth and operational efficiency. Importantly, it should also reflect the revenue requirements that the Commission is authorizing during the MRP period, ensuring that all planned investments are adequately supported and aligned with the Climate initiatives of the District as well as the financial needs of the Company.

549. The Commission has emphasized transparency and reporting on the utility's operational and capital plans for AFORs.[923] IDSP focuses on optimizing and modernizing the distribution system to meet evolving demands from ratepayers. In addition to the traditional distribution planning that the District utilities undertake, IDSP incorporates advanced technologies, data analytics, and DERs, such as solar panels, energy storage, EVs, and demand response. These planning activities have overlapping implications for the distribution infrastructure and operational dimensions that should be integrated to address the District's clean energy policies and goals. Because the Commission believes that IDSP may create a more resilient, flexible, and reliable distribution grid, the Commission is opening a new proceeding seeking stakeholder input on the scope and direction of an IDSP for the District. We direct Pepco

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920 Pepco (4H) (Cantler Rebuttal) at 28:19-23.

921 Pepco (4H) (Cantler Rebuttal) at 32:11-16.

922 *See Formal Case No. 1156*, Order No. 20273, ¶ 94.

923 *Formal Case No. 1130*, *In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability* ("*Formal Case No. 1130*"), Order No. 20286, ¶ 37, rel. January 24, 2020. Emphasis is put on having stakeholder-informed process as it relates to Distribution System Planning/Non-Wire Alternatives as discussed in this order.

to file an updated LRP in the *Formal Case No. 1182* IDSP docket within 180 days of the date of this Order.

B. Community Comments

550. The Commission has an established policy of "providing the community with access to participation" in utility rate cases.[924] We heard from Pepco customers, civic organizations, small businesses, senior citizens, suppliers, and advisers to Pepco, employees of outside reliability contractors, and Advisory Neighborhood Commissions ("ANCs") and ANC Commissioners. The Commission has reviewed and assessed all the community comments.

551. Mr. Alfonso, President of Dynamic Concepts, Inc., fully supports the Pepco MRP application because it puts the District "in the forefront of utility stability by having funds to reinvest in new technologies, in new equipment, implementation of long-term maintenance schedules."[925]

552. Ms. Ann Walters, a resident of Ward 4, fully endorses Pepco's MRP primarily due to the employment opportunities it will generate for local businesses and residents. Her support is grounded in her prior involvement with a similar project that is part of Pepco's previous MRP, which provided her with firsthand experience of its positive impact on the local community.[926]

553. Food & Friends supports the Company's Capital Grid Project, which aims to "address the aging electric infrastructure and protect and strengthen the transmission line grid."[927] The Capital Grid Project is expected to provide several long-term benefits, including improved infrastructure, enhanced services, the ability to generate and storage energy from multiple sources, and grid modernization.[928] Food & Friends encourages the Company to continue supporting vulnerable customers through the expansion of the RAD program and the enhancement of the Arrearage Management Program; the organization also supports Pepco's DC Infrastructure Academy.

554. Mr. Daniel Tangherlini, a residential customer of Pepco, supports Pepco's plan since he believes that "The proposed MRP would achieve significant efficiencies by establishing locked and predictable pricing for consumers for multiple years."[929] However, he notes that "the DC PSC should take a close look at the size of the increase requested by Pepco in light of current

[924] *Formal Case No. 912*, *In the Matter of the Application of Potomac Electric Power Company for an Increase in Retail Rates for the Sale of Electric Energy* ("*Formal Case No. 912*"), Order No. 10080 at 5, rel. August 20, 1992.

[925] Dynamic Concepts Inc. Comments/Testimony at 2 (April 2, 2024).

[926] Ann Walters Comments/Testimony (April 2, 2024).

[927] *See* Written Comments/Testimony of Carrie Stoltzfus, Food & Friends at 1 (April 3, 2024).

[928] *See* Written Comments/Testimony of Carrie Stoltzfus, Food & Friends at 1 (April 3, 2024).

[929] *See* Written Comments/Testimony of Daniel Tangherlini at 1-2 (April 3, 2024).

energy inflation trends, in order to ensure that prices are fair and reasonable even if those most impacted some protection."[930]

555. The District of Columbia Department of Employment Services, the National Association of Minority Contractors, and the National Utility Contractors Association of Metro DC supports the MRP because it will create employment opportunities for District residents and provide an estimated 3800 full-time employment opportunities for District residents contributing an estimated $580 million in value added to the District's gross domestic product and provide $26 million in tax revenue for the city.[931]

556. In addition, the University of the District of Columbia endorses Pepco's MRP because the utility collaborates with the university, offering opportunities for students to pursue careers in the energy sector. This partnership benefits the students and the broader community of the District.[932]

557. ANC SMD 4D02 Commissioner Abel Amene and other residents oppose the MRP. Commissioner Amene states that the rate is exorbitant and will increase by 20% over the three-year MRP, resulting in unaffordable rates for one-fifth of District residents. The Commissioner reiterates OPC's contention that 95% of investments cannot be traced to any reductions in GHGs.[933]

558. Mr. Matthias Paustian, Co-Chair of Beyond Gas, opposes Pepco's MRP proposal due to concerns about significant rate hikes, inadequate climate benefits, and insufficiently justified costs associated with electrification. He highlights that the plan would raise residential electricity rates by 20% over three years, with distribution charges increasing by 37%, disproportionately affecting residential customers.[934] Mr. Paustian argues that these increases are unjustified and fail to deliver on the climate benefits Pepco claims will result, as most proposed investments are routine and not tied to reducing GHG emissions or improving energy efficiency.[935]

559. Additionally, Mr. Paustian raises concerns about Pepco's lack of planning for electrification. Despite DC's policy shift toward electrification to meet climate goals, Pepco has not included electrification forecasts in its load projections.[936] The District Government's Electrification Roadmap and Pepco's own electrification study show that the grid can handle projected loads through 2032, making Pepco's need for additional investments unclear. He calls

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930 *See* Written Comments/Testimony of Daniel Tangherlini at 1-2 (April 3, 2024).

931 *See* Written Comments of District of Columbia Department of Employment Services at 1 (April 25, 2024); *See* Written Comments of the National Association of Minority Contractors at 1 (April 24, 2024); *See* Written Comments of National Utility Contractors Association of Metro DC at 1 (February 27, 2024).

932 *See* Written Comments of the University of the District of Columbia at 1 (March 20, 2024).

933 *See* Written Comments of ANC Commission SMD 4D02 at 1 (April 17, 2024).

934 *See* Written Comments/Testimony of Mathias Paustian, Beyond Gas at 1-4 (April 3, 2024).

935 *See* Written Comments/Testimony of Mathias Paustian, Beyond Gas at 1-2 (April 3, 2024).

936 *See* Written Comments/Testimony of Mathias Paustian, Beyond Gas at 2 (April 3, 2024).

for the rejection of Pepco's MRP proposal and suggests returning to traditional cost-of-service ratemaking or adopting a structure with specific PIMs focused on identifiable outcomes like non-wires alternatives.

560. The Commission appreciates all the comments from stakeholders. We believe it is important to hear from the public as we make decisions that impact ratepayers and utility companies that serve them. The Commission believes that Pepco should be compensated for the costs it incurred during the test year, including significant capital expenditures to improve the reliability and quality of its service to District ratepayers for the District's community. We are approving a revenue requirement for 2025 of $97.3 million and $22.8 million in 2026 for a total revenue requirement increase of $120.1 million over two years. This represents an approximate 35% reduction of the nearly $187 million increase that Pepco requested originally. Although the Commission has tried to lessen the bill impact of Pepco's request on customers' bills, the residential customers' bills will see an increase of $7.33 in 2025 (7.6%) and an additional $3.69 in 2026 (3.5%). The Commission does not take rate increases lightly and recognizes that since 2014, there has only been one other net increase, in *Formal Case No. 1156*, to residential distribution bills. The Commission's recent action expanded the eligibility criteria for RAD customers, and the AMP program provides additional financial assistance to our most vulnerable ratepayers to meet their electric bills.[937] The Commission will continue to monitor and evaluate the MRP to ensure improvements to reliability and quality that ultimately benefit residential customers and all ratepayers. The Commission believes that the plan supports a "Climate Ready Grid" through investments in distributed energy resources, energy management, security, and infrastructure upgrades, enhancing grid reliability and safety. In addition, we believe that the MRP promotes the District's climate goals, affordability, economic growth, workforce development, and supplier diversity.

561. As noted by civic organizations and contractors, the MRP provides an opportunity for District residents to develop expertise and create a skilled workforce in the District. The workforce will assist in building out EV charging infrastructure and the development of other climate solutions that foster a cleaner, smarter, sustainable environment or advance the District's environmental and climate goals.

