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People's Counsel

October 31, 2025

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

Re: GD-2022-01-E and Formal Case No. 1171, *In the Matter of the Investigation into Community Renewable Energy Facility Practices in the District*

Dear Ms. Westbrook-Sedgwick:

The Office of the People's Counsel for the District of Columbia ("OPC" or "Office") submits this letter in support of the District of Columbia Government's ("DCG") Response to Commissioner Beverly's Inquiry dated July 31, 2025 ("July 2025 Response") regarding developing an "error rate" to be applied to the bills of Community Renewable Energy Facility ("CREF") subscribers given that the Potomac Electric Power Company ("Pepco" or "Company") failed to provide required billing data timely ("DCG's September 24, 2025 Response") in violation of Order No. 21600.¹

I. Introduction

The Office,² the statutory representative of District of Columbia ("District") ratepayers regarding utility matters, supports DCG's September 24, 2025, Response. As detailed below, the

¹ GD-2022-01-E and Formal Case No. 1171, *In the Matter of the Complaint and Investigation into Potomac Electric Power Company's Community Renewable Energy Facility Practices*, ("GD-2022-01-E and Formal Case No. 1171"), Inquiry of Commissioner Beverly, rel. July 31, 2025.

² D.C. Code § 34-804.

Commission should implement the error rate method to compensate CREF subscribers and operators for generation credit. In addition, the Commission should prohibit Pepco from collecting the auditor's costs from ratepayers.

II. Background

On March 23, 2022, OPC and the Office of the Attorney General (“OAG”) for the District of Columbia (collectively, “Joint Petitioners”) filed a Joint Complaint and Petition for an Investigation into Pepco’s CREF Practices.³ The Complaint alleged seven separate instances in which Pepco violated the statute or the Commission’s regulations related to CREFs.

After the briefing, on April 24, 2023, the Commission found that Pepco committed three of the seven violations.⁴ The Commission found, among other things, that Pepco violated D.C. Code § 34-1518 (b)(5)(H), which requires that the amount of electricity generated each month be determined by a revenue-quality production meter installed and paid for by the CREF owner.⁵ Because the Company had been using its own meters in violation of the statute, the Commission directed Pepco to reconcile all CREF credits issued starting from May 8, 2015.⁶ and also directed Commission Staff to appoint an independent auditor, paid for by Pepco, to oversee the reconciliation of all CREF crediting dating back to 2015.⁷

³ *GD-2022-01-E and Formal Case No. 1171, In the Matter of the Complaint and Investigation into Potomac Electric Power Company’s Community Renewable Energy Facility Practices*, (“*GD-2022-01-E and Formal Case No. 1171*”) The Office of People’s Counsel for the District of Columbia and District of Columbia Government’s Joint Complaint and Investigation into Potomac Electric Power Company’s Community Renewable Energy Facility Practices (“Joint Petition”), filed March 23, 2022.

⁴ *GD-2022-01-E and Formal Case No. 1171*, Order No. 21600, rel. April 24, 2023.

⁵ *GD-2022-01-E and Formal Case No. 1171*, Order No. 21600 ¶12.

⁶ The date of the promulgation of the Commission’s CREF regulations.

⁷ *GD-2022-01-E and Formal Case No. 1171*, Order No. 21600 ¶40.

The audit and reconciliation were performed from February through October 2024, and the auditor filed its final report on November 15, 2024.⁸ Pepco failed to provide the required billing data in a timely manner, which prevented the auditor from performing one of the core purposes of the audit. Thus, it remains unknown whether CREF operators and subscribers were fully compensated. DCG filed reply comments, noting that the audit and reconciliation process still leaves lingering billing and crediting issues the Department of Energy & Environment (“DOEE”) has experienced.⁹ Further, DCG proposed several ways to resolve the outstanding billing crediting issue. One of the proposals is the “error rate method,” whereby “an assumed billing and crediting error rate that could be applied across the board to make CREFs whole for their missing credits.”¹⁰ Subsequently, using his independent authority under D.C. Code § 34-802, on July 31, 2025, Commissioner Beverly sought DCG’s input in developing an “error rate” to be applied to the bills to ensure CREF subscribers received all the credits they were entitled to.¹¹ On September 25, 2025, OAG, on behalf of DCG, filed its response recommending that the “Commission adopt an error rate of \$5.70 per month, per [Solar For All] SFA subscriber, for each month that the subscriber participated in the SFA program during the audit period.”¹² OPC appreciates the opportunity to weigh in on the issues.

III. Comments

⁸ *GD-2022-01-E and Formal Case No. 1171*, Auditor Report, filed November 15, 2024. (A subsequent amendment to Appendix 5.3 was filed on November 19, 2024)

⁹ *GD-2022-01-E and Formal Case No. 1171*, Reply Comments of the District of Columbia Government to the Potomac Electric Power Company’s Initial Comments on the Audit and Reconciliation Report, (“DCG Reply Comments”) filed February 13, 2025.

¹⁰ *GD-2022-01-E and Formal Case No. 1171*, DCG Reply Comments, p. 6.

¹¹ *GD-2022-01-E and Formal Case No. 1171*, Inquiry of Commissioner Richard Beverly, rel. July 31, 2025.

¹² *GD-2022-01-E and Formal Case No. 1171*, District of Columbia Government, Response to Commissioner Beverly’s Inquiry dated July 31, 2025 (“DCG July 31, 2025, Response”), filed September 25, 2025.

