

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

ORDER

January 24, 2020

**FORMAL CASE NO. 1159, IN THE MATTER OF THE APPLICATIONS FOR
APPROVAL OF BIENNIAL UNDERGROUND INFRASTRUCTURE IMPROVEMENT
PROJECTS PLANS AND FINANCING ORDERS, Order No. 20285**

Before the Commission:

Willie L. Phillips, Chairman
Richard A. Beverly, Commissioner
Greer Gillis, Commissioner

Appearances:

Wendy Stark, Esq., Kim F. Hassan, Esq., Andrea H. Harper, Esq., and Dennis Jamouneau, Esq. for Potomac Electric Power Company; Frann G. Francis, Esq., Excetral K. Caldwell, Esq. for Apartment & Office Building Association; Karl A. Racine, Attorney General for the District of Columbia, Kathleen, Konopka, Esq., Catherine Jackson, Esq., Brian R. Caldwell, Esq., Office of the Attorney General for the District of Columbia, and Cheri Hance Staples, Esq., Office of the General Counsel, District Department of Transportation, on behalf of the District Department of Transportation; Sandra Mattavous-Frye, Esq., Karen R. Sistrunk, Esq., Laurence C. Daniels, Esq., Travis R. Smith, Esq., John Adragna, Esq., and Kevin Conoscenti, Esq. for the Office of the People's Counsel; Cathy Thurston-Seignious, Esq. for Washington Gas Light Company; Brian J. Petruska, General Counsel and May Va Lor for Baltimore Washington Construction and Public Employees Laborers' District Council ("BWLDC") and affiliate of the Laborers' International Union of North America ("LIUNA").

Table of Contents

I. INTRODUCTION	1
II. BACKGROUND.....	1
III. STATUTORY OVERVIEW – UNDERGROUND ACT REQUIREMENTS	3
IV. PARTIES’ POSITIONS	4
A. The Joint Applicants’ Position.....	4
B. WGL’s Position	5
C. OPC’s Position.....	5
D. Pepco’s Reply Comments	8
E. Community Comments	12
V. PRELIMINARY MATTERS	12
A. Pepco’s Motion to Submit Reply Comments.....	12
B. OPC’s request to track the effectiveness of improvements on local neighborhood reliability	13
C. The 2014 and 2016 OPC, PEPCO and DDOT Joint Stipulations.....	13
VI. THE SECOND BIENNIAL PLAN	14
A. The Application Satisfies the Applicable Requirements of D.C. Code	14
34-§ 1313.10 (b)(1)	14
i. Ranking of Overhead Feeders (Section 1313.08(a)(1)(A)).....	14
ii. Selection of Feeders to be Undergrounded (Section 1313.08(a)(1)(B))	15
iii. Outage Metrics (Section 1313.08(a)(2))	18
iv. Feeder Descriptions (Section 1313.08(a)(3)(A)).....	18
v. Equipment to be Undergrounded or Removed (Section 1313.08(a)(3)(B)).....	19
vi. Parallel Feeders (Section 1313.08(a)(3)(C))	21
vii. Equipment Remaining Overhead (Section 1313.08(a)(3)(D))	21
viii. Planned Improvements (Section 1313.08(a)(3)(E))	23
ix. New Technology and Distribution Automation (Section 1313.08(a)(3)(F))	23
x. Interties (Section 1313.08(a)(3)(G)).....	24
xi. Load Analyses (Section 1313.08(a)(3)(H)).....	25
xii. Status of First Biennial Plan Feeders (Section 1313.08(a)(3)(I)).....	25
xiii. Project Costs and Cost Recovery (UPC) (Section 1313.08(c)(1))	27
xiv. DDOT Cost Estimates (Section 1313.08(c)(2))	31
xv. Assessment of Potential Obstacles (Section 1313.08(c)(3))	32
xvi. Employment Opportunities (Section 1313.08(c)(4)).....	32

xvii.	Alternative Funding (Section 1313.08(c)(5)).....	34
xviii.	Underground Project Charges (Section 1313.08(c)(6)(A)).....	34
xix.	Accounting Treatment (Section 1313.08(c)(6)(B)).....	35
xx.	Education Plan (Section 1313.08(c)(7)).....	36
xxi.	Contact Information (Section 1313.08(c)(8)).....	37
xxii.	Form of Notice (Section 1313.08(c)(9)).....	37
xxiii.	Utility Coordination Plans (Section 1313.08(c)(10)).....	38
B.	The Proposed Electric Company Underground Infrastructure Improvements are Appropriately Designed and Located (Section 34-1313.10 (b)(2)).....	40
C.	The Intended Reliability Improvements Will Accrue to the Benefit of the Electric Company's Customers (Section 34-1313.10(b)(3)).....	41
D.	The Projected Costs of Pepco's Undergrounding Infrastructure Improvements are Prudent (Section 34-1313.10(b)(4)).....	42
E.	The Projected Costs of DDOT's Infrastructure Improvements are Prudent (Section 34-1313.10 (b)(5)).....	45
F.	The Electric Company's Proposed Underground Project Charges will be Just and Reasonable (Section 34-1313.10 (b)(6)).....	47
G.	Additional Matters Related to the Biennial Plan (Section 34-1313.10(c)(1)- (4)).....	49
i.	Section 1313.10(c)(1)–(4) requirements.....	49
ii.	Approval of the Annual Revenue Requirement (Section 1313.10(c)(3)).....	50
iii.	Project Construction Update Reports (Section 1313.10(c)(4)).....	51
H.	The Grant of Authorizations and Approvals Sought by the Joint Applicants in the Joint Application is in the Public Interest (Section 34-1313.10(b)(7)).....	51
VII.	THE FINANCING ORDER.....	52
A.	Content of the Financing Application (Section 34-1313.02).....	53
B.	Required Content of the Financing Order (Section 34-1313.01).....	53
i.	Description of DDOT Activities (Section 1313.01(a)(1)).....	53
ii.	Assessment of DDOT Charge (Section 1313.01(a)(2)).....	54
iii.	Assessment of Underground Rider (Section 1313.01(a)(3)).....	55
iv.	Inter-Class True-up Mechanism (Section 1313.14).....	57
v.	Financing Order Irrevocability (Section 1313.01 (b)).....	57
VIII.	FINDINGS OF FACT AND CONCLUSIONS.....	57
ATTACHMENT A.....		A-1
A.	Applicable Requirements for the Second Biennial Plan Application.....	A-1
i.	D.C. Code § 34-1313.08(a)(A) and (B).....	A-1
ii.	Section 34-1313.08(a)(2).....	A-1

iii.	Section 1313.08(a)(3)(A)-(I)	A-1
iv.	Section 1313.08(c)(1)–(10) (Projected Plans and Costs)	A-2
B.	Applicable Requirements for a Commission Order.....	A-3
i.	Section 1313.10 (Commission Order).....	A-3
C.	Applicable Requirements for Financing Application and Order	A-4
i.	Section 1313.01(a)(1)-(c) (Commission Authorizations)	A-4
ii.	Section 1313.02(b)(1)–(2)(C) (Application for Financing Order)	A-6
iii.	Section 1313.03(b)(3)-(c) (Application Consideration)	A-6

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) grants the Joint Application of Potomac Electric Power Company (“Pepco” or “Company”) and the District of Columbia Department of Transportation (“DDOT”) (together referred to as the “Joint Applicants”) for Approval of the Second Biennial Underground Infrastructure Improvement Projects Plan (“Second Biennial Plan”) and the Financing Order Application.¹ To facilitate compliance and consistency with applicable statutory provisions, this Order adopts the definitions set forth in the “Electric Company Infrastructure Improvement Financing Amendment Act” (“Undergrounding Act” or “Act”) (except to the extent such terms are otherwise defined herein). This Order incorporates the 2014 and 2016 Joint Stipulations filed by the Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”), Pepco, and DDOT with respect to certain technical aspects of system design, construction, and operation of the Biennial Plan and the D.C. Power Line Undergrounding (“DC PLUG”) Education Plan. With respect to the DC PLUG Education Plan and Undergrounding Project Consumer Education Task Force (“UPCE Task Force”), this Order adopts the additional provisions outlined in Order No. 17697, as clarified by Order No. 17770.² The Joint Applicants are directed to comply with all other directives included in this Order in the manner and time periods set forth herein. The Commission also grants in this Order Pepco’s Motion to Submit Reply Comments.³

II. BACKGROUND

2. On May 17, 2017, the Electric Company Infrastructure Improvement Financing Emergency Amendment Act of 2017 (*D.C. Law 22-067*), amending the Electric Company Infrastructure Improvement Financing Act of 2014, became effective.⁴ The Undergrounding Act authorizes the collection and use by the District of Columbia and Pepco of certain charges to finance the undergrounding of certain electric power lines and ancillary facilities. The Act also

¹ *Formal Case No. 1159, In the Matter of the Applications for Approval of Biennial Underground Infrastructure Improvement Projects Plans and Financing Orders (“Formal Case No. 1159”),* Joint Application of Potomac Electric Power Company and the District Department of Transportation for Approval of the Second Biennial Underground Infrastructure Improvement Projects Plan and Financing Order Application, filed September 30, 2019 (“Joint Application” or “Second Biennial Plan”).