XIX. FINDINGS OF FACT AND CONCLUSIONS OF LAW

562. Based on the evidence in the record of this proceeding, the Commission makes the following findings of fact and conclusions of law:

a. That Pepco's Original Climate Ready Pathway Multi-Year Rate Plan is not in the best interests of ratepayers because it does not meet the requirements of D.C. Code § 34-1504(d);

[937] *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* ("*Formal Case No. 1156*"), Order No. 20755, rel. June 8, 2021.

b. That Pepco's Climate Ready Pathway Multi-Year Rate Plan as modified herein is in the public interest and in the interest of the Company's shareholders as modified herein ("Modified MRP Extended Pilot");

c. That the Modified MRP Extended Pilot strikes a balance between the regulatory requirements placed on the utility to offer reliable services at just and reasonable rates and assists in meeting the District's policy goals with respect to the Clean Energy Act and Climate goals;

d. That the Modified MRP Extended Pilot allows Pepco to maintain its investment-grade credit profile;

e. That the Modified MRP Extended Pilot enables Pepco to maintain top decile electric reliability industry performance in the District;

f. That the Modified MRP Extended Pilot fairly balances the utility's cost recovery with the rate impact on customers;

g. That the Modified MRP Extended Pilot provides customers with (1) more predictable rates during the MRP period; (2) improved transparency and accountability through more detailed capital expenditure plans and audits of the Company's performance; and (3) infrastructure investments that foster continued grid modernization, reliability, and resiliency through projects including distribution automation, smart grid and enhancements, and ongoing DC PLUG and Capital Grid projects, including the upgraded and rebuilt Harvard substation and new Mt. Vernon substation;

h. That the Modified MRP Extended Pilot must provide updated detailed capital additions (by project) and O&M expense projections (by FERC account) for CY 2025 and CY 2026 by March 1, 2025;

i. That the Modified MRP Extended Pilot provides a reasonable reconciliation and prudency process encompassing two steps that: (1) includes a reconciliation filing and prudency review in 2025 that compares actual revenue requirement line items in 2023 and 2024 to approved revenue requirement line items in 2023 and 2024; (2) provides an annual information filing in 2026 that compares actual 2025 revenue requirement line items to updated 2025 projections; and (3) includes a final reconciliation and prudency review in 2027 that compares actual revenue requirement line items during the two year MRP period to the updated 2025 and 2026 projections;

j. That the Modified MRP Extended Pilot includes a 2-phased utility management audit to validate the accuracy and completeness of Pepco's MRP performance and related filings;

k. That Pepco's uncontested proposed capital structure of 50.50% common equity and 49.50% long-term debt targets a year-end equity percentage of 50.50% for each year of the approved MRP period;

l. That Pepco's proposed a capital structure of 50.50% common equity and 49.50% long-term debt is reasonable and in compliance with prior Commission Orders on this subject;

m. That Pepco's cost of debt of 5.02% in 2025 and 5.04% in 2026% is reasonable in this case;

n. That Pepco's approved capital structure in this proceeding excludes short-term debt;

o. That the appropriate overall cost of capital for Pepco is 7.28% for 2025 and 7.29% for 2026;

p. That a forecasted rate base of $3,228.5 million for 2025, and $3,302.9 million for 2026, is just and reasonable;

q. That the $675.9 million of operating revenues for 2025 and $673.3 million of operating revenues for 2026 incorporated in the Modified MRP Extended Pilot are just and reasonable;

r. That the Modified MRP Extended Pilot's continuation or establishment of collaborative working groups are necessary to further advance the District's climate goals. The working groups shall include the (a) Lessons Learned Working Group, (b) Bill Stabilization Adjustment Working Group, (c) Utility Discount Program Education Working Group, and (c) Rate Design Working Group;

s. That continuation of Pepco's Bill Stabilization Adjustment under the Modified MRP Extended Pilot is necessary because decoupling is still needed to remove the disincentive to facilitate Pepco's support and implementation of energy efficiency and demand response programs as well as interconnection of additional distributed energy resources;

t. That the following modifications to the BSA mechanism are necessary and reasonable to improve and create better outcomes within the decoupling mechanism: (a) an annual target revenue per class; (b) an annual reconciliation and surcharge or credit; (c) a separate line item for the BSA on customer bills; and (d) implement a true-up of any future over- or under-collections of the BSA Surcharge for each calendar year beginning with CY 2025 to avoid any further increase in the BSA deferral balance;

u. That a penalty of $15.3 million related to Pepco's demand billing determinants errors to be removed from GT-LV deferral balance is warranted in this proceeding;

v. That the established BSA regulatory asset for COVID-19 related costs associated with the GT-LV deferral balances, amortized over 10 years, for the amount of $39.7 million with a carrying cost set at Pepco's cost of debt is appropriate and reasonable;

w. That Pepco's Jurisdictional Cost Allocation Study is reasonable and accepted;

x. That Pepco's Class Cost of Service based on the Jurisdictional Cost Allocation Study is reasonable and accepted;

y. That a net $99.7 million revenue increase in the 2025 rate effective period from January 1, 2025, to December 31, 2025, and a net $23.7 million revenue increase in the rate effective period from January 1, 2026, to December 31, 2026, for a cumulative revenue increase of $123.4 million, is just and reasonable and supported by the evidence on record;

z. That Pepco's use of updated billing determinants is reasonable and accepted;

aa. Pepco's proposed customer charge and rate designs (revenue allocation to different components such as demand charge, customer charge, and volumetric charge) is reasonable, consistent with past practice, and accepted;

bb. Pepco's proposed $1.00 increase in the monthly Customer Charge for the Residential class in 2025 and an additional $1.00 increase in the monthly Customer Charge in 2026 allows for a balanced approach to class revenue allocation that considers gradualism in moving rates toward cost causation and equitable treatment for all customer classes, is just and reasonable, supported by the evidence, and accepted by the Commission;

cc. That the Modified MRP Extended Pilot monthly bill increase for the average residential customer of $7.54 in CY 2025 and $3.80 in CY 2026, is just and reasonable, supported by the evidence, and approved by the Commission.

THEREFORE, IT IS ORDERED THAT:

563. The Office of the People's Counsel for the District of Columbia's Motion to Exclude the Atrium Economics Audit Report is **DENIED**;

564. The Atrium Economics Audit Report is **ACCEPTED**;

565. The pre-filed testimony and exhibits filed by and the responses to data requests of the Potomac Electric Power Company, Office of the People's Counsel for the District of Columbia, the Apartment and Office Building Association of Metropolitan Washington, District of Columbia Government, DC Water and Sewer Authority, and U.S. General Services Administration is **ACCEPTED**. The Commission also **ACCEPTS** the Parties' responses to data requests.

566. The Potomac Electric Power Company's Multiyear Rate Plan Application filed April 13, 2023, as updated, seeking to increase rates for electric distribution service by $186.5 million is **DENIED**;

567. The Commission **GRANTS** the Potomac Electric Power Company a net revenue requirement increase of $99.7 million in CY 2025; a net revenue requirement increase of $23.7 million in CY 2026 for a cumulative revenue requirement increase of $123.4 million over the two years, based on an authorized ROE of 9.5% and a ROR of 7.28% for 2025 and 7.29% for 2026 on the Potomac Electric Power Company's jurisdictional forecasted rate base of $3,228.5 million

for 2025 and $3,302.9 million for 2026 and a total operating income of $162 million in 2025 and $150.6 million in 2026;

568. That a Modified MRP Extended Pilot, with rate base and operating expense adjustments, is **ADOPTED** as a 2-year MRP subject to the following conditions:

a. The Modified MRP Extended Pilot is adopted as an MRP Extended Pilot program for CY 2025 and CY 2026, equating to a 2-year MRP term; and

b. The Modified MRP Extended Pilot is structured with reasonable ratepayer protections to help ensure against Pepco over-earning.

569. That the Potomac Electric Power Company is **DIRECTED** to provide updated detailed capital additions (by project) and O&M expense projections (by FERC account) for CY 2025 and CY 2026 by March 1, 2025;

570. That the Potomac Electric Power Company is **DIRECTED** to file the CY 2023 and CY 2024 Reconciliation filing by March 31, 2025; the CY 2025 Annual Information Filing by March 31, 2026; and the final 2025-2026 MRP Reconciliation Filing by March 31, 2027;

571. That the Parties **SHALL** have 45 days from the date of the reconciliation and annual information filings to conduct discovery with any comments filed within 60 days of the filings;

572. That the Potomac Electric Power Company is **DIRECTED** to maintain the continuation or establishment of collaborative working groups to further advance the District's goals. The working groups shall include (a) a Lessons Learned Working Group; (b) the BSA Working Group, (c) the Utility Discount Program Education Working Group, and (d) Rate Design Working Group;

573. That the Commission **PROHIBITS** Pepco from filing a new MRP rate application until the *Formal Case No. 1176* MRP Lessons Learned proceeding concludes, and a Commission decision is issued on the Company's Lessons Learned assessment;

574. That the Commission may reopen the Modified MRP Extended Pilot at any time; that the Parties may also petition the Commission to reopen the Modified MRP Extended Pilot at any time in the event of an extraordinary circumstance that is outside of the utility's control that would warrant the Commission's intervention to ensure existing rates are just and reasonable or under extraordinary circumstances that threaten the fiscal solvency of the utility; and that Pepco may seek a reopener upon a showing that modification/termination is necessary to comply with applicable federal and local law or if continuation could cause irreparable financial harm due to exogenous factors beyond Pepco's control such as non-precedented cyber and physical (terror) attacks;

575. The Potomac Electric Power Company is **DIRECTED** to include PIMs with financial incentives in the Company's next MRP filing and further **DIRECTED** to continue tracking the metrics included in its *Formal Case No. 1156* performance tracking metrics report;

576. The Potomac Electric Power Company is **DIRECTED** to continue the Bill Stabilization Adjustment under the Modified MRP Extended Pilot;

577. The Potomac Electric Power Company is **DIRECTED** to write-off the $15.3 million deferral balance resulting from the Company's error in BSA calculations;

578. The Potomac Electric Power Company is **DIRECTED** to establish a regulatory asset for COVID-19 pandemic-related costs associated with GT-LV deferral balances, amortized over 10 years, for the amount of $39.7 million with a carrying cost set at the cost of debt;

579. That the BSA Working Group is **DIRECTED** to reconvene to discuss a potential demand component to the BSA Surcharge mechanism and possible additional improvements of the BSA to better accomplish its goals. The Working Group shall be convened within 90 days of the date of this Order. The Working Group shall file its final report with the Commission by September 30, 2025, explaining BSA's recommended improvements;

580. That the Potomac Electric Power Company is **DIRECTED** to include a revised BSA tariff in the compliance filing;

581. The Potomac Electric Power Company's customer class revenue requirements and rate design are **APPROVED** as directed in this Order and Opinion;

582. That the Potomac Electric Power Company is **DIRECTED** to file a compliance filing, including revised rate schedules and supporting exhibits consistent with this Opinion and Order, no later than December 9, 2024;