Tremendous effort has been made to ensure CREFs are viable in the District. Those efforts will be in vain unless Pepco consistently ensures that generation is properly credited. Without full credit, residents will not subscribe, and developers will not conduct business in the District, which could cause the city to fail to meet its climate goals.

DOEE is the District agency that oversees the Solar for All program, which operates several CREFs in the city where low and moderate-income residents can participate. DCG noted in its filing that there are “errors in the audit and reconciliation process caused by Pepco refusing to provide the required customer crediting data for WatsonRice [the Commission’s auditor] to review.”¹³

OPC has two recommendations for a path forward. First, OPC agrees that the error rate method adequately compensates CREF subscribers and operators for generation credit. Second, OPC recommends that the Commission assign Pepco the audit cost and compliance with CREF regulations.

a. The error rate method is appropriate and should be implemented immediately.

OPC believes that DCG's error rate method is appropriate and hopes the Commission will implement it. The Office reviewed Attachment A1 of the July 2025 Response for accuracy.¹⁴ OPC independently recalculated all key fields, including CREF unsubscribed energy and dollar values, Pepco’s unsubscribed values, credit owed, bill credits, and monthly errors, and confirmed

¹³ *GD-2022-01-E and Formal Case No. 1171*, Reply Comments of the District of Columbia Government to the Potomac Electric Power Company’s Initial Comments on the Audit and Reconciliation Report, p. 5, filed February 13, 2025. WatsonRice was the independent auditor to oversee Pepco’s reconciliation of CREF crediting.

¹⁴ *GD-2022-01-E and Formal Case No. 1171*, DCG July 31, 2025, Response, Attachment A1.

that the spreadsheet's formulas were internally consistent. OPC supports DCG's proposed corrective action and methodology as reasonable and consistent with program rules.

CREF subscribers expect reduced electric bills and that their actions will support the District's lofty climate goals. Unfortunately, this has not occurred for many subscribers. Pepco's actions have frustrated subscribers' expectations, which could threaten to undermine the CREF program if others decide not to participate after discovering the experiences of current participants.

The Commission found that subscribers were not properly credited. It directed an auditor to review Pepco's data as the Company reconciled accounts. However, the Company failed to provide sufficient information to the auditor before the completion of the audit, leaving questions about the appropriate method to compensate subscribers. DCG proposed potential solutions to fill the gap in formation.¹⁵

OPC shares DCG's desire to ensure that CREF operators and subscribers are fully compensated for their solar generation. The Office supports the error rate method of resolving the issue and finally compensating CREF operators and subscribers. The joint petition was filed more than three years ago. To date, subscribers and developers are still waiting for full credit. The Commission should direct Pepco to apply the error rate to bills immediately.

b. The Company should not be able to recover the audit cost from consumers.

In addition to using the error rate method, OPC suggests that the Commission prohibit Pepco from collecting the audit cost from ratepayers. DCG has previously stated that the

¹⁵ *GD-2022-01-E and Formal Case No. 1171*, Reply Comments of the District of Columbia Government to the Potomac Electric Power Company's Initial Comments on the Audit and Reconciliation Report, filed February 13, 2025.

Commission should not allow Pepco to recover the assessment from ratepayers since the Commission determined that Pepco had violated the CREF metering statute.¹⁶ OPC agrees with this position.

In Order No. 21649, the Commission stated Pepco is “prohibited from dumping the consequences of the Company’s error onto the backs of ratepayers. When assigning costs to ratepayers, Pepco must first show that the shift is just and reasonable.”¹⁷ The Commission should prohibit the Company from collecting the audit cost from ratepayers for three reasons. First, as DCG stated, the Company’s mistake created the need for the audit. Second, as Commissioner Beverly stated, Pepco’s failure to provide data regarding crediting in a timely manner has the potential to “render the audit essentially worthless.”¹⁸ Consumers should not be held responsible for the Company’s mistakes, omissions, or failures. Certainly, ratepayers should not pick up the tab for a “worthless” audit.¹⁹ The task of providing data was entirely within the Company’s control. No intervening actions affected the Company’s ability to perform its Commission-directed task. Furthermore, consumers are already struggling financially, and some have not recovered from the effects of COVID-19. As of October 1, 2025, federal government employees are furloughed. Therefore, Pepco cannot demonstrate that the audit cost is just and reasonable.

¹⁶ *GD-2022-01-E and Formal Case No. 1171*, Order No. 21944, ¶4, rel. January 12, 2024.

¹⁷ *GD-2022-01-E and Formal Case No. 1171*, Order No. 21649, ¶ 9, filed June 26, 2023.

¹⁸ *GD-2022-01-E and Formal Case No. 1171*, Inquiry of Commissioner Beverly, p. 2, filed July 31, 2025.

¹⁹ *Ibid.*

The Commission should continue firm oversight of compliance activities to ensure that ratepayers are correctly credited for generation and that the District achieves its climate goals, including the proliferation of and equitable access to local solar power through CREFs, including the Solar for All program. OPC respectfully requests that the Commission order Pepco to apply the error rate method and that Pepco cannot recover the audit cost from consumers.

Sincerely,

/s/ Sandra Mattavous-Frye

Sandra Mattavous-Frye

People's Counsel for the District of Columbia

CERTIFICATE OF SERVICE

GD-2022-01-E and Formal Case No. 1171, In the Matter of the Complaint and Investigation into Community Renewable Energy Facility Practices in the District

I certify that on October 31, 2025, a copy of the *Office of the People's Counsel for the District of Columbia's Letter in Support of the District of Columbia Government's Response to Commissioner Beverly's Inquiry dated July 31, 2025* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

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