² *Formal Case No. 1116, In the Matter of the Applications for Approval of Triennial Underground Infrastructure Improvement Projects Plan (Formal Case No. 1116”),* Order No. 17697, rel. November 12, 2014 (“Order No. 17697”) and Order No. 17770, rel. January 22, 2015 (“Order No. 17770”).

³ *Formal Case No. 1159,* Motion to Submit Reply Comments and Reply Comments of Potomac Electric Power Company, filed December 18, 2019 (“Pepco’s Motion for Leave” or “Pepco’s Reply Comments”).

⁴ The Undergrounding Act has been codified in Chapter 13A of Title 34 of the District of Columbia Official Code (D.C. Code § 34-1311.01, *et. seq.*). In the interest of shortening statutory citations in this Order, most, but not all, references to the sections of the Undergrounding Act in this Order will cite only the section number instead of the official D.C. Code citation. For example, D.C. Code § 34-1313.08(a)(A) and (B) will be cited as Section 1313.08(a)(A) and (B).

governs Pepco's and DDOT's public-private partnership to bury overhead primary power lines to improve electric service reliability and reduce the impact of storm-related outages in the District of Columbia. Commonly referred to as the District of Columbia Power Line Undergrounding ("DC PLUG") project, the amended legislation sets out a pay-as-you-go structure with the cost of the project imposed on Pepco and recovered by Pepco through a tariff rider authorized under the new amended Act.

3. The Undergrounding Act requires Pepco and DDOT to jointly file, every two (2) years, an application for the Commission's approval of a biennial Underground Infrastructure Improvement Projects Plan consisting of plans for DDOT's Underground Electric Company Infrastructure Improvement Activity and Pepco's Infrastructure Activity that are to be undertaken in the two-year period.⁵ The Act allows Pepco to include an application for a Financing Order ("Financing Application") as part of its application for each Biennial Plan,⁶ and it also authorizes an annually adjusted surcharge to recover costs associated with the Electric Company Infrastructure Improvement Costs approved by the Commission.⁷

4. Pursuant to the Act,⁸ DDOT and Pepco, on September 30, 2019, filed a Joint Application seeking approval of the second biennial Underground Infrastructure Improvement Projects Plan ("Second Biennial Plan"). The Second Biennial Plan identifies 10 electric distribution feeders that are currently overhead, all or parts of which DDOT and Pepco propose to place underground. As part of the feeder-selection process, Pepco ranked every overhead and combined overhead/underground feeder in the District of Columbia based on a number of criteria, including the number and duration of outages and customer minutes of interruption per dollar cost of undergrounding the feeder ("CMI/\$) on each feeder for the years 2010-2018 (including storm outage data). DDOT and Pepco selected the feeders that will be placed underground as part of the Second Biennial Plan based on this historical feeder performance data, as well as other secondary criteria.⁹

5. The Joint Application also requests approval of a change in the "Underground Project Charge" ("UPC") to recover costs incurred by Pepco to underground the selected feeders and other authorized costs and charges. Pursuant to the Undergrounding Act, the UPC is applicable to Pepco's District of Columbia customers who purchase electric distribution service, except for low-income customers served under Pepco's Residential Aid Discount ("RAD") Rider. Pepco may file with the Commission an application to adjust the UPC no later than April 1 of each

⁵ D.C. Code § 34-1313.07(a) (2017).

⁶ D.C. Code § 34-1313.02(a) (2017).

⁷ D.C. Code § 34-1313.01 (2017).

⁸ Specifically, D.C. Code § 34-1313.07(a) (2017).

⁹ Second Biennial Plan at 4-13.

year to update forecasted expenditures for the calendar year in which the update is filed and to true-up costs and collections for the prior calendar year.¹⁰

6. In a Public Notice published on October 11, 2019, in the *DC Register*, the Commission, among other things, established timelines: (1) for interested persons to file petitions to intervene in the proceeding and any answers or objections thereto, within 14 days and 24 days, respectively, from the date the Notice was published; (2) for any person to file written comments on the Joint Application within 60 days from the date the Notice was published; (3) for a discovery period of 60 days from the date the Joint Application was filed; and (4) a deadline of December 2, 2019, to request a hearing based on a contested material issue of fact.¹¹

7. Timely Petitions to Intervene were filed by Washington Gas Light Company (“WGL”), the Apartment and Office Building Association of Metropolitan Washington (“AOBA”), and the Baltimore Washington Construction & Public Employees Laborers' District Council (“BWLDC”).¹² Those petitions were granted by the Commission in Order No. 20246.¹³ Additionally, by statute, the District of Columbia, DDOT, and OPC are parties of right in this proceeding.¹⁴

8. Although no protests or objections to the Joint Application and Second Biennial Plan were filed in this proceeding, Comments to the Second Biennial Plan were filed by WGL and OPC on December 10, 2019.¹⁵ A Motion to Submit Reply Comments and Reply Comments were filed by Pepco on December 18, 2019.¹⁶

III. STATUTORY OVERVIEW – UNDERGROUND ACT REQUIREMENTS

9. D.C. Code § 34-1313.08 sets forth the requirements for both the Joint Application and the Second Biennial Plan. Broadly, D.C. Code § 34-1313.08 (a)(1) – (3) and (c) provides how the ranking of reliability performance of individual feeders should be conducted; establishes the

¹⁰ Second Biennial Plan at 27-32. See also, D.C. Code § 34-1311.01(42) (2017), and D.C. Code § 34-1313.15 (2017).

¹¹ 66 *D.C. Reg.* 13482-13487 (2019).

¹² *Formal Case No. 1159*, Washington Gas Light Company’s Petition for Leave to Intervene, filed October 24, 2019; Petition to Intervene of the Apartment and Office Building Association of Metropolitan Washington, filed October 24, 2019; and Petition to Intervene and Notice of Appearance of the Baltimore Washington Construction & Public Employees Laborers' District Council, filed October 24, 2019.

¹³ *Formal Case 1159*, Order No. 20246, rel. November 6, 2019.

¹⁴ See D.C. Code §§ 34-1313.03(a)(2) and 1313.09(a)(2) (2017).

¹⁵ *Formal Case No. 1159*, Washington Gas’s Comments (WGL’s Comments”); and Comments of the People’s Counsel for the District of Columbia (“OPC’s Comments”), filed December 10, 2019.

¹⁶ *Formal Case No. 1159*, Motion to Submit Reply Comments of Potomac Electric Power Company, filed December 18, 2019 (“Pepco’s Motion to Reply”).

primary selection criteria; and delineates additional content that the electric company and DDOT should include in the plan. D.C. Code § 34-1313.10 sets forth the required findings the Commission must make as well as other terms and conditions the Commission must include in its Order.

10. D.C. Code § 34-1313.01, 1313.02, and 1313.03 set out the requirements for the Commission's Financing Order, what is to be included in the Application for a Financing Order, and other matters the Commission must consider and address in the Financing Order.

11. For easy reference purposes, and in the interest of keeping the body of this Order relatively short and to the point, we have summarized the above-mentioned statutory provisions in Attachment A appended to this Order.

IV. PARTIES' POSITIONS

A. The Joint Applicants' Position

12. The Joint Applicants assert that the Joint Application and Financing Order Application "comply in all respects with the Undergrounding Act and provide extensive data and other information that support the undergrounding activities proposed and funded in the Joint Application and the Financing Order Application."¹⁷ On pages 8-19 of the Joint Application, the Joint Applicants walk through each provision of Section 34-1313.08 of the Act providing initial responses in support of their conclusion that the requirements of the New Act have been satisfied.¹⁸ In response to the requirements of D.C. Code § 34-1313.10(b), the Joint Applicants generally assert that the Commission should find, based on the Application's contents, that the: (1) Underground Infrastructure Improvements are appropriately designed and located; (2) intended reliability improvements for Pepco's customers will accrue; (3) costs of Pepco's infrastructure improvements are prudent; (4) costs of DDOT's Infrastructure Improvements are prudent; (5) Underground Project Charges are just and reasonable; and (6) approval of the Joint Application is otherwise in the public interest.¹⁹

13. A complete discussion of the Joint Application's contents with respect to each of the requirements of Sections 34-1313.08 and 34-1313.10 of the Undergrounding Act is provided in Section VI. (The Second Biennial Plan) of this Order. A complete discussion of the Joint Application's contents with respect to Sections 34-1313.01 – 34-1313.03 of the Act is provided in Section VII. (The Financing Order) of this Order.

¹⁷ Joint Application at 6.

¹⁸ Joint Application at 8-19.

¹⁹ Joint Application at 19-21.