583. That the Potomac Electric Power Company is **DIRECTED** to file a rate adjustment filing within 30 days of the final reconciliation filing reflecting a rate reduction for customers if the reconciliation filing demonstrates that Pepco is earning over the authorized ROE of 9.5%;

584. That Pepco is **DIRECTED** to include a revised MRP Adjustment Rider in the compliance filing;

585. That the following unopposed or uncontested RMAs are **APPROVED**:

a. RMA Pepco-1, Removal of DC Power Line Undergrounding (DC PLUG) initiative costs;

b. RMA Pepco-2, Removal of supplemental executive retirement plan (SERP) costs

c. RMA Pepco-3, Removal of certain executive incentive plan costs;

d. RMA Pepco-4, Removal of adjustments to deferred compensation balances;

e. RMA Pepco-5, Removal of employee association costs;

f. RMA Pepco-6, Removal of industry contributions and membership fees;

g. RMA Pepco-7, Removal of institutional advertising/selling expenses;

h. RMA Pepco-8, Reflection of customer deposit interest expense and credit facility expense and maintenance costs;

i. RMA Pepco-9, Removal of executive perquisite expenses;

j. RMA Pepco-10, Adjustment of BSC Billed Depreciation (Merger Commitment 39);

k. RMA Pepco-11(A), Removal of Benning Environmental Accrual;

l. RMA Pepco-11(B), Reflection of Benning Regulatory Asset - Actual RI/FS Costs;

m. RMA Pepco-11(C), Reflection of Benning Regulatory Asset - Forecasted RI/FS Costs;

n. RMA Pepco-12, Reflection of Benning Insurance Proceeds;

o. RMA Pecpo-13, Removal of Buzzard Point Environmental Remediation Costs;

p. RMA Pepco-14, Removal of GAAP BSA Revenue Recognition Reserve;

q. RMA Pepco-22, Reflection of Current Case Costs is accepted; and

r. RMA Pepco-28, Interest Synchronization.

586. RMA Pepco-29, Capital Project Updates is **APPROVED**.

587. That the following contested RMAs are **APPROVED**:

a. RMA Pepco-12, Reflection of Benning Insurance Proceeds, is modified;

b. RMA Pepco-17, Reflection of Regulatory Asset Treatment of COVID-19 is modified;

c. RMA Pepco-23, Reflection of Electric Vehicle Regulatory Asset is modified;

d. RMA Pepco-25, Adjustments to Depreciation Rates is modified; and

e. RMA Pepco-26, Lead Lag Study and RMA Pepco-27 Cash Working Capital are accepted.

588. That the following contested RMAs are **REJECTED:**

a. RMA Pepco-15, Reflection of PHISCO DDIT is rejected;

b. RMA Pepco-16, Reflection of Climate Solutions Plan Programs is rejected;

c. RMA Pepco-19, DER Interconnection Costs is rejected; and

d. RMA Pepco-24, Small DER Cost Sharing Petition is rejected.

589. That the Commission **ADOPTS** the following RMAs:

a. RMA-14, EPIS Adjustment;

b. RMA-15, O&M Adjustment;

c. RMA-16, Covid 19 BSA Regulatory Asset Adjustment; and

d. RMA-17, DC State Marginal Tax Rate Change.

590. That the Potomac Electric Power Company compliance filing is due no later than December 9, 2024, and must include: (1) all workpapers in electronic format; (2) a detailed narrative for each rate schedule explaining how the individual rate elements were derived; (3) a

certification that the compliance filing is correct and accurate by the same Company officers that certify its Sarbanes Oxley submittals; and (4) the authorized BSA revenues per customer;

591. Rates authorized in this Opinion and Order shall be effective on January 1, 2025, unless otherwise ordered by the Commission;

592. That the Potomac Electric Power Company is **DIRECTED** to file an updated LRP in the *Formal Case No. 1182* IDSP docket within 180 days of the date of this Order; and

593. The Potomac Electric Power Company shall comply with all other directives included in this Opinion and Order in the manner and time periods set forth herein.

A TRUE COPY:	**BY DIRECTION OF THE COMMISSION**
CHIEF CLERK:	**BRINDA WESTBROOK-SEDGWICK** **COMMISSION SECRETARY**

APPENDICES:

A. Compliance Filings

Compliance Filings

Responsibility	Requirement	Action Items	Deadline
Pepco	Compliance Filing	Adjusted distribution rates and tariffs	12/9/2024
Staff/Parties	Review of Compliance Filing	Review by Parties	12/20/2024
Pepco	Rate Effective Date	Expected Rate Effective Date	1/1/2025
Pepco	Quarterly ROR Reports	File Quarterly Report	Quarterly
Pepco	Updated Capital Budget (by Project) and O&M Budget (by FERC Account)	File Updated CY2025/CY2026 Projections	3/1/2025
Pepco	CY 2023 and CY2024 Reconciliation Filing	MRP Reconciliation for CY 2023 and CY 2024	3/31/2025
Staff/Parties/Pepco	BSA Working Group + Report	Discussion of BSA Changes and Report Filing Recommendations with PSC	Convene BSA WG within 90 days and file BSA WG report by 9/30/2025
Staff/Parties/Pepco	UDPE Working Group + Report	Determine whether RAD Program should be expanded and Report filing recommendations with PSC	Convene a UDPE WG within 90 days and file a WG report with the Commission by 7/31/2025.
Staff/Parties/Pepco	Rate Design Working Group + Report	Determine whether new TOU offerings should be established and WG Report filing with the PSC	Convene the RDWG within 90 days and file a WG report with the Commission by 7/31/2025.
Staff/Parties/Pepco	Lessons Learned Working Group + Report Phase 1	Discussion of Lessons Learned and Report Filing Recommendations with PSC	Convene Lessons Learned WG within 60 days and file a Lessons Learned WG Phase 1 Report by 12/31/2025
Pepco/Auditor	Management Audit: Phase 1 - 2023/2024	RFP Prepared and Issued/ Vendor Selected/ Audit Completed	Phase 1 Audit Report Filed: 12/31/25
Pepco	Annual Information Filing	File AIF for CY 2025	3/31/2026
Pepco	CY2025 and 2026 Reconciliation filing	File Final MRP Reconciliation Filing for CY2025 and CY2026*	3/31/2027
Pepco	*Formal Case No. 1176* Pepco Lessons Learned Report	Detailed analysis of Pepco's operational and financial experience under the MRP framework. Identify both	4/30/2027

		successes and areas for improvement.	
Pepco/Auditor	Management Audit: Phase 2 - 2025/2026	RFP Prepared and Issued/ Vendor Selected/ Audit Completed	Report Filed 12/31/27

*If overearning during two-year MRP period. Rate adjustment filing is required within 30 days.

B. Schedule 1: Modified MRP Revenue Requirements

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA **Schedule 1 - 2022, 2023**
Page 1 of 3

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022, Bridge Year 1 December 31, 2023, Bridge Year 2 December 31, 2024, MRP December 31, 2025, 2026
Commission-Approved Modified MRP Revenue Requirements

(in thousands)

		Test Year (December 31, 2022)			Bridge Year 1 (December 31, 2023)		
Line	Description	Company	PSC Adjustments	Approved Totals	Company	PSC Adjustments	Approved Totals
		(A)	(B)	(C)	(A)	(B)	(C)
1	**Rate Base**						
2	Electric Plant in Service	$ 4,580,387	$ -	$ 4,580,387	$ 4,928,629	$ -	$ 4,928,629
3	Accumulated Depreciation	(1,417,703)	-	(1,417,703)	(1,498,793)	-	(1,498,793)
4	Accumulated Amortization	(35,936)	-	(35,936)	(51,751)	-	(51,751)
5	Materials and Supplies	54,495	-	54,495	57,620	-	57,620
6	Cash Working Capital	22,406	-	22,406	23,882	-	23,882
7	Accumulated Deferred Income Taxes	(595,048)	-	(595,048)	(611,778)	-	(611,778)
8	*Federal TCJA EDIT*	(198,803)	-	(198,803)	(177,728)	-	(177,728)
9	Prepaid Pension/OPEB Liab. (net of tax)	65,010	-	65,010	58,620	-	58,620
10	Customer Deposits	(8,780)	-	(8,780)	(9,050)	-	(9,050)
11	Pepco Portion of Servco Assets	13,099	-	13,099	8,717	-	8,717
12	Regulatory Assets	31,475	-	31,475	26,678	-	26,678
13	Unamortized Credit Facility Costs	340	-	340	298	-	298
14	Total Rate Base	2,510,942	-	2,510,942	2,755,345	-	2,755,345
15	Rate of Return	7.01%		7.12%	7.05%		7.16%
16	Return Requirement	$ 176,017	$ 2,762	$ 178,779	$ 194,252	$ 3,031	$ 197,283
17	**Operating Revenues**						
18	Sale of Electricity	$ 625,224	$ -	$ 625,224	$ 674,430	$ -	$ 674,430
19	Other Operating	6,847	-	6,847	4,552	-	4,552
20	Total Operating Revenues	$ 632,071	$ -	$ 632,071	$ 678,982	$ -	$ 678,982
21	**Operating Expenses**						
22	Operation and Maintenance	$ 164,178	$ -	$ 164,178	$ 179,338	$ -	$ 179,338
23	Depreciation	123,547	-	123,547	132,748	-	132,748
24	Amortization	16,058	-	16,058	27,100	-	27,100
25	Other Taxes	150,391	-	150,391	151,560	-	151,560
26	D.C. Income Tax	(17,452)	-	(17,452)	7,217	-	7,217
27	Federal Income Tax	8,490	-	8,490	7,108	-	7,108
28	Total Operating Expenses	$ 445,212	$ -	$ 445,212	$ 505,072	$ -	$ 505,072
29	**Total Operating Income**	$ 186,859	$ -	$ 186,859	$ 173,910	$ -	$ 173,910
30	**Income Deficiency**	$ (10,842)	$ 2,762	$ (8,080)	$ 20,342	$ 3,031	$ 23,373
31	Revenue Conversion Factor	1.3796	1.3796	1.3796	1.3796	1.3796	1.3796
32	**Revenue Deficiency**	**$ (14,958)**	**$ 3,811**	**$ (11,147)**	**$ 28,064**	**$ 4,182**	**$ 32,246**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Schedule 1 - 2024
Page 2 of 3

Potomac Electric Power Company - District of Columbia Division
Bridge Year 2 - 12-Months Ending December 31, 2024
Commission-Approved Modified MRP Revenue Requirements

(in thousands)

Line	Description	Bridge Year 2 (December 31, 2024) Company	Adjustments	Adjusted Totals
		(A)	(B)	(C)
1	**Rate Base**			
2	Electric Plant in Service	$ 5,299,270	$ (4,404)	$ 5,294,866
3	Accumulated Depreciation	(1,595,024)	5,940	(1,589,084)
4	Accumulated Amortization	(68,204)	781	(67,423)
5	Materials and Supplies	57,422	-	57,422
6	Cash Working Capital	23,812	(503)	23,309
7	Accumulated Deferred Income Taxes	(637,702)	4,668	(633,034)
8	*Federal TCJA EDIT*	(158,935)	-	(158,935)
9	Prepaid Pension/OPEB Liab. (net of tax)	54,893	-	54,893
10	Customer Deposits	(8,986)	-	(8,986)
11	Pepco Portion of Servco Assets	6,123	-	6,123
12	Regulatory Assets	33,702	(22,082)	11,620
13	Unamortized Credit Facility Costs	215	-	215
14	Total Rate Base	$ 3,006,587	$ (15,600)	$ 2,990,987
15	Rate of Return	7.77%		7.27%
16	**Return Requirement**	**$ 233,612**	**$ (16,167)**	**$ 217,445**
17	**Operating Revenues**			
18	Sale of Electricity	$ 673,801	$ -	$ 673,801
19	Other Operating	4,566	-	4,566
20	Total Operating Revenues	$ 678,367	$ -	$ 678,367
21	**Operating Expenses**			
22	Operation and Maintenance	$ 185,235	$ (9,920)	$ 175,315
23	Depreciation	152,861	(11,768)	141,093
24	Amortization	31,933	(6,705)	25,228
25	Other Taxes	152,582	-	152,582
26	D.C. Income Tax	6,817	705	7,522
27	Federal Income Tax	(401)	5,546	5,145
28	Total Operating Expenses	$ 529,027	$ (22,142)	$ 506,885
29	**Total Operating Income**	$ 149,339	$ 22,142	$ 171,481
30	**Income Deficiency**	$ 84,272	$ (38,309)	$ 45,964
31	Revenue Conversion Factor	1.3796	1.3796	1.3796
32	**Revenue Deficiency**	**$ 116,266**	**$ (52,853)**	**$ 63,413**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA **Schedule 1 - 2025, 2026**
Page 3 of 3

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022, Bridge Year 1 December 31, 2023, Bridge Year 2 December 31, 2024, MRP December 31, 2025, 2026
Commission-Approved Modified MRP Revenue Requirements

(in thousands)

		MRP Year 1 (December 31, 2025)			MRP Year 2 (December 31, 2026)		
Line	Description	Company	PSC Adjustments	Adjusted Totals	Company	PSC Adjustments	Adjusted Totals
		(A)	(B)	(C)	(A)	(B)	(C)
1	**Rate Base**						
2	Electric Plant in Service	$ 5,682,525	$ (49,249)	$ 5,633,276	$ 6,025,021	$ (157,089)	$ 5,867,932
3	Accumulated Depreciation	(1,706,988)	19,348	(1,687,641)	(1,829,880)	35,384	(1,794,496)
4	Accumulated Amortization	(86,209)	2,620	(83,589)	(106,864)	4,741	(102,123)
5	Materials and Supplies	57,725	-	57,725	57,993	-	57,993
6	Cash Working Capital	23,463	(521)	22,942	23,341	(521)	22,820
7	Accumulated Deferred Income Taxes	(675,926)	(4,274)	(680,200)	(713,541)	(7,129)	(720,670)
8	*Federal TCJA EDIT*	(140,789)	-	(140,789)	(122,643)	-	(122,643)
9	Prepaid Pension/OPEB Liab. (net of tax)	50,430	-	50,430	46,908	-	46,908
10	Customer Deposits	(8,986)	-	(8,986)	(8,986)	-	(8,986)
11	Pepco Portion of Servco Assets	4,428	-	4,428	4,943	-	4,943
12	Regulatory Assets	24,301	36,429	60,730	15,365	35,786	51,151
13	Unamortized Credit Facility Costs	133	-	133	49	-	49
14	Total Rate Base	3,224,108	4,353	3,228,460	3,391,705	(88,828)	3,302,877
15	Rate of Return	7.78%		7.28%	7.79%		7.29%
16	**Return Requirement**	**$ 250,836**	**$ (16,612)**	**$ 234,224**	**$ 264,214**	**$ (24,149)**	**$ 240,064**
17	**Operating Revenues**						
18	Sale of Electricity	$ 671,328	$ -	$ 671,328	$ 668,661	$ -	$ 668,661
19	Other Operating	4,580	-	4,580	4,604	-	4,604
20	Total Operating Revenues	$ 675,908	$ -	$ 675,908	$ 673,265	$ -	$ 673,265
21	**Operating Expenses**						
22	Operation and Maintenance	$ 186,125	$ (10,052)	$ 176,072	$ 189,910	$ (10,241)	$ 179,669
23	Depreciation	164,034	(14,832)	149,202	173,933	(19,397)	154,536
24	Amortization	30,683	(1,209)	29,474	34,216	177	34,393
25	Other Taxes	151,791	-	151,791	150,914	-	150,914
26	D.C. Income Tax	5,667	695	6,362	3,734	1,743	5,477
27	Federal Income Tax	(3,971)	5,005	1,034	(8,486)	6,104	(2,382)
28	Total Operating Expenses	$ 534,330	$ (20,393)	$ 513,937	$ 544,222	$ (21,614)	$ 522,608
29	**Total Operating Income**	$ 141,578	$ 20,393	$ 161,971	$ 129,043	$ 21,614	$ 150,657
30	**Income Deficiency**	$ 109,257	$ (37,005)	$ 72,253	$ 135,171	$ (45,763)	$ 89,408
31	Revenue Conversion Factor	1.3796	1.3796	1.3796	1.3796	1.3796	1.3796
32	**Revenue Deficiency**	**$ 150,736**	**$ (51,054)**	**$ 99,683**	**$ 186,488**	**$ (63,137)**	**$ 123,351**

C. Schedule 2: Modified MRP Rate of Return

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Schedule 2

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022
Commission-Approved Modified EMRP Rate of Return

MYP 1 - 2025

Line	Description	Ratio	Cost %	Weighted Cost %
	(A)	(B)	(C)	(D)
	Approved			
1	Long-Term Debt	49.50%	5.02%	2.48%
2	Short-Term Debt	0.00%	0.00%	0.00%
3	Common Equity	50.50%	**9.500%**	4.80%
4	Total	100.00%		**7.28%**

MYP 2 - 2026

Line	Description	Ratio	Cost %	Weighted Cost %
	(A)	(B)	(C)	(D)
	Approved			
1	Long-Term Debt	49.50%	5.04%	2.49%
2	Short-Term Debt	0.00%	0.00%	0.00%
3	Common Equity	50.50%	**9.500%**	4.80%
4	Total	100.00%		**7.29%**

D. Schedule 3: Approved Revenue Requirement and Ratemaking Adjustments

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA **Schedule 3 - 2024**

Potomac Electric Power Company - District of Columbia Division
Bridge Year 2 - 12-Months Ending December 31, 2024
Commission-Approved Modified MRP Revenue Requirements

(in thousands)

Line	Description			Rate Base	Operating Income	Revenue Requirement
1	**Company's Starting Revenue Deficiency**					**$ 116,266**
2	**Impact of Recommended Rate of Return (Schedule 2.1)**					(20,740)
3	Return on Equity		9.500%			
4	Rate of Return		7.27%			
5	**Impact of Ratemaking Adjustments**					
6	RMA-1	Reflection of Benning Insurance Proceeds (Pepco-12)		285	(569)	814
7	RMA-2	Reflection of PHISCO DDIT (Pepco-15)		(3,818)	848	(1,553)
8	RMA-3	Reflection of Climate Solutions Plan (CSP) Programs (Pepco-16)		(1,037)	609	(944)
9	RMA-4	Reflection of COVID-19 Regulatory Asset (Pepco-17)		(8,314)	1,848	(3,383)
10	RMA-5	DER Interconnection (Pepco-19)		(1,952)	879	(1,408)
11	RMA-6	EDIT Balance (Pepco-20)		(217)	109	(172)
12	RMA-7	House of Worship Credit (Pepco-21)		(28)	55	(79)
13	RMA-8	Reflection of Current Case Costs (Pepco-22)		(2,337)	935	(1,524)
14	RMA-9	Reflection of Electric Vehicle Regulatory Asset (Pepco-23)		(1,777)	517	(892)
15	RMA-10	Small DER Cost Sharing Petition (Pepco-24)		(196)	5	(26)
16	RMA-10	Adjustments to Depreciation Rates (Pepco-25)		4,294	8,509	(11,309)
17	RMA-12	Adjustments to Cash Working Capital Allowance (Pepco-27)		(503)	-	(50)
18	RMA-13	Tax Effect of Proforma Interest Expense (Pepco-28)		-	(105)	145
19	RMA-14	EPIS		-	-	-
20	RMA-15	O&M		-	6,835	(9,430)
21	RMA-16	COVID-BSA Reg Asset		-	-	-
22	RMA-17	Remove DC State marginal tax rate change from 8.25% to 3.15% impact		-	1,667	(2,300)
				$ (15,600)	$ 22,142	(52,853)
23	**Revenue Deficiency**					**$ 63,413**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA Schedule 3 - 2025