B. WGL's Position

14. Washington Gas is concerned that a significant portion of its gas main and services will be impacted by the DC PLUG project. WGL asserts that past experience has shown that with Pepco's planned work in such close proximity to the Company's high-risk facilities, the likelihood of potential leaks increases. Based on its experience with leaks resulting from Pepco's work of a more limited scope, the Company cannot take a "wait-and-see" approach with the DC PLUG work. The Company claims that, but for Pepco's planned underground construction activity, WGL would not have to contemporaneously replace these facilities or incur additional costs in coordination with the DC PLUG underground work.²⁰

15. WGL also contends that the level of replacement work that may need to be performed by Washington Gas as a result of Pepco's DC PLUG work is significant and in a given year may exceed a single year's capital expenditures in WGL's ongoing PROJECTpipes program. WGL asserts that this could affect the Company's ability to perform needed replacements related to the DC PLUG project at the same time it is performing replacement work under PROJECTpipes as well as normal gas construction work and the Company's work related to Pepco's Capital Grid project.²¹

16. Based on the above, WGL recommends that the Commission direct the affected parties to enter into a Memorandum of Understanding to address the Company's concerns and to establish a working group, including Pepco and the District Department of Transportation, to address these issues, including how the costs for any needed Washington Gas replacement work resulting from Pepco's DC PLUG project, are appropriately recovered in light of the current statute.²²

C. OPC's Position

17. On December 10, 2019, OPC filed Comments regarding the Joint Application.²³ Overall, OPC concludes that the Second Biennial Plan and Financing Application "largely comply with the statutory requirements of the Undergrounding Act as do the calculations and cost allocation underlying Pepco's Underground Project Charge and Underground Rider."²⁴ OPC

²⁰ WGL's Comments at 1.

²¹ WGL's Comments at 2.

²² WGL's Comments at 2. We address WGL's argument in Section VI. A. xxii., paragraphs 123-129, below.

²³ *Formal Case No. 1159*, Comments of the Office of the People's Counsel for the District of Columbia, filed December 10, 2019 ("OPC's Comments").

²⁴ OPC's Comments at 2. OPC states that it "has reviewed the Second Biennial Plan and has determined it includes all the information required under the applicable statutory provisions for the Commission, the Office, and interested stakeholders to assess the merits of the Second Biennial Plan and the Financing Application." OPC Comments at 6.

states that it remains committed to the DC PLUG initiative as a cost-effective means of improving the reliability and resiliency of the distribution system in the District.²⁵

18. However, following its review of the Application, as informed by Kevin J. Mara, an experienced electrical engineer in the utility industry for over 35 years, OPC identifies “limited concerns with certain technical aspects of the Second Biennial Plan.”²⁶ Based on these concerns, the Office makes four recommendations:

- (1) Pepco’s selection criteria may result in District ratepayers paying unnecessary costs;
- (2) the Company should be required to annually file with the Commission geographic representations of CELID (Customers Experiencing Long Interruption Durations) and CEMI+3 (Customers Experiencing Multiple Interruptions)²⁷ in order to permit the Commission, the Office, and interested stakeholders to track the effectiveness of Pepco’s area reliability plans;
- (3) Ward 7 spending should be increased to more closely match the average spend for each Ward; and
- (4) The Commission should deny Pepco’s request to include in rate base conduits and manholes that are not used or useful.²⁸

19. Regarding OPC’s first concern in Paragraph 18 above, that the selection criteria may result in District ratepayers paying unnecessary costs, the Office asserts that it previously expressed reservations in comments on the First Biennial Plan about Pepco’s practice of delaying undergrounding some feeders that meet the established criteria for undergrounding in order to test the effectiveness of area reliability projects like that for Benning Road. The Office reiterates its concern that this Pepco practice could result in District ratepayers paying twice—once for the reliability project and again if Pepco decides it still needs to place the feeder(s) underground in order to improve grid resilience. OPC contends further that “Pepco’s practice also shifts D.C. PLUG’s focus from being about improving grid resiliency to improving grid reliability, which could prove devastating for the Pepco ratepayers served by feeders whose placement underground is being delayed because those lines have been included in other area reliability projects whose overall effectiveness in improving reliability has yet to be determined.” Continuing, OPC states that even if those projects result in reliability improvements for the feeders in question, any such enhancements would be incremental, at best, and would not storm-harden Pepco’s distribution

²⁵ OPC’s Comments at 4.

²⁶ OPC’s Comments at 3.

²⁷ “CEMI+3” represents those customers who have experienced three or more outages in a single year.

²⁸ OPC’s Comments at 3.

system against major weather events nearly as much as undergrounding would because “feeders associated with area reliability will remain above ground and therefore vulnerable to heavy snow, ice, high winds, torrential rains, and falling trees, whereas those placed underground will not.”²⁹

20. As for OPC’s second concern expressed in Paragraph 18 above, to require annual geographic representations to permit tracking of the effectiveness of Pepco’s reliability plans, OPC states that “if the Commission is willing to permit this practice of omitting feeders that meet the statutory criteria for undergrounding to continue, it should, at a minimum, arm itself, the Office, and the public with the kind of information that will assist in evaluating the reasonableness of: (i) Pepco’s decisions to use an area reliability plan as opposed to undergrounding; (ii) the Company’s selection of location ‘A’ as opposed to location ‘B’ for an area reliability plan; and (iii) the effectiveness of Pepco’s area reliability projects.”³⁰

21. The Office “supports efforts by the Commission and Pepco to identify and improve reliability to neighborhoods that are additive to the feeder reliability programs; however, there needs to be an effective way to track the effectiveness and prudence of these improvements on local neighborhood reliability.”³¹ OPC states that, currently, the Commission requires Pepco to file information regarding CELID+8, referring to sections 3601.6 and 3601.7 of the Commission’s regulations which require the reporting of non-major service outages³² and single customer service outages of more than eight (8) hours caused by some event on the utility’s side of the customer’s meter.³³ The Office recommends that the Company annually file geographic representations of CELID and CEMI+3 in order to permit the Commission, the Office, and interested stakeholders to track the effectiveness of Pepco’s area reliability plans (to re-evaluate the Company’s decisions to delay undergrounding certain lines that were instead included in these plans) and to identify neighborhoods in need of reliability and resiliency improvements.³⁴

22. As for the Ward 7 spending, OPC submits that Pepco’s recommendation is to remove Feeders 15707 and 15705 in Ward 7 from the DC PLUG feeder candidates. The next least reliable feeder in Ward 7 is Feeder 118 to which Pepco proposes to underground only the taps of that feeder. The main line of Feeder 118, which runs along Pennsylvania Avenue SE, will remain overhead because Pennsylvania Avenue SE was recently re-paved with new curbs and sidewalks

²⁹ OPC’s Comments at 6-7.

³⁰ OPC’s Comments at 8.

³¹ OPC’s Comments at 8. Currently, Pepco is using a defined geospatial approach to determine neighborhoods which have more than 250 customers experiencing three or more outages in a single year. This metric is referred to as “Customers Experiencing Multiple Interruptions” or “CEMI.” CEMI+3 represents those customers who have experienced three or more outages in a single year.

³² 15 DCMR § 3601.6 (2008).

³³ 15 DCMR § 3601.7 (2008).

³⁴ OPC’s Comments at 10.

and Pepco has chosen not to underground it. OPC submits further that the budgeted spending for Ward 7 is well below the average spend for the other wards. Thus, OPC recommends, to improve system reliability and resiliency, and to improve the spending balance among wards, portions of Feeder 15705 should be undergrounded, even though this feeder is included in the Benning Area Reliability Plan (“BARP”).³⁵

23. The fourth concern of OPC is the rate base treatment of conduits and manholes. According to the Office, Pepco requested that \$213,000³⁶ be added to the rate base for conduits that were installed on Feeder 15707 near Minnesota Ave. NE and Grant Street. Prior to final approval of the DC PLUG plans, DDOT planned to re-pave a street in an area served by Feeder 15707. Pepco took advantage of the opportunity to install electrical conduits in conjunction with the DDOT project. OPC states that, according to Pepco, the conduits are unused.³⁷ OPC further asserts that at the time of the First Biennial Plan, Pepco decided, over OPC's objection, that Feeder 15707 should not be undergrounded in favor of the BARP plan. The Commission approved Pepco's plan regarding the BARP, but there was no mention in Order No. 19167 of the stranded conduits. Pepco could have used the conduits as part of the current Second Biennial Plan to underground approximately 600 feet of Feeder 15707, or it could have proposed to underground a larger portion of this feeder. The decision to use or not use these conduits is a decision made solely by Pepco. The Office, therefore, recommends that the Commission deny Pepco's request to include in rate base these conduits and manholes that are not used or useful.³⁸

24. Lastly, OPC addressed Pepco's proposed communication and outreach plan regarding construction activity in affected Wards, stating “Pepco/DDOT's proposed communication and outreach plan, which is Appendix N of the Second Biennial Plan, is substantially the same education plan approved by the Commission in Order No. 19167. As such, the Office believes that, if properly implemented, it, along with the Undergrounding Project Consumer Education Task Force, should suffice in fulfilling the informational needs of residents in affected Wards.”³⁹

D. Pepco's Reply Comments⁴⁰

25. Pepco submits that WGL's Comments recycle arguments made in *Formal Case No. 1144* (the “Capital Grid Project”) in December 2018, to which Pepco responded by stating that “WGL should not be allowed to take such a liberal view of conflicts in order to require Pepco to

³⁵ OPC's Comments at 11.

³⁶ Pepco claims this amount to be approximately \$216,000. See Testimony of witness McGowan at 7:2-7.

³⁷ OPC's Comments at 13.

³⁸ OPC's Comments at 13-14.

³⁹ OPC's Comments at 14.