Potomac Electric Power Company - District of Columbia Division
MRP Year 1 - 12-Months Ending December 31, 2025
Commission-Approved Modified MRP Revenue Requirements

(in thousands)

Line	Description			Rate Base	Operating Income	Revenue Requirement
1	**Company's Starting Revenue Deficiency**					**$ 150,736**
2	**Impact of Recommended Rate of Return (Schedule 2.1)**					(22,241)
3	Return on Equity		9.500%			
4	Rate of Return		7.28%			
5	**Impact of Ratemaking Adjustments**					
6	RMA-1	Reflection of Benning Insurance Proceeds (Pepco-12)		(523)	1,047	(1,497)
7	RMA-2	Reflection of PHISCO DDIT (Pepco-15)		(2,970)	848	(1,468)
8	RMA-3	Reflection of Climate Solutions Plan (CSP) Programs (Pepco-16)		(2,814)	1,036	(1,712)
9	RMA-4	Reflection of COVID-19 Regulatory Asset (Pepco-17)		2,002	308	(224)
10	RMA-5	DER Interconnection (Pepco-19)		(3,313)	745	(1,361)
11	RMA-6	EDIT Balance (Pepco-20)		(154)	18	(40)
12	RMA-7	House of Worship Credit (Pepco-21)		28	(55)	79
13	RMA-8	Reflection of Current Case Costs (Pepco-22)		935	-	94
14	RMA-9	Reflection of Electric Vehicle Regulatory Asset (Pepco-23)		561	86	(62)
15	RMA-10	Small DER Cost Sharing Petition (Pepco-24)		(572)	8	(68)
16	RMA-11	Adjustments to Depreciation Rates (Pepco-25)		13,185	9,116	(11,253)
17	RMA-12	Adjustments to Cash Working Capital Allowance (Pepco-27)		(521)	-	(52)
18	RMA-13	Tax Effect of Proforma Interest Expense (Pepco-28)		-	31	(43)
19	RMA-14	EPIS		(37,261)	1,593	(5,940)
20	RMA-15	O&M		-	7,042	(9,716)
21	RMA-16	COVID-BSA Reg Asset		35,770	(2,880)	6,451
22	RMA-17	Remove DC State marginal tax rate change from 8.25% to 3.15% impact		-	1,450	(2,000)
				$ 4,353	$ 20,393	(51,054)
23	**Revenue Deficiency**					**$ 99,683**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA **Schedule 3 - 2026**

Potomac Electric Power Company - District of Columbia Division
MRP Year 2 - 12-Months Ending December 31, 2026
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description		Rate Base	Operating Income	Revenue Requirement
1	**Company's Starting Revenue Deficiency**				$ 186,488
2	**Impact of Recommended Rate of Return (Schedule 2.1)**				(23,397)
3	Return on Equity	9.500%			
4	Rate of Return	7.29%			
5	**Impact of Ratemaking Adjustments**				
6	RMA-1	Reflection of Benning Insurance Proceeds (Pepco-12)	-	-	-
7	RMA-2	Reflection of PHISCO DDIT (Pepco-15)	(2,121)	848	(1,383)
8	RMA-3	Reflection of Climate Solutions Plan (CSP) Programs (Pepco-16)	(2,907)	957	(1,613)
9	RMA-4	Reflection of COVID-19 Regulatory Asset (Pepco-17)	2,310	308	(193)
10	RMA-5	DER Interconnection (Pepco-19)	(2,124)	749	(1,247)
11	RMA-6	EDIT Balance (Pepco-20)	136	18	(11)
12	RMA-7	House of Worship Credit (Pepco-21)	-	-	-
13	RMA-8	Reflection of Current Case Costs (Pepco-22)	935	-	94
14	RMA-9	Reflection of Electric Vehicle Regulatory Asset (Pepco-23)	647	86	(54)
15	RMA-10	Small DER Cost Sharing Petition (Pepco-24)	(921)	13	(111)
16	RMA-11	Adjustments to Depreciation Rates (Pepco-25)	22,577	9,640	(11,029)
17	RMA-12	Adjustments to Cash Working Capital Allowance (Pepco-27)	(521)	-	(52)
18	RMA-13	Tax Effect of Proforma Interest Expense (Pepco-28)	-	(610)	842
19	RMA-14	EPIS	(138,635)	4,356	(19,953)
20	RMA-15	O&M	-	7,259	(10,015)
21	RMA-16	COVID-BSA Reg Asset	31,796	(2,880)	6,184
22	RMA-17	Remove DC State marginal tax rate change from 8.25% to 3.15% impact	-	870	(1,200)
			$ (88,828)	$ 21,614	(63,137)
23	**Revenue Deficiency**				$ 123,351

E. Schedule 4: Ratemaking Adjustments

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Schedule 4 - 2025
Page 1 of 4

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description	Company Adjusted Dec-25 (A)	Change in ROE	Benning Insurance Proceeds Adjustment 1 (B)	PHISCO DDIT Adjustment 2 (C)	CSP Programs Adjustment 3 (D)	COVID-19 Regulatory Asset Adjustment 4 (E)	DER Interconnection Costs Adjustment 5 (F)
1	**Rate Base**							
2	Electric Plant in Service	$ 5,682,525		$ -	$ -	$ (4,102)	$ -	$ (5,126)
3	Accumulated Depreciation	(1,706,988)		-	-	-	-	-
4	Accumulated Amortization	(86,209)		-	-	1,088	-	1,532
5	Materials and Supplies	57,725		-	-	-	-	-
6	Cash Working Capital	23,463		-	-	-	-	-
7	Accumulated Deferred Income Taxes	(675,926)		199	1,127	200	(760)	281
8	*Federal TCJA EDIT*	(140,789)		-	-	-	-	-
9	Prepaid Pension/OPEB (net of tax)	50,430		-	-	-	-	-
10	Customer Deposits	(8,986)		-	-	-	-	-
11	Pepco Portion of Servco Assets	4,428		-	-	-	-	-
12	Regulatory Assets	24,301		(722)	(4,097)	-	2,762	-
13	Unamortized Credit Facility Costs	133		-	-	-	-	-
14	Total Rate Base	$ 3,224,108		$ (523)	$ (2,970)	$ (2,814)	$ 2,002	$ (3,313)
15	Rate of Return	7.78%	7.28%	7.28%	7.28%	7.28%	7.28%	7.28%
16	**Return Requirement**	**$ 250,836**	**$ (16,121)**	**$ (38)**	**$ (216)**	**$ (205)**	**$ 146**	**$ (241)**
17	**Operating Revenues**							
18	Sale of Electricity	$ 671,328		$ -	$ -	$ -	$ -	$ -
19	Other Operating	4,580		-	-	-	-	-
20	Total Operating Revenues	$ 675,908		$ -	$ -	$ -	$ -	$ -
21	**Operating Expenses**							
22	Operation and Maintenance	$ 186,125		$ -	$ -	$ (336)	$ -	$ -
23	Depreciation	164,034		-	-	-	-	-
24	Amortization	30,683		(1,444)	(1,171)	(1,094)	(425)	(1,028)
25	Other Taxes	151,791		-	-	-	-	-
26	D.C. Income Tax	5,667		119	97	118	35	85
27	Federal Income Tax	(3,971)		278	226	276	82	198
28	Total Operating Expenses	$ 534,330		$ (1,047)	$ (848)	$ (1,036)	$ (308)	$ (745)
29	**Total Operating Income**	$ 141,578		$ 1,047	$ 848	$ 1,036	$ 308	$ 745
30	**Income Deficiency**	$ 109,257		$ (1,085)	$ (1,064)	$ (1,241)	$ (162)	$ (986)
31	Revenue Conversion Factor	1.37964		1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 150,736**		**$ (1,497)**	**$ (1,468)**	**$ (1,712)**	**$ (224)**	**$ (1,361)**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description	Company Adjusted Dec-25 (A)	Change in ROE	EDIT Balance Regulatory Asset Adjustment 6 (G)	House of Worship Credit Adjustment 7 (H)	Current Case Costs Adjustment 8 (I)	Electric Vehicle Regulatory Asset Adjustment 9 (J)	Small DER Cost Sharing Petition Adjustment 10 (K)
1	**Rate Base**							
2	Electric Plant in Service	$ 5,682,525		$ -	$ -	$ -	$ -	$ (1,470)
3	Accumulated Depreciation	(1,706,988)		-	-	-	-	58
4	Accumulated Amortization	(86,209)		-	-	-	-	-
5	Materials and Supplies	57,725		-	-	-	-	-
6	Cash Working Capital	23,463		-	-	-	-	-
7	Accumulated Deferred Income Taxes	(675,926)		58	(10)	(355)	(213)	14
8	*Federal TCJA EDIT*	(140,789)		-	-	-	-	-
9	Prepaid Pension/OPEB (net of tax)	50,430		-	-	-	-	-
10	Customer Deposits	(8,986)		-	-	-	-	-
11	Pepco Portion of Servco Assets	4,428		-	-	-	-	-
12	Regulatory Assets	24,301		(212)	38	1,290	774	826
13	Unamortized Credit Facility Costs	133		-	-	-	-	-
14	Total Rate Base	$ 3,224,108		$ (154)	$ 28	$ 935	$ 561	$ (572)
15	Rate of Return	7.78%	7.28%	7.28%	7.28%	7.28%	7.28%	7.28%
16	**Return Requirement**	**$ 250,836**	**$ (16,121)**	**$ (11)**	**$ 2**	**$ 68**	**$ 41**	**$ (42)**
17	**Operating Revenues**							
18	Sale of Electricity	$ 671,328		$ -	$ -	$ -	$ -	$ -
19	Other Operating	4,580		-	-	-	-	-
20	Total Operating Revenues	$ 675,908		$ -	$ -	$ -	$ -	$ -
21	**Operating Expenses**							
22	Operation and Maintenance	$ 186,125		$ -	$ -	$ -	$ -	$ -
23	Depreciation	164,034		-	-	-	-	(58)
24	Amortization	30,683		(25)	76	-	(119)	47
25	Other Taxes	151,791		-	-	-	-	-
26	D.C. Income Tax	5,667		2	(6)	-	10	1
27	Federal Income Tax	(3,971)		5	(15)	-	23	2
28	Total Operating Expenses	$ 534,330		$ (18)	$ 55	$ -	$ (86)	$ (8)
29	**Total Operating Income**	$ 141,578		$ 18	$ (55)	$ -	$ 86	$ 8
30	**Income Deficiency**	$ 109,257		$ (29)	$ 57	$ 68	$ (45)	$ (50)
31	Revenue Conversion Factor	1.37964		1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 150,736**		**$ (40)**	**$ 79**	**$ 94**	**$ (62)**	**$ (68)**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description	Company Adjusted Dec-25 (A)	Change in ROE	Depreciation Rates Adjustment 11 (L)	Cash Working Capital Adjustment 12 (M)	Tax Effect of Proforma Interest Expense Adjustment 13 (N)	EPIS Adjustment 14 (O)
1	**Rate Base**						
2	Electric Plant in Service	$ 5,682,525		$ -	$ -	$ -	$ (38,551)
3	Accumulated Depreciation	(1,706,988)		18,191	-	-	1,099
4	Accumulated Amortization	(86,209)		-	-	-	-
5	Materials and Supplies	57,725		-	-	-	-
6	Cash Working Capital	23,463		-	(521)	-	-
7	Accumulated Deferred Income Taxes	(675,926)		(5,006)	-	-	191
8	*Federal TCJA EDIT*	(140,789)		-	-	-	-
9	Prepaid Pension/OPEB (net of tax)	50,430		-	-	-	-
10	Customer Deposits	(8,986)		-	-	-	-
11	Pepco Portion of Servco Assets	4,428		-	-	-	-
12	Regulatory Assets	24,301		-	-	-	-
13	Unamortized Credit Facility Costs	133		-	-	-	-
14	Total Rate Base	$ 3,224,108		$ 13,185	$ (521)	$ -	$ (37,261)
15	Rate of Return	7.78%	7.28%	7.28%	7.28%	7.28%	7.28%
16	**Return Requirement**	**$ 250,836**	**$ (16,121)**	**$ 960**	**$ (38)**	**$ -**	**$ (2,713)**
17	**Operating Revenues**						
18	Sale of Electricity	$ 671,328		$ -	$ -	$ -	$ -
19	Other Operating	4,580		-	-	-	-
20	Total Operating Revenues	$ 675,908		$ -	$ -	$ -	$ -
21	**Operating Expenses**						
22	Operation and Maintenance	$ 186,125		$ -	$ -	$ -	$ -
23	Depreciation	164,034		(12,577)	-	-	(2,197)
24	Amortization	30,683		-	-	-	-
25	Other Taxes	151,791		-	-	-	-
26	D.C. Income Tax	5,667		1,038	-	(9)	181
27	Federal Income Tax	(3,971)		2,423	-	(22)	423
28	Total Operating Expenses	$ 534,330		$ (9,116)	$ -	$ (31)	$ (1,593)
29	**Total Operating Income**	$ 141,578		$ 9,116	$ -	$ 31	$ 1,593
30	**Income Deficiency**	$ 109,257		$ (8,156)	$ (38)	$ (31)	$ (4,306)
31	Revenue Conversion Factor	1.37964		1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 150,736**		**$ (11,253)**	**$ (52)**	**$ (43)**	**$ (5,940)**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

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Potomac Electric Power Company - District of Columbia Division
Test Year 12-Months Actual Ending December 31, 2022
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description	Company Adjusted Dec-25 (A)	Change in ROE	O&M Adjustment 15 (P)	COVID-BSA Reg Asset Adjustment 16 (Q)	DC State Marginal Tax Rate Change Adjustment 17 (R)	Subtotal (S)	Totals (T)
1	**Rate Base**							
2	Electric Plant in Service	$ 5,682,525		$ -	$ -	$ -	$ (49,249)	$ 5,633,276
3	Accumulated Depreciation	(1,706,988)		-	-	-	19,348	(1,687,641)
4	Accumulated Amortization	(86,209)		-	-	-	2,620	(83,589)
5	Materials and Supplies	57,725		-	-	-	-	57,725
6	Cash Working Capital	23,463		-	-	-	(521)	22,942
7	Accumulated Deferred Income Taxes	(675,926)		-	-	-	(4,274)	(680,200)
8	*Federal TCJA EDIT*	(140,789)		-	-	-	-	(140,789)
9	Prepaid Pension/OPEB (net of tax)	50,430		-	-	-	-	50,430
10	Customer Deposits	(8,986)		-	-	-	-	(8,986)
11	Pepco Portion of Servco Assets	4,428		-	-	-	-	4,428
12	Regulatory Assets	24,301		-	35,770	-	36,429	60,730
13	Unamortized Credit Facility Costs	133		-	-	-	-	133
14	**Total Rate Base**	**$ 3,224,108**		**$ -**	**$ 35,770**	**$ -**	**$ 4,353**	**$ 3,228,460**
15	Rate of Return	7.78%	7.28%	7.28%	5.02%	7.28%	7.28%	7.28%
16	**Return Requirement**	**$ 250,836**	**$ (16,121)**	**$ -**	**$ 1,796**	**$ -**	**$ (492)**	**$ 234,224**
17	**Operating Revenues**							
18	Sale of Electricity	$ 671,328		$ -	$ -	$ -	$ -	$ 671,328
19	Other Operating	4,580		-	-	-	-	4,580
20	Total Operating Revenues	$ 675,908		$ -	$ -	$ -	$ -	$ 675,908
21	**Operating Expenses**							
22	Operation and Maintenance	$ 186,125		$ (9,716)	$ -	$ -	$ (10,052)	$ 176,072
23	Depreciation	164,034		-	-	-	(14,832)	149,202
24	Amortization	30,683		-	3,974	-	(1,209)	29,474
25	Other Taxes	151,791		-	-	-	-	151,791
26	D.C. Income Tax	5,667		802	(328)	(1,450)	695	6,362
27	Federal Income Tax	(3,971)		1,872	(766)	-	5,005	1,034
28	Total Operating Expenses	$ 534,330		$ (7,042)	$ 2,880	$ (1,450)	$ (20,393)	$ 513,937
29	**Total Operating Income**	$ 141,578		$ 7,042	$ (2,880)	$ 1,450	$ 20,393	$ 161,971
30	**Income Deficiency**	$ 109,257		$ (7,042)	$ 4,676	$ (1,450)	$ (20,884)	$ 72,253
31	Revenue Conversion Factor	1.37964		1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 150,736**		**$ (9,716)**	**$ 6,451**	**$ (2,000)**	**$ (51,054)**	**$ 99,683**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

Potomac Electric Power Company - District of Columbia Division
MRP Year 2 - 12-Months Ending December 31, 2026
Commission-Approved Modified EMRP Revenue Requirements

(in thousands)

Line	Description	Company Adjusted Dec-26 (A)	Change in ROE	Benning Insurance Proceeds Adjustment 1 (B)	PHISCO DDIT Adjustment 2 (C)	CSP Programs Adjustment 3 (D)	COVID-19 Regulatory Asset Adjustment 4 (E)	DER Interconnection Costs Adjustment 5 (F)
1	**Rate Base**							
2	Electric Plant in Service	$ 6,025,021		$ -	$ -	$ (5,489)	$ -	$ (5,153)
3	Accumulated Depreciation	(1,829,880)		-	-	-	-	-
4	Accumulated Amortization	(106,864)		-	-	2,182	-	2,559
5	Materials and Supplies	57,993		-	-	-	-	-
6	Cash Working Capital	23,341		-	-	-	-	-
7	Accumulated Deferred Income Taxes	(713,541)		-	805	400	(877)	470
8	*Federal TCJA EDIT*	(122,643)		-	-	-	-	-
9	Prepaid Pension/OPEB (net of tax)	46,908		-	-	-	-	-
10	Customer Deposits	(8,986)		-	-	-	-	-
11	Pepco Portion of Servco Assets	4,943		-	-	-	-	-
12	Regulatory Assets	15,365		-	(2,926)	-	3,187	-
13	Unamortized Credit Facility Costs	49		-	-	-	-	-
14	**Total Rate Base**	**$ 3,391,705**		**$ -**	**$ (2,121)**	**$ (2,907)**	**$ 2,310**	**$ (2,124)**
15	Rate of Return	7.79%	7.29%	7.29%	7.29%	7.29%	7.29%	7.29%
16	**Return Requirement**	**$ 264,214**	**$ (16,959)**	**$ -**	**$ (155)**	**$ (212)**	**$ 168**	**$ (155)**
17	**Operating Revenues**							
18	Sale of Electricity	$ 668,661		$ -	$ -	$ -	$ -	$ -
19	Other Operating	4,604		-	-	-	-	-
20	Total Operating Revenues	$ 673,265		$ -	$ -	$ -	$ -	$ -
21	**Operating Expenses**							
22	Operation and Maintenance	$ 189,910		$ -	$ -	$ (227)	$ -	$ -
23	Depreciation	173,933		-	-	-	-	-
24	Amortization	34,216		-	(1,171)	(1,094)	(425)	(1,033)
25	Other Taxes	150,914		-	-	-	-	-
26	D.C. Income Tax	3,734		-	97	109	35	85
27	Federal Income Tax	(8,486)		-	226	255	82	199
28	Total Operating Expenses	$ 544,222		$ -	$ (848)	$ (957)	$ (308)	$ (749)
29	**Total Operating Income**	$ 129,043		$ -	$ 848	$ 957	$ 308	$ 749
30	**Income Deficiency**	$ 135,171	$ (16,959)	$ -	$ (1,003)	$ (1,169)	$ (140)	$ (904)
31	Revenue Conversion Factor	1.37964	1.37964	1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 186,488**	**$ (23,397)**	**$ -**	**$ (1,383)**	**$ (1,613)**	**$ (193)**	**$ (1,247)**