⁴⁰ We grant Pepco's Motion to Submit Reply Comments in Section V. A. of this Order.

pay for replacements that should be paid for through WGL programs ... Pepco has extensive experience working with other utilities, such as DC Water, Verizon, and WGL, to coordinate the construction of projects ... so as to avoid conflicts that require the relocation of utility facilities where reasonably possible.”⁴¹ Pepco also submits that the Commission in Order No. 20203 “rejected WGL's suggestion to establish a working group in *Formal Case No. 1144* [explaining] ‘[w]e believe that Pepco has extensive experience working with other utilities, such as WGL, to coordinate the construction of projects similar to the Capital Grid Project. Therefore, we do not believe that it is necessary to establish a working group to address WGL's concerns.’”⁴²

26. Pepco further responds that WGL's suggestion that Pepco enter into a Memorandum of Understanding (“MOU”) to address WGL's concerns ignores that the Joint Applicants submitted utility coordination procedures in Appendix O to the Second Biennial Plan as required by Section 34-1313.08(c)(10) of the District of Columbia Official Code, and these procedures are consistent with the protocol the Commission approved as part of the First Biennial Plan and are currently in use.⁴³

27. Lastly, Pepco states that “[a]lthough the Undergrounding Act does permit WGL to establish a regulatory asset to recover relocation costs related to DC PLUG in certain instances, the WGL comments address replacement costs not relocation costs. WGL's replacement costs are not recoverable under the Undergrounding Act. Just as it did with Verizon in *Formal Case No. 1116*, here the Commission should reject WGL's self-serving attempt to use the DC PLUG initiative as a means to have electric distribution service customers fund WGL's pipe replacement work outside of a rate case, its PROJECTpipes program, or another WGL proceeding.”⁴⁴

28. Pepco addresses a number of OPC's concerns in its Reply Comments. First, concerning OPC's Comments reiterating concerns that Pepco's feeder selection practice “could result in District ratepayers paying twice” and claims that it “shifts DC PLUG's focus from being about improving grid resiliency to improving grid reliability,” Pepco cites its responses in the former First Biennial Plan proceeding (*Formal Case No. 1145*)⁴⁵ regarding Pepco's feeder selection process and, in particular, the use of secondary selection criteria, including an evaluation of other reliability enhancement programs in the District of Columbia.⁴⁶ Pepco submits that “[i]n its decision approving the First Biennial Plan, the Commission explicitly approved Pepco's use of secondary selection criteria, including the evaluation of other reliability enhancement programs in

⁴¹ Pepco's Reply Comments at 3.

⁴² Pepco's Reply Comments at 3.

⁴³ Pepco's Reply Comments at 4.

⁴⁴ Pepco's Reply Comments at 5.

⁴⁵ *Formal Case No. 1145, In the Matter of Applications for Approval of Biennial Underground Infrastructure Improvement Projects Plans and Financing Orders* (“*Formal Case No. 1145*”).

⁴⁶ Pepco's Reply Comments at 7-9.

the District of Columbia, and specifically addressed the exclusion of the feeders that were included in the Benning Area Reliability Plan ('BARP')." Thus, Pepco asserts, the Commission has already considered and rejected the concerns that were again included in OPC's Comments.⁴⁷

29. Pepco also asserts that, contrary to OPC's assertions, considering other reliability enhancement programs in the District of Columbia as part of the secondary selection criteria actually serves to reduce costs, citing as an example the installation of preassembled aerial cable ("PAC") along appropriate portions of the included feeders as part of the BARP. Pepco claims the PAC is more resistant to wind and tree damage than traditional overhead cable and the cost is significantly less than undergrounding. Thus, Pepco contends, as a result, not only will the resiliency of the feeders be enhanced, their reliability is also anticipated to improve.⁴⁸

30. In response to OPC's Comments suggesting the Commission should require Pepco to annually file geographic representations of Customers Experiencing Long Interruption Duration ("CELID") and Customers Experiencing Multiple Interruptions ("CEMI+3") to permit the tracking of the effectiveness of Pepco's area reliability plans, the Company maintains that it already provides the data in question—just not in the specific format that OPC is suggesting. Pepco submits that it supplies monthly outage reports that include GIS shapefiles with outage data embedded to allow for the geospatial analysis of outages and that OPC can obtain CELID and CEMI+3 with the data in the GIS shapefiles. The Company, therefore, submits that OPC's suggestion is unnecessary, given the extensive reporting that Pepco already provides on a regular basis.⁴⁹

31. Commenting on OPC's suggestion to underground additional portions of Feeder 118, Pepco asserts that OPC inaccurately claims that Pepco recommended that the main line of Feeder 118 that runs along Pennsylvania Avenue SE be left above ground because it "was recently repaved with new curbs and sidewalks." Pepco asserts that it was the Company's assessment of the tree canopy and recent reliability additions that were the drivers for leaving the main line of Feeder 118 above ground, not recent repaving as OPC suggests.⁵⁰

32. On OPC's suggestion that Feeder 15705 should be undergrounded, Pepco states that Feeder 15705 is a part of the BARP and is not a selected feeder in the Second Biennial Plan; that detailed engineering analysis beyond a review of the Google image supplied by OPC would be required to determine if these lateral segments of Feeder 15705 would be suitable for undergrounding and would deliver significant reliability and resiliency benefits to the feeder. Pepco submits that, if Feeder 15705's future reliability performance justifies its inclusion in the

⁴⁷ Pepco's Reply Comments at 9-10.

⁴⁸ Pepco's Reply Comments at 10.

⁴⁹ Pepco's Reply Comments at 11-12.

⁵⁰ Pepco's Reply Comments at 12.

Third Biennial Plan, Pepco will perform the detailed engineering analysis required to determine what segments of those feeders should be undergrounded at that time.⁵¹

33. Pepco contends that OPC's comments erroneously claim that Pepco is seeking to include the cost of conduit installed on Feeder 15707 in rate base. The Company has not proposed that these costs be included in rate base as capital on which a return is earned but is requesting Commission approval to amortize the cost associated with the installation of this conduit as operating and maintenance expense over a period of one-year.⁵² Pepco explains that Feeder 15707 was identified as an opportunity feeder under the First Triennial Plan, and the conduit in question was installed; however, due to legal challenges to the First Triennial Plan and its funding mechanism, electrical construction was never completed. According to Pepco, in the interim, Feeder 15707 was selected for the BARP, and the conduit no longer aligns with the route of Feeder 15707 as a result of the feeder's reconfiguration. As such, the conduit cannot be used for Feeder 15707 as OPC's comments suggest. Pepco maintains that recovery of these conduit costs is consistent with the Commission's decision in *Formal Case No. 1145*, Order No. 19167, in which the Commission permitted Pepco to recover the costs spent on the feeders included in the First Triennial Plan but not subsequently included in the First Biennial Plan.⁵³

34. Finally, with regard to OPC's assertion that spending in Ward 7 in the Second Biennial Plan is too low and should be increased to more closely match the average spend for each ward, Pepco refers to the Joint Stipulation filed in *Formal Case No. 1116*, agreed to among Pepco, DDOT and OPC, stipulating that "Pepco and DDOT will consider other locations on feeders to be placed underground which would not benefit from undergrounding due to the absence of trees, historical performance, and other relevant conditions."⁵⁴ Pepco claims this agreement was made to assure OPC that the DC PLUG initiative would look at partial undergrounding of feeders, where feasible, creating a cost savings for customers. Pepco states that "[c]onsistent with this agreement, in the preliminary design for the feeders in Ward 7, Pepco and DDOT were able to identify many opportunities to leave sections of the feeders overhead due to the vegetation management and reliability work that Pepco has been doing over previous years. The final decision as to whether these segments of feeders may remain overhead will occur in the detailed electrical design phase for each of the feeders. Leaving segments of feeders overhead, where feasible, saves customers money and avoids 'District ratepayers paying unnecessary costs.'"⁵⁵

⁵¹ Pepco's Reply Comments at 13.

⁵² Pepco's Reply Comments at 13.

⁵³ Pepco's Reply Comments at 13-14.

⁵⁴ Pepco's Reply Comments at 15.

⁵⁵ Pepco's Reply Comments at 15.

E. Community Comments

35. The Commission convened a community hearing seeking input from the public on the Joint Application. The hearing was held in the Commission's Hearing Room on January 8, 2020. Pepco representatives presented a brief summary of the DC PLUG initiative, and Travis Smith, on behalf of OPC, made a statement for the record concerning its participation in the DC PLUG initiative. There were no statements or testimony submitted by any members of the public.

V. PRELIMINARY MATTERS

A. Pepco's Motion to Submit Reply Comments

36. Pepco requests leave of the Commission to file the reply comments in Section II of its Motion in response to the comments submitted in this matter by WGL and OPC on December 10, 2019. Pepco asserts that the reply comments are necessary to address a number of points made by WGL and OPC in their comments and provide a complete and comprehensive record for the Commission in this matter.⁵⁶ The Company maintains that reply comments or responses were submitted in prior proceedings to consider both the First Biennial Plan (*Formal Case No. 1145*) and prior to that, the First Triennial Plan (*Formal Case No. 1116*). However, according to Pepco, although the Public Notice in this proceeding omitted any reference to submission of reply comments in this case, they are necessary here to respond to a number of points that WGL and OPC raised in their comments regarding the Joint Application.⁵⁷

37. Pepco cites cases where the Commission has accepted motions to respond to comments where, as here, the response will result in a more complete record on which the Commission can base its decision.⁵⁸ Pepco contends here that allowing the reply comments set forth in Section II of its Motion will provide the Commission with a complete and comprehensive record for its consideration of the Applications and is therefore warranted.