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Potomac Electric Power Company - District of Columbia Division
MRP Year 2 - 12-Months Ending December 31, 2026
Commission-Approved Modified EMRP Revenue Requirements

(in thousands) **Company**

Line	Description	Adjusted Dec-26 (A)	Change in ROE	Depreciation Rates Adjustment 11 (L)	Cash Working Capital Adjustment 12 (M)	Tax Effect of Proforma Interest Expense Adjustment 13 (N)	EPIS Adjustment 14 (O)
1	**Rate Base**						
2	Electric Plant in Service	$ 6,025,021		$ -	$ -	$ -	$ (143,997)
3	Accumulated Depreciation	(1,829,880)		31,149	-	-	4,104
4	Accumulated Amortization	(106,864)		-	-	-	-
5	Materials and Supplies	57,993		-	-	-	-
6	Cash Working Capital	23,341		-	(521)	-	-
7	Accumulated Deferred Income Taxes	(713,541)		(8,572)	-	-	1,258
8	*Federal TCJA EDIT*	(122,643)		-	-	-	-
9	Prepaid Pension/OPEB (net of tax)	46,908		-	-	-	-
10	Customer Deposits	(8,986)		-	-	-	-
11	Pepco Portion of Servco Assets	4,943		-	-	-	-
12	Regulatory Assets	15,365		-	-	-	-
13	Unamortized Credit Facility Costs	49		-	-	-	-
14	**Total Rate Base**	**$ 3,391,705**		**$ 22,577**	**$ (521)**	**$ -**	**$ (138,635)**
15	Rate of Return	7.79%	7.29%	7.29%	7.29%	7.29%	7.29%
16	**Return Requirement**	**$ 264,214**	**$ (16,959)**	**$ 1,646**	**$ (38)**	**$ -**	**$ (10,106)**
17	**Operating Revenues**						
18	Sale of Electricity	$ 668,661		$ -	$ -	$ -	$ -
19	Other Operating	4,604		-	-	-	-
20	Total Operating Revenues	$ 673,265		$ -	$ -	$ -	$ -
21	**Operating Expenses**						
22	Operation and Maintenance	$ 189,910		$ -	$ -	$ -	$ -
23	Depreciation	173,933		(13,300)	-	-	(6,010)
24	Amortization	34,216		-	-	-	-
25	Other Taxes	150,914		-	-	-	-
26	D.C. Income Tax	3,734		1,097	-	183	496
27	Federal Income Tax	(8,486)		2,563	-	427	1,158
28	Total Operating Expenses	$ 544,222		$ (9,640)	$ -	$ 610	$ (4,356)
29	**Total Operating Income**	$ 129,043		$ 9,640	$ -	$ (610)	$ 4,356
30	**Income Deficiency**	$ 135,171	$ (16,959)	$ (7,994)	$ (38)	$ 610	$ (14,462)
31	Revenue Conversion Factor	1.37964	1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 186,488**	**$ (23,397)**	**$ (11,029)**	**$ (52)**	**$ 842**	**$ (19,953)**

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

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Potomac Electric Power Company - District of Columbia Division
MRP Year 2 - 12-Months Ending December 31, 2026
Commission-Approved Modified EMRP Revenue Requirements

(in thousands) **Company**

Line	Description	Adjusted Dec-26	Change in ROE	O&M Adjustment 15	COVID-BSA Reg Asset Adjustment 16	DC State Marginal Tax Rate Change Adjustment 17	Subtotal	Totals
		(A)		(P)	(Q)	(R)	(S)	(T)
1	**Rate Base**							
2	Electric Plant in Service	$ 6,025,021		$ -	$ -	$ -	$ (157,089)	$ 5,867,932
3	Accumulated Depreciation	(1,829,880)		-	-	-	35,384	(1,794,496)
4	Accumulated Amortization	(106,864)		-	-	-	4,741	(102,123)
5	Materials and Supplies	57,993		-	-	-	-	57,993
6	Cash Working Capital	23,341		-	-	-	(521)	22,820
7	Accumulated Deferred Income Taxes	(713,541)		-	-	-	(7,129)	(720,670)
8	*Federal TCJA EDIT*	(122,643)		-	-	-	-	(122,643)
9	Prepaid Pension/OPEB (net of tax)	46,908		-	-	-	-	46,908
10	Customer Deposits	(8,986)		-	-	-	-	(8,986)
11	Pepco Portion of Servco Assets	4,943		-	-	-	-	4,943
12	Regulatory Assets	15,365		-	31,796	-	35,786	51,151
13	Unamortized Credit Facility Costs	49		-	-	-	-	49
14	**Total Rate Base**	**$ 3,391,705**		**$ -**	**$ 31,796**	**$ -**	**$ (88,828)**	**$ 3,302,877**
15	Rate of Return	7.79%	7.29%	7.29%	5.04%	7.29%	7.29%	7.29%
16	**Return Requirement**	**$ 264,214**	**$ (16,959)**	**$ -**	**$ 1,603**	**$ -**	**$ (7,191)**	**$ 240,064**
17	**Operating Revenues**							
18	Sale of Electricity	$ 668,661		$ -	$ -	$ -	$ -	$ 668,661
19	Other Operating	4,604		-	-	-	-	4,604
20	Total Operating Revenues	$ 673,265		$ -	$ -	$ -	$ -	$ 673,265
21	**Operating Expenses**							
22	Operation and Maintenance	$ 189,910		$ (10,014)	$ -	$ -	$ (10,241)	$ 179,669
23	Depreciation	173,933		-	-	-	(19,397)	154,536
24	Amortization	34,216		-	3,974	-	177	34,393
25	Other Taxes	150,914		-	-	-	-	150,914
26	D.C. Income Tax	3,734		826	(328)	(870)	1,743	5,477
27	Federal Income Tax	(8,486)		1,929	(766)	-	6,104	(2,382)
28	Total Operating Expenses	$ 544,222		$ (7,259)	$ 2,880	$ (870)	$ (21,614)	$ 522,608
29	**Total Operating Income**	$ 129,043		$ 7,259	$ (2,880)	$ 870	$ 21,614	$ 150,657
30	**Income Deficiency**	$ 135,171	$ (16,959)	$ (7,259)	$ 4,483	$ (870)	$ (28,805)	$ 89,408
31	Revenue Conversion Factor	1.37964	1.37964	1.37964	1.37964	1.37964	1.37964	1.37964
32	**Revenue Deficiency**	**$ 186,488**	**$ (23,397)**	**$ (10,015)**	**$ 6,184**	**$ (1,200)**	**$ (61,937)**	**$ 123,351**

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

November 26, 2024

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,

DISSENT OF COMMISSIONER RICHARD BEVERLY

1. I can't see the process in this case as anything other than a regulatory trainwreck that unreasonably promotes Pepco's interest at the expense of ratepayers. The problems were so apparent that I was inclined to grant the non-utility parties' Motions for summary disposition or dismiss this case *sua sponte* on related grounds, but I decided to let the case play out for the reasons in Order No. 22013 that denied the Motions.[1] The majority recognizes the deficiencies in Pepco's rate application (and to a lesser degree, Pepco's response to Order No. 22013), but has chosen to approve the application anyway based on a questionable rationale where everything can somehow be made right through future audits, working groups, a "lessons learned" proceeding, and an after-the-fact prudency review.

2. For me, my opinion rests on issues of pure policy which don't require an evidentiary hearing to resolve.[2] The Commission began this foray into a regulatory paradigm shift in ratemaking with an MRP Pilot. Presumably, the purpose of the Pilot was to see how it worked as constructed and determine what, if anything, needed to be added to it. As a matter of policy, and as part of lessons learned from both the Pilot and the subsequent MRP, I am not prepared to approve an MRP unless it has: 1) PIMs; 2) cost containment provisions that include the potential to increase or decrease Pepco's return on equity; 3) promotes interconnection of DER based on future revisions to our interconnection rules; 4) actively promotes climate goals in some quantifiable fashion; 5) is consistent with future AFOR rules; and 6) is part of a future integrated distribution resource plan approved by the Commission.[3] Inasmuch as the MRP lacks these

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[1] I incorporate by reference my dissents to Orders No. 21886 and 21903.

[2] *Watergate East v. DC Public Service Commission*, 662 A.D 881, stating "Even when an agency is required by statute or by the Constitution to provide an oral evidentiary hearing, it need do so only if there exists a dispute concerning material fact. An Oral evidentiary hearing is never required if the only disputes involve issues of law or policy."

[3] I am unaware of any other regulatory commission in the U.S. that has awarded multi-year rate plans untethered from integrated distribution plans. While I agree with the majority in opening a formal proceeding on integrated distribution planning, instead of the Commission's Notice of Inquiry released in tandem with this decision that leaves the integrated planning process up to Pepco, I suggest that the Commission's proceeding have the goal of

elements, then it should be rejected as premature. I recognize that Pepco could not have known this at the time it filed the MRP but that was the risk Pepco took in filing the MRP before we reviewed the Pilot. However, this is just the tip of the iceberg.