38. Although no reply comments were directed in this case, both WGL's and OPC's Comments raise matters to which Pepco had no opportunity to respond. We conclude that Pepco's responses will provide the Commission with a more complete record for its consideration of these matters, as well as making our final determination on the Application. We also point out that no objections or responses to Pepco's Motion for Leave were filed. Therefore, we grant Pepco's Motion for Leave, and we will consider Pepco's Reply Comments accordingly.

⁵⁶ Pepco's Motion for Leave at 1.

⁵⁷ Pepco's Motion for Leave at 2.

⁵⁸ See, e.g., *Petition of Verizon Washington, DC Inc. for Arbitration Pursuant to Section 252(B) of the Telecommunications Act of 1996*, TAC 19, Order No. 13836 at ¶ 9 (Dec. 15, 2005); *In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, *Formal Case No. 962*, Order No. 12239, at ¶¶ 5-6 (Nov. 21, 2001),

B. OPC's request to track the effectiveness of improvements on local neighborhood reliability

39. OPC recommends that the Company annually file geographic representations of CELID (Customers Experiencing Long Interruption Duration) and CEMI+3 (Customers Experiencing Multiple Interruptions) in order to permit the Commission, the Office, and interested stakeholders to track the effectiveness of Pepco's area reliability plans (to re-evaluate the Company's decisions to delay undergrounding certain lines that were instead included in these plans) and to identify neighborhoods in need of reliability and resiliency improvements.⁵⁹

40. Pepco claims that it already provides the data in question, just not in the specific format that OPC is suggesting. Pepco supplies monthly outage reports that include GIS shapefiles with outage data embedded to allow for the geospatial analysis of outages. The Company submits that OPC is able to obtain CELID and CEMI+3 with the data in the GIS shapefiles, and, thus, OPC's suggestion is unnecessary, especially given the extensive reporting that Pepco already provides on a regular basis.⁶⁰

41. We do not believe that this is the appropriate proceeding to contemplate changes in the reporting requirements. We instead defer consideration of OPC's recommendation requiring additional reporting of CELID and CEMI to the Annual Consolidated Report (PEPACR) docket, which is a more appropriate proceeding in which to consider these changes.

C. The 2014 and 2016 OPC, PEPCO and DDOT Joint Stipulations

42. In 2014, OPC, Pepco and DDOT filed a Joint Stipulation to the then-titled Triennial Plan resolving protests raised by OPC related to technical and other aspects of system design, construction, and operation as well as certain aspects of the proposed communications plan.⁶¹ In Order No. 17697, the Commission reviewed and fully summarized the Joint Stipulation (*see* Order No. 17697, ¶¶ 129–137). We now incorporate by reference that discussion of the 2014 Joint Stipulation into this Order. Ultimately, the Commission found “the terms of the Stipulation to be a just and reasonable compromise between the parties” and accepted “the Joint Stipulation in full without modification to any of the existing terms.”⁶²

43. In March 2016, OPC, Pepco and DDOT entered into another stipulation (“the 2016 Stipulation”) in which they agreed, *inter alia*, that the obligation of DDOT and Pepco to evaluate locations for pad mounted transformers within the District is terminated unless the Commission

⁵⁹ OPC Comments at 11.

⁶⁰ Pepco's Reply Comments at 12.

⁶¹ Joint Application at 4.

⁶² Order No. 17697, ¶ 149.

issues an order reinstating the obligation.”⁶³ In Order No. 18154, the Commission granted the Joint Applicant’s Motion to approve the 2016 Joint Stipulation which removed the obligation that the Joint Applicants evaluate locations for placing pad mounted transformers.⁶⁴ The Joint Applicants represent that they “incorporated the agreements set forth in the 2014 Stipulation and the 2016 Stipulation by reference or explicitly into the Second Biennial Plan and continue to be committed to fulfilling the applicable obligations.”⁶⁵ Thus, the Commission incorporates both the 2014 and 2016 Stipulations into the record of this proceeding.

VI. THE SECOND BIENNIAL PLAN

A. The Application Satisfies the Applicable Requirements of D.C. Code 34-1313.10 (b)(1)

44. There are no objections by any party as to the compliance of the Second Biennial Application and Financing Application with the statutory requirements of the Undergrounding Act. The Commission has reviewed the Application submitted by the Joint Applicants in its entirety and has determined that the Application, supplemented in some instances by explanations in data responses, contains all of the basic elements required by the Act.⁶⁶ In this Section, we conduct the review required by D.C. Code § 34-1313.10 (b)(1)⁶⁷ which serves as the basis for our findings that on this record, the Application satisfies the applicable requirements of Section 34-1313.08 and allows the Commission to affirmatively make each of the other findings required by Section 34-1313.10(b). Sections 34-1313.08 (a) and (c) set out the contents that must be included in the Application. We will address these requirements *ad seriatim*.

i. Ranking of Overhead Feeders (Section 1313.08(a)(1)(A))

45. Section 1313.08(a)(1)(A) of the Act requires that the Second Biennial Plan include “a measurement and ranking of each overhead and combined overhead-underground mainline

⁶³ Joint Application at 5. See *Formal Case No. 1116*, Motion to Approve Joint Stipulation and Joint Stipulation of the Office of the People’s Counsel, Potomac Electric Power Company and the District Department of Transportation Regarding Consideration of Pad Mounted Transformers for DC Plug Initiative Feeders in *Formal Case No. 1116*, filed March 8, 2016 (“2016 Stipulation”).

⁶⁴ See *Formal Case No. 1116*, Order No. 18154, ¶ 9, rel. March 24, 2016.

⁶⁵ Joint Application at 5.

⁶⁶ The Undergrounding Act authorizes the Commission to resolve contested issues of material fact in this proceeding without an evidentiary hearing on the basis of the pleadings and discovery responses filed. See Sections 1313.09(c). We will, therefore, incorporate all the Discovery responses into the record of this proceeding to assist the Commission in resolving such issues.

⁶⁷ D.C. Code § 34-1313.10 (b)(1) providing “[f]or the electric company to recover expenses and costs pursuant to subsection (a) of this section, the Commission shall find that: (1) The electric company’s application satisfies the applicable requirements of § 34-1313.08.”

primary and lateral feeder in the District since January 1, 2010 through the most recently completed calendar year, using the primary selection criteria set forth in [Section 1313.08(a)(2) of the Act].”⁶⁸

46. The Joint Applicants explain in the Second Biennial Plan that they began the feeder selection process by ranking each of Pepco’s overhead (and combined overhead/underground) feeders according to SAIFI, SAIDI, and CMI/\$. The feeder ranking presented in Appendix A of the Application is based on reliability performance data from January 1, 2010, through December 31, 2018, pursuant to Section 1313.08(a)(2) of the Undergrounding Act, and includes Major Service Outages (“MSOs”).⁶⁹ Pepco witness Lipari discusses the ranking and prioritization processes in detail, including the ranking process used to select the feeders for the Second Biennial Plan shown in Appendix B.⁷⁰

47. No party has presented any evidence that the feeder ranking included in the Joint Application is incomplete, erroneous, or non-compliant with the Act. Additionally, Pepco witness Lipari provides a good and reasonable explanation regarding the feeder selection which conforms to Section 1313.08(a)(1)(A) of the Act.⁷¹ We note that the feeder ranking model used in the Second Biennial Plan is the same model that was used approved in the First Biennial Plan. Thus, we conclude that the Application complies with Section 1313.08(a)(1)(A) of the Undergrounding Act.

ii. Selection of Feeders to be Undergrounded (Section 1313.08(a)(1)(B))

48. Section 1313.08(a)(1)(B) of the Act requires that the Second Biennial Plan use the feeder rankings to identify which of Pepco’s mainline and lateral feeders will utilize the DDOT Underground Electric Company Infrastructure Improvements. Appendices B and C of the Joint Application identify the selected mainline primary and lateral feeders, and the section of the Second Biennial Plan entitled “Feeder Selection” discusses the process used to select the feeders for the DC PLUG initiative. Company witness Lipari also addresses the feeder selection process in his testimony.⁷²

49. The Second Biennial Plan explains the five steps the Joint Applicants went through to select feeders for undergrounding. Step one ranked all overhead feeders based on SAIDI, SAIFI, and CMI/\$, as required by the Act and shown in Appendix A (as discussed above). Step two identified the highest-ranked feeders in each of the five wards (Wards 3, 4, 5, 7 and 8) characterized by a large concentration of overhead power lines and susceptibility to overhead outages. Step three analyzed ongoing reliability work as well as current and planned system work. Step four

⁶⁸ D.C. Code § 34-1313.08 (a)(1)(A) (2017).

⁶⁹ Second Biennial Plan at 5-6.

⁷⁰ Joint Application at 9. The Joint Application erroneously identifies Pepco witness Smith as addressing the feeder selection process. Pepco witness Lipari addresses this matter.