3. I'll begin with a brief review of basic ratemaking. A utility's revenue requirement is defined, in simplest terms, as its ratebase multiplied by its allowed rate of return plus operating expenses. Under these basic ratemaking principles, to be included in ratebase, a utility's capital investments must be not only deemed "used and useful" but also "prudent." In traditional cost-of-service regulation based on a historic test year, this Commission has typically reviewed the investments the utility has *already made* and determined whether they should be included in ratebase. This is known as a "prudency review." A prudency review is a judgment call by the Commission, not simply a math exercise by an outside auditor who adds up the cost for Pepco's projects as though all expenditures are presumptively reasonable.

4. Pepco was awarded a rate increase through a first-of-its-kind in the District, pilot MRP for the period covering July 2021 – December 2023 (with a rate increase taking place the first 18 months and a stay-out for the 12 months of CY2023). The Order awarding the rate increase included specific provisions for an automatic credit to customers if Pepco over-earned at any point during this period above its allowed return on equity ("ROE") of 9.275%.[4] This rate increase differs from historic rate increases because the Commission based its determination entirely on a *projection* of Pepco's expenditures, rather than actuals.

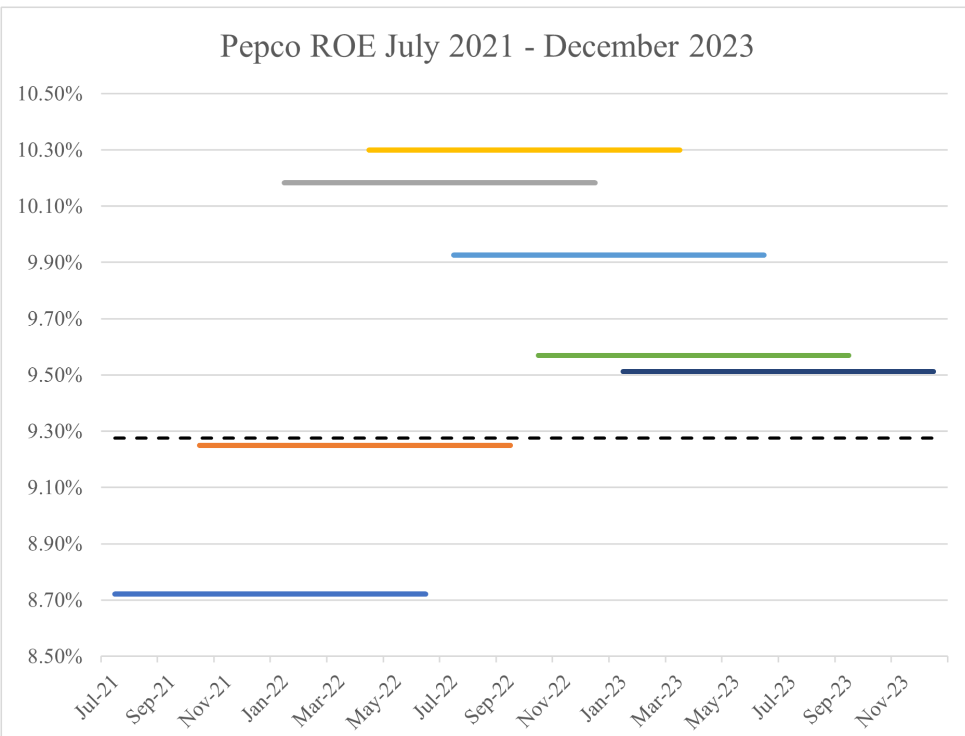
5. As required by the Order, Pepco began filing quarterly rate of return ("ROR") reports. There are 7 of those reports that cover 12-month stretches entirely within the MRP period (while others relate to the period before the start of the MRP, or only partially fall under the MRP period). A summary of Pepco's *reported* ROE is included below.

quickly issuing a rule to govern the process, components, and evaluation criteria for an integrated plan that is tied to the 5-year statutory GHG reduction mandates.

[4] *Formal Case No. 1156,* Order No. 20755 states "The quarterly earnings filing will facilitate the Commission's ability to recognize any potential over-earning or under-earning that occurs during the 18-month period of the Modified EMRP and CY 2023." ¶ 162

MRP Period	12 Months Ending	ROE	Over/Under-Earning
None	31-Dec-20	5.40%	$ (43,174,000)
	31-Mar-21	4.88%	$ (50,217,000)
	30-Jun-21	5.59%	$ (42,074,000)
Partial	30-Sep-21	6.33%	$ (34,321,000)
	31-Dec-21	6.73%	$ (30,498,000)
	31-Mar-22	7.95%	$ (16,103,000)
Full	30-Jun-22	8.72%	$ (6,884,000)
	30-Sep-22	9.25%	$ (179,000)
	31-Dec-22	10.182%	$ 7,047,000
	31-Mar-23	10.30%	$ 13,342,000
	30-Jun-23	9.925%	$ 8,620,000
	30-Sep-23	9.57%	$ 3,976,000
	31-Dec-23	9.511%	$ 3,098,000
Partial	31-Mar-24	8.662%	$ (8,371,000)
	30-Jun-24	8.026%	$ (17,641,000)

A graph of Pepco's *reported* ROE during the MRP period is included below.



6. As demonstrated in the charts above, which are based on Pepco's own information, the Company was over-earning for *most of the MRP period*.[5] This should have triggered the

5 The majority Opinion concludes the opposite, finding that the over-earning period was "brief."

automatic surcredit that the Commission had ordered in approving the pilot MRP, but it did not. Pepco filed its new rate case application in *Formal Case No. 1176* in April of 2023, when the utility was overearning. Understandably, the non-utility parties moved to dismiss the case, arguing that Pepco had no basis for a rate increase unless the Company was underearning. Pepco subsequently filed an Errata explaining that its calculations showing overearning were in error for only the last 12-month period (calendar year 2023) but objected to providing the data supporting the Errata.

7. The Errata triggered a dispute as it became clear that Pepco is calculating its ROR based on an assumption that its investments during the MRP period *were 100% prudent*, an assumption that is contrary to traditional ratemaking.[6] Plus, by this time, the projections upon which the ROR calculations were based had become stale once actual cost data became available, and the actual data demonstrated that Pepco's spending differed wildly from what was projected. These differences include major cost overruns for certain projects, approved projects for which no spending occurred, and unapproved projects for which spending did occur. The parties expressed concern that Pepco is manipulating the ROR by exaggerating its underearning while minimizing its overearning. If we don't make the inappropriate assumption that Pepco's projects were 100% prudent, then a review of the investments may lead to certain projects being disallowed from ratebase. That may result in a determination that Pepco's self-reported ROE was understated. However, I don't need to get mired in the details of the ROR dispute because, for me, the complete absence of an up-front prudency review process in either the MRP or a traditional rate increase is a dealbreaker. Even if we had chosen to fall back on a traditional rate case as a default, I'm not going to assume that the investments are prudent or rely solely on projections.

8. The majority's decision to approve a rate increase first and conduct a prudency review afterwards means that there is currently no meaningful determination of Pepco's revenue requirement or final statement on whether this rate is in the public interest. Instead, this Decision seemingly makes the rate conditional subject to an after-the-fact verification through a Pepco-hired auditor (who can't determine the prudency of a project) and a Commission prudence review

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6 As AOBA pointed out in its Post-Hearing Brief on page 5, "Additionally, in the absence of Pepco's demonstration of the prudence of the actual expenditures the Company has incurred since the start of the Pilot EMRP, the Company's representations of its actual earnings for periods completed to date (as reflected in Pepco's Quarterly ROR filings and Annual Reconciliation filings) are rendered meaningless. There can be no findings regarding the adequacy of Pepco's reported earnings without a determination of the prudence of the costs Pepco has actually incurred for each period since the rates approved in Order No. 20755 became effective. The limited information contained in Pepco's Rate Year 1 and Rate Year 2 reconciliation filings essentially attempt to shift the burden of proof for Pepco's actual expenditures to OPC and intervenors, such as AOBA, who typically have limited funding for activities outside of base rate proceedings." AOBA also argues on page 9 that "the entire credibility of the regulatory process is undermined if the Commission does not undertake a meaningful review of the prudence of the Company's actual expenditures" and "in the absence of meaningful prudence reviews, MRPs help no one other than the utility and allow the utility to avoid necessary scrutiny of its projected and actual costs. There can be no assurance that plant additions are used, useful, and cost-effective. There can also be no assurance that expected ratepayer benefits have been realized."

which inexplicably excludes the 18-month pilot MRP period, effectively baking in an assumption that Pepco's deviations from approved expenditures during the pilot were prudent. This backwards approach to ratemaking has the potential of essentially becoming an unprecedented rate case within a rate case or some kind of post review of the rate determination, as the non-utility parties challenge the original revenue requirement. Unfortunately, the only thing that is clear to me about this arrangement is that ratepayers (including the Federal and District governments) are being given a bill for one hundred and twenty-three million dollars with a justification that, to me, could be summarized as "because Pepco said so." I cannot, in good conscience, find that this arrangement is in the public interest so I must respectfully dissent.[7]

[7] Just to be clear, my silence on the other issues in this case does not mean that I support the way the majority handles them. I also want to make clear that I am not opposed to rate increases. Periodic rate increases are necessary to ensure a healthy utility. However, under any ratemaking paradigm, the burden should be on Pepco to show that the rate increase is necessary and any new paradigm for doing so should be at least as robust in protecting the interests of ratepayers as the one it replaces. That is simply not the case here.

COMMISSION ACTION

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,

Date 11/26/24 Formal Case No. 1176___ Tariff No. _________ Order No. 22328

	Approved by Voice Vote	Dissent Initial & Date	Abstain Initial & Date
Chairman Emile Thompson	ET/CL 11/26/24		
Commissioner Richard A. Beverly		RB/CL 11/26/24	
Commissioner Ted Trabue	TT/CL 11/26/24		

Certification of Action

C. Lipscombe
General/Deputy General Counsel

Brian Edmonds/Naza Shelley/KLS
OGC Counsel/Staff