⁷¹ See Testimony of Pepco witness Lipari at 3:5-15. (Exhibit Pepco (B)-1).

⁷² Joint Application at 9-10.

identified opportunities to take advantage of existing or planned DDOT roadway reconstruction projects. Step five finalized the feeder selection for inclusion in the Second Biennial Plan.⁷³

50. The Second Biennial Plan also explains the Secondary Evaluation Criteria which include value of service, coordination with other District projects, community impact and customer impact that are used to prioritize construction as reflected in the project start and end dates to be filed within 90 days of the order.⁷⁴ The highest ranked feeders in Wards 3, 4, 5, 7, and 8 were selected for undergrounding as a result of the five-step process.⁷⁵

51. OPC asserts that Pepco proposes to underground only the taps of Feeder 118 in Ward 7, and the mainline of Feeder 118, which runs along Pennsylvania Avenue SE (roughly between Alabama Avenue and Minnesota Avenue), will remain overhead. OPC contends that this section of Pennsylvania Avenue SE was recently re-paved with new curbs and sidewalks, and as a result, Pepco is recommending not to underground the main line along Pennsylvania Avenue SE. The Office claims that this is a relatively low-cost undergrounding project because of the limited number of affected customers.⁷⁶ Pepco responds that “[i]n fact, it was Pepco's assessment of the tree canopy and recent reliability additions that were the drivers for leaving the main line of Feeder 118 above ground, not recent repaving as OPC suggests.”⁷⁷

52. Concerning Feeder 15705 in Ward 7, OPC recommends that, to improve system reliability and resiliency, and to improve the spending balance among Wards, portions of Feeder 15705 should be undergrounded, even though this feeder is included in the BARP.⁷⁸ OPC also suggests using the existing conduits to underground portions of Feeder 15707.⁷⁹ In response, Pepco states: (1) that “[d]etailed engineering analysis beyond a review of the Google image supplied by OPC would be required to determine if these lateral segments of Feeder 15705 would be suitable for undergrounding and would deliver significant reliability and resiliency benefits to the feeder;” (2) that Feeder 15705 is part of the Benning Area Reliability Plan; and (3) that, if its future reliability performance justifies it, then this feeder will be included in the Third Biennial Plan.⁸⁰ Regarding Feeder 15707, Pepco also states that the conduit that was constructed as a part

⁷³ Second Biennial Plan at 4-5.

⁷⁴ Second Biennial Plan at 6-7. The DC PLUG statute requires Pepco to provide a construction schedule within 90 days of the order. D.C. Code § 34-1313.08(b) states: “Within 90 days after the biennial Underground Infrastructure Improvements Projects Plan is approved by the Commission, the electric company and DDOT shall identify the estimated start date and projected end date for each project approved in the plan.”

⁷⁵ Second Biennial Plan at 4-7.

⁷⁶ OPC Comments at 11.

⁷⁷ Pepco Reply Comments at 12.

⁷⁸ OPC Comments at 11.

⁷⁹ OPC Comments at 13.

⁸⁰ Pepco Reply Comments at 13.

of the Triennial Plan no longer aligns with the route of Feeder 15707 due to the feeder's reconfiguration as a result of the BARP, and hence, that conduit cannot be used for Feeder 15707 as OPC's comments suggest.⁸¹

53. Regarding OPC's suggestion to underground additional portions of Feeder 118 and portions of Feeders 15705 and 15707, we conclude that Pepco and DDOT have exercised appropriate judgment and flexibility consistent with the Undergrounding Act, and we will continue to monitor the BARP. We also observe that Pepco has made meaningful improvements with BARP.⁸² The entire BARP program consists of at least 10 feeders. The scope of the Benning Area Reliability Plan involves replacement of approximately 10 miles of existing three-phase mainline primary wire with Aluminum Conductor Steel Reinforced ("ACSR") tree wire, re-configuration of feeders to minimize outage impacts by improving segmentation and automatic restoration schemes, consolidation and upgrading of conductors to minimize outages due to conductor contacts and/or impacts to multiple feeders during an outage condition, hardening of areas or reviewing additional methods to improve performance in areas prone to vegetation, and additional reliability-related work. This work includes vegetation management, thus ensuring that outages are minimized during adverse weather conditions.

54. We also note that OPC's argument about under-spending in Ward 7 ignores the approximately \$17 million already spent on the BARP which has brought significant improvements in reliability to customers in Ward 7.⁸³ Under the first two Biennial Plans, Pepco and DDOT have budgeted \$40 million of DC PLUG spending for Ward 7 for Feeder Nos. 118, 368, and 14702. Thus, when added together with BARP, the total for Ward 7 increases to \$57 million. We, therefore, reject OPC's recommendations to underground additional portions of Feeder 118 and portions of Feeders 15705 and 15707.

55. Upon review of the pleadings, data responses and Witness Lipari's testimony, we conclude that Pepco and DDOT are in compliance with the Section 1313.08(a)(1)(B) requirements. Pepco and DDOT used SAIFI, SAIDI, and CMI/\$ to rank feeders for selection as required in Section 1313.08(a)(1)(B). In accordance with that section of the Act, DDOT and Pepco will analyze ongoing reliability work as well as current and planned system work on the most highly-ranked feeders in each Ward to exclude feeders from the final selection process.

56. The Commission will also continue to monitor the BARP by directing the Joint Applicants to file a report on the status of the BARP which must include the status of the pending work related to BARP and all budgeted and actual expenditures to date, within 30 days from the date of this Order. The Joint Applicants are further directed to report on the reliability

⁸¹ Pepco Reply Comments at 13-14.

⁸² After many years of sub-par performance and regular appearances on the Priority Feeder List (also known as "two-percent worst performing feeders"), neither Feeder 15705 nor 15707 appeared on the 2018 or 2019 Priority Feeder List. See Pepco's 2019 Annual Consolidated Report.

⁸³ *Formal Case No. 1159*, DR 1159, Pepco's responses to OPC Data Request 3-1 (December 2, 2019).

improvements achieved from BARP, including Feeders 15705 and 15707, twice a year, for three years after the completion of BARP.

iii. Outage Metrics (Section 1313.08(a)(2))

57. Section 1313.08(a)(2) of the Undergrounding Act requires a showing of certain enumerated metrics based on all sustained interruptions that affect the public welfare (inclusive of MSOs on each overhead and combined overhead-underground mainline primary and lateral feeder circuits in the District of Columbia from January 1, 2010 through the most recently completed calendar year.⁸⁴ Appendix A of the Joint Application includes a weighted average for 2010-2018 of the: (1) number of outages per feeder, (2) duration of the outages per feeder, and (3) cost per customer minutes of interruption per feeder. The section of the Second Biennial Plan entitled "Feeder Selection" discusses this analysis. Company witness Lipari addresses the weighting based on the required criteria in his testimony and exhibits.⁸⁵ None of the other parties addressed this requirement.

58. Witness Lipari's testimony explains that the outage data used in the model includes all outage data during the nine-year period, including MSO data, and is consistent with the approach taken in the First Biennial Plan.⁸⁶ He further testifies that it is appropriate to include MSO data because the primary purpose of the DC PLUG initiative is to improve system reliability and resilience during severe weather events.⁸⁷ In addition, these enhancements will also improve system reliability during blue-sky conditions.

59. We reviewed the Joint Applicants' feeder selection process which is based on a nine-year historical record of reliability performances of all feeders in the District, which includes SAIFI, SAIDI and CMI/\$. This feeder selection process included MSOs during the nine-year period (2010-2018) as dictated in Section 1313.08(a)(2) of the Act. Following our review of the Second Biennial Plan, witness Lipari's testimony, and data request responses related to the outage metrics, we conclude that the Joint Applicants are in compliance with this Section of the Act.

iv. Feeder Descriptions (Section 1313.08(a)(3)(A))

60. Section 1313.08(a)(3)(A) of the Act requires that the Second Biennial Plan describe each mainline primary and lateral feeder that the Joint Applicants selected to be placed underground and identify and describe the feeder number and feeder location, including street address, neighborhood and Ward. The section of the Plan entitled "Feeder Descriptions" and Appendices C, D, E, F, and G identify and describe the feeder number and feeder location,

⁸⁴ D.C. Code § 34-1313.08(a)(2) (2017).

⁸⁵ Joint Application at 10.

⁸⁶ Testimony of Pepco witness Lipari at 5:9-12.

⁸⁷ Testimony of Pepco witness Lipari at 5:14-17.

including street address, neighborhood and Ward for the selected mainline primary and lateral feeders. This is supported by Pepco witness Smith's testimony.⁸⁸ No other party addressed this requirement.

61. Upon our review of the Joint Application, including witness Smith's testimony, we conclude that the Joint Application is in compliance with this section of the Act.

v. *Equipment to be Undergrounded or Removed (Section 1313.08(a)(3)(B))*

62. Section 1313.08(a)(3)(B) of the Undergrounding Act requires that the Second Biennial Plan include overhead electrical cables, fuses, switches, transformers, and ancillary equipment, including poles, that will either be placed underground or removed. Appendices E and F of the Plan identify overhead electrical cables, fuses, switches, transformers, and ancillary equipment that will either be placed underground or removed, as discussed in the "Feeder Descriptions" section of the Joint Application and supported by the testimony of Company witness Smith.⁸⁹ Witness Smith testifies:

Only overhead secondary lines and associated ancillary equipment and poles will remain overhead. All overhead equipment associated with the primary lines that are placed underground such as overhead fuses, switches, transformers and other ancillary equipment associated with the primary lines, will be removed and placed underground. . . . DDOT and Pepco do not intend to bury telecommunications or other lines that may be on the poles from which Pepco removes the primary or lateral line that will be placed underground. . . . In most cases DDOT and Pepco expect the poles to remain in place. DDOT and Pepco will only remove poles if they have only primary feeder cable on them.⁹⁰

63. No other parties address whether the Application meets the requirements of Section 1313.08(a)(3)(B). We have reviewed the cited portions of the Application, Second Biennial Plan, and testimony, and conclude that the Joint Application is in compliance with the requirements of Section 1313.08(a)(3)(B) of the Act. We note that the proposed preliminary feeder designs (Appendix F) do not include the installation of capacitor banks, though capacitor banks are currently installed on existing overhead feeders (Appendix E). Pepco clarified that capacitors are not required on the underground system and will be removed during the overhead removal part of construction if the capacitor is in line with the proposed route.⁹¹

⁸⁸ Testimony of Pepco witness Smith at 10:12-17.

⁸⁹ Joint Application at 11.

⁹⁰ Testimony of Pepco witness Smith at 11:5-11:17.

⁹¹ Pepco Response to PSC Data Request No. 3, Question No. 7 (December 20, 2019).

64. The preliminary electrical design (Appendix F) was compared to the existing overhead primary design (Appendix E), the preliminary civil design (Appendix G), the proposed underground feeder route (Appendix D) and feeder prioritization (Appendix B), and a spot-check was performed to review the consistency of the design as presented in the different Appendices of the Application. The results of the spot check of the transformer, fuse, switch and ancillary equipment locations for each feeder to determine the status of the equipment, *i.e.*, to be placed underground or removed, are shown in the table below. Even though the spot check reveals some discrepancies, we recognize that this is attributed to the preliminary nature of the design, and we, therefore, direct the Joint Applicants to address the following discrepancies in their final electrical design drawings.

Feeder ID	Discrepancies
14008	<ul style="list-style-type: none"> - At 14th St. NE and Saratoga Ave. NE, two 3 phase transformers are shown on the existing electrical schematic but are not shown on the preliminary electrical schematic: one at the west end of Saratoga Ave. NE and one at the intersection of 14th St. NE and Saratoga Ave. NE - Near New York Ave. NE, underground cable is shown in the existing electrical schematic and preliminary electrical schematic but not shown in the proposed underground feeder route.
14767	No discrepancies found
118	- Existing electrical schematic shows a N.C. switch at intertie 118/244, but the preliminary electrical schematic and GWD shows a N.O switch.
15021	<ul style="list-style-type: none"> - At 13th Pl. NW and Fort Stevens Dr. NW, a B-phase transformer is in the preliminary electrical schematic but a single phase transformer enclosure and conduit are not shown on the preliminary civil schematic - At 13th Pl. NW and Van Buren St. NW, a C-phase transformer is in the preliminary electrical schematic but a single phase transformer enclosure and conduit are not shown on the preliminary civil schematic - At 16th St. NW, between Somerset Pl. NW and Sheridan St. NW, a lateral conduit is in the preliminary electrical schematic but this conduit is not shown in the preliminary civil schematic.
15166	No discrepancies found
467	No discrepancies found
14702	No discrepancies found
14093	- At south of Evarts St. NE, two 100 kVA existing transformers are fed via overhead conductor in the existing electrical schematic and preliminary civil schematic, but fed via underground cable in preliminary electrical schematic.
15001	- At Colorado Ave. NW and 16th St. NW, the two existing underground transformers (75kVA and 1000kVA) in the existing electrical schematic are not shown in the preliminary electrical schematic or preliminary civil schematic.
15171	<ul style="list-style-type: none"> - At the intersection of Savannah St. SE and 15th St. SE, a section of main trunk is shown in the preliminary electrical schematic but not shown in the proposed underground feeder route. - At the intersection of Savannah St. SE and Southern Ave. SE, a section of main trunk is shown in the preliminary electrical schematic but not shown in the proposed underground feeder route.

65. Upon our review of the Joint Application, including Pepco witness Smith's testimony, we conclude that the Joint Application is in compliance with this section of the Undergrounding Act.

vi. Parallel Feeders (Section 1313.08(a)(3)(C))

66. Section 1313.08(a)(3)(C) of the Undergrounding Act requires that the Second Biennial Plan include overhead primary and lateral feeders that are currently located parallel to the primary and lateral feeders selected to be placed underground. Appendices B and F to the Second Biennial Plan identify overhead primary and lateral feeders that are currently located parallel to the primary and lateral feeders selected to be placed underground. This is discussed in the section of the Second Biennial Plan entitled "Feeder Descriptions" and supported by the testimony of Company witness Smith.⁹² Witness Smith says that by placing sections of parallel feeders underground, DDOT and Pepco will provide additional reliability and resilience benefits for customers on those parallel feeders.⁹³ No other parties address this requirement.

67. We have reviewed Appendices B and F of the Second Biennial Plan. We note that before Pepco and DDOT begin construction, they will perform physical field surveys of each feeder along with any parallel feeder and further analyze each feeder to be placed underground and use the results of those surveys and analysis to update the preliminary design schematics and produce construction plans.⁹⁴ In the First Biennial Plan, Pepco identified only two parallel feeders for potential undergrounding, while in the Second Biennial Plan, Pepco has identified 42 parallel feeders for potential undergrounding.⁹⁵ Because this is a significant new development, we believe that it bears close monitoring.

68. Thus, while we conclude that the Joint Applicants are in compliance with Section 1313.08(a)(3)(C) of the Act, we direct the Joint Applicants to report on plans for undergrounding any portion of the identified parallel feeders in the 90-day Compliance Filing, including details of any additional costs and to provide clarifications regarding the description and depiction of parallel feeders in their final electrical design drawings.

vii. Equipment Remaining Overhead (Section 1313.08(a)(3)(D))

69. Section 1313.08(a)(3)(D) of the Act requires that the Second Biennial Plan identify the overhead secondary feeder circuits and ancillary facilities, and telecommunications and cable television cables and ancillary above-ground equipment that will not be placed underground.⁹⁶

⁹² Joint Application at 11.

⁹³ Testimony of Pepco witness Smith at 13:3-5.

⁹⁴ Testimony of Pepco witness Smith at 8:3-9.

⁹⁵ Second Biennial Plan at Appendix B.

⁹⁶ D.C. Code § 34-1313.08 (a)(3)(D) (2017).

The section of the Second Biennial Plan entitled “Remaining Overhead Power Lines and Associated Equipment” states that all overhead secondary feeder circuits and ancillary facilities, telecommunications and cable television cables, and ancillary aboveground equipment will remain above ground, as supported by the testimony of Company witness Smith. Moreover, from the time that the Joint Applicants file the Second Biennial Plan to the time that the civil and electrical engineering designs are finalized, DDOT and Pepco will look for opportunities to allow certain limited portions of DC PLUG initiative feeders to remain overhead, potentially reducing costs for the selected feeder, without impacting the anticipated reliability and resilience gains associated with placing the feeder underground. This will allow DDOT and Pepco to apply the cost of placing that section of the feeder underground to a future DC PLUG feeder.⁹⁷

70. DDOT and Pepco will only remove poles if they have only primary feeder cable on them. In most other cases, the poles will remain in place. If poles support other lines, such as telecommunications lines or existing overhead secondary wires, then DDOT and Pepco will leave the poles in place.⁹⁸ Witness Smith states that “DDOT and Pepco do not intend to bury telecommunications or other lines that may be on the poles from which Pepco removes the primary or lateral line that will be placed underground.”⁹⁹ Additionally, Witness Smith explains that DDOT and Pepco will perform field surveys and detailed engineering analyses to determine exactly which poles will remain in place and which poles will be removed. DDOT and Pepco anticipate that the number of poles that will be removed once a feeder is placed underground will be minimal.¹⁰⁰

71. No other party addresses this requirement. Upon our review, we conclude that the Joint Applicants are in compliance with Section 1313.08(a)(3)(D) of the Act. We note that Pepco states that before the construction begins, the Company will perform physical field surveys of each feeder and further analyze each feeder to be placed underground and use the results of those surveys and analysis to update the preliminary design schematics and produce the final schematics and civil engineering designs.¹⁰¹ However, there is more than enough information provided by the Joint Applicants to conclude that Section 1313.08(a)(3)(D) has been complied with. Thus, once Pepco provides the final drawings and schematics, the Commission will review all the equipment remaining overhead.

⁹⁷ Joint Application at 11-12.

⁹⁸ Biennial Plan at 16-17.

⁹⁹ Testimony of Pepco witness Smith at 11:12-14.

¹⁰⁰ Testimony of Pepco witness Smith at 11:16-12:2.

¹⁰¹ Testimony of Pepco witness Smith at 8:3-9.

72. Joint Applicants are directed to provide a preliminary Gantt Chart¹⁰² similar to one provided in *Formal Case No. 1145*, within 90 days of the date of this Order. Such Gantt Chart must reflect the detailed schedule for each of the 10 feeders in the Second Biennial Plan. The Joint Applicants are also directed to provide an updated Gantt Chart every quarter highlighting all the revisions since the last issued version.

viii. *Planned Improvements (Section 1313.08(a)(3)(E))*

73. Section 1313.08(a)(3)(E) of the Act requires that the Second Biennial Plan identify the proposed Electric Company Infrastructure Improvements funded by the UPC and the DDOT Underground Electric Company Infrastructure Improvements funded by DDOT Charges. Appendices C, F, and G to the Second Biennial Plan identify those matters, and they are discussed in the sections of the Second Biennial Plan entitled “Feeder Descriptions” and “Interties, Future Load, and Feeder Conversions.” The appendices are also supported by the testimonies of Company witness Smith and DDOT witness Williams.¹⁰³ No other parties address this matter. We have reviewed these items and conclude that they are in compliance with Section 1313.08(a)(3)(E) of the Act.

ix. *New Technology and Distribution Automation (Section 1313.08(a)(3)(F))*

74. Section 1313.08(a)(3)(F) of the Act requires that the Second Biennial Plan identify new Distribution Automation (“DA”) devices and segmentation capability to be obtained through the DC PLUG initiative. The section of the Second Biennial Plan entitled “Incorporation of Innovative Methods and Advanced Technology,” as supported by the testimony of Company witness Smith, discusses new DA devices and segmentation capability that may be obtained through the DC PLUG initiative.¹⁰⁴

75. In September 2014, Pepco initiated its Underground Technology Enhancement Program (“UTEPP”) by releasing a request for proposals (“RFP”) for DA devices as well as configurations that comply with Pepco’s standards to be deployed on its 13kV underground distribution system. After consultation with four vendors who responded to the RFP and observing tests, Pepco has identified a configuration of DA devices for use on its underground system and has already begun installing them.¹⁰⁵ The Second Biennial Plan states that Pepco’s underground

¹⁰² A Gantt Chart is a type of bar chart that illustrates a project schedule, named after its inventor, Henry Gantt, who designed such a chart around the years 1910–1915. Modern Gantt Charts also show the dependency and relationships between activities and current schedule status.

¹⁰³ Joint Application at 12.

¹⁰⁴ Joint Application at 13.

¹⁰⁵ Second Biennial Plan at 19. The Plan states that Pepco has installed these devices on three existing underground feeders (14722, 14786, and 15703); installation required enlarging the manholes. Pepco’s Control Center established control over Feeder 14722 in October 2018. Communications work, including relay and radio configuration, remains in progress for Feeders 14786 and 15703. See Second Biennial Plan at page 20. NOTE: These

DA design includes installing one mid-line interrupter and one automated feeder tie switch to adjacent feeders on the main trunk of each feeder chosen for DA installation.¹⁰⁶ According to Pepco witness Smith, certain feeders selected for undergrounding in the Second Biennial Plan already have DA devices installed on them.¹⁰⁷

76. Of the 10 selected feeders in the Second Biennial Plan, six feeders (15001, 15021, 14008, 14093, 14702, 15166) with existing DA devices are planned to be part of an Automatic Sectionalizing and Reclosing (“ASR”) scheme. Feeder 14767 is already part of an activated ASR scheme and will continue to be so. Pepco states that automation schemes will be reviewed with Capacity Planning and Distribution Automation Groups once feeder design has moved into the proposed schematic phase.¹⁰⁸

77. Based on our review of the Second Biennial Plan, witness Smith’s testimony, and Pepco’s data responses related to automation, the Commission concludes that Pepco and DDOT are in compliance with Section 1313.08(a)(3)(F). To ensure completeness, we direct the Joint Applicants to provide the details of any ASR scheme and any further decisions regarding DA implementation on the 10 selected feeders in the Second Biennial Plan, including the three feeders (118, 467 and 15171) not currently addressed in the “Incorporation of Innovative Methods and Advanced Technology” section of the Application, when the electrical designs are finalized for each feeder.

x. *Interties (Section 1313.08(a)(3)(G))*

78. Section 1313.08(a)(3)(G) of the Act requires that the Second Biennial Plan identify interties that will enable the feeder to receive power from multiple directions or sources. The section of the Second Biennial Plan entitled “Interties, Future Load and Feeder Conversions” and Appendices B, E, and F identify the interties that will enable the feeder to receive power from multiple directions or sources, as supported by the testimony of Company witness Smith.¹⁰⁹

79. In accordance with the Second Biennial Plan, Pepco created its feeder designs to ensure that loops within the feeder are established and that ties to other feeders are maintained so customer disruptions are minimized during planned and unplanned outages. These loops on the laterals of the feeders represent a significant improvement in resiliency compared to existing overhead laterals, where very limited looped or transfer capability exists. Witness Smith states that a depiction of the interties that will enable a feeder to receive power from multiple directions

three feeders are already underground and are not part of DC PLUG; they are being used to pilot these DA devices before they are deployed in DC PLUG.

¹⁰⁶ Second Biennial Plan at 19.

¹⁰⁷ Testimony of Pepco witness Smith at 15:10-18.

¹⁰⁸ Pepco Response to PSC Data Request No. 1, Question No. 7 (December 4, 2019).

¹⁰⁹ Joint Application at 13.

or sources can be found in the Preliminary Electrical Schematics (Appendix F). He also mentions that a list of the intertie feeders for each feeder selected to be placed underground is shown in Appendix B, Feeder Prioritization.¹¹⁰

80. This requirement was not addressed by any of the parties. We have confirmed that the intertie feeders in the preliminary electrical design match the intertie feeders listed in Appendix B for all 10 selected feeders and their respective schematic representation is correct. Based on the above, we conclude that the Joint Application complies with the requirements of Section 1313.08(a)(3)(G).

xi. Load Analyses (Section 1313.08(a)(3)(H))

81. Section 1313.08(a)(3)(H) of the Act requires that the Second Biennial Plan identify the capability to meet current load and future load projections. The section of the Second Biennial Plan entitled “Interties, Future Load and Feeder Conversions” and Appendix C discuss the capability to meet current load and future load projections as supported in the testimony of Pepco witness Smith.¹¹¹ Pepco prepared the Preliminary Electrical Schematics in Appendix F according to its standard methodology for designing the 4kV and 13kV electric distribution system. This methodology provides capacity for future load increases as well as limited additional conduit space for replacement of failed cables and additional feeder expansion.¹¹² No other parties address this requirement.

82. We have reviewed the future load projections for each feeder listed in Appendix C of the Application. The Future Load Projection table for each feeder shows that the feeders have the capacity to carry the projected loads. Thus, we conclude that Pepco’s and DDOT’s filing is in compliance with Section 1313.08(a)(3)(H).

xii. Status of First Biennial Plan Feeders (Section 1313.08(a)(3)(I))

83. Section 34-1313.08(a)(3)(I) of the Act requires that the Second Biennial Plan include a status report and an explanation of the reasons why projects contained in the First Biennial Plan approved by the Commission in Order No, 19167 have not been completed and the dates upon which the projects are expected to be completed. The status report and explanation are contained in Appendix P of the Second Biennial Plan.

84. Concerning Feeder 308, construction of the civil infrastructure is expected to be complete in Spring 2020 and project completion is expected to occur in the third quarter of Calendar Year 2020. Construction on Feeder 14900 is being completed as part of the federally funded Oregon Avenue Project. DDOT Infrastructure Project Management released the invitation

¹¹⁰ Testimony of Pepco witness Smith at 15:22-16:2.

¹¹¹ Joint Application at 13-14.

¹¹² Second Biennial Plan at 17.

for bids in January 2019 and bids were received in March 2019. The electrical engineering procurement for Feeder 14900 was awarded in May 2019, and engineering is in progress. Construction is anticipated to begin by the fourth quarter of Calendar Year 2019, and project completion is expected by the first quarter of Calendar Year 2022.¹¹³

85. Regarding the four remaining feeders in the First Biennial Plan approval, the civil engineering request for quotes for Feeders 368, 14007, 14758 and 15009 was released in May 2019, and the electrical engineering procurement for these Feeders will commence following completion of the civil engineering design. The projected completion dates are:¹¹⁴

Feeder	Current Projected End Date
368	May 2023
14758	September 2023
15009	October 2023
14007	November 2023

86. None of the other parties addressed this topic. Based on the above, we conclude that the Joint Applicants are in compliance with Section 34-1313.08(a)(3)(I).

87. The Commission remains concerned about the slow progress on the First Biennial Plan, noting that more than two years after that plan was approved,¹¹⁵ no feeder project has been completed and civil design work has not yet begun on the remaining four feeders. The Commission invites the Joint Applicants to a legislative-style hearing before the end of March 2020, to present a detailed status report on the six feeders of the First Biennial Plan. The Joint Applicants must be prepared to discuss the reasons for the significant delay in the project execution and their strategies to overcome challenges with the remaining four feeders and their plans to expedite the design and construction for the remaining feeders in the First Biennial Plan.

88. In an effort to encourage the Joint Applicants to maintain the proposed schedule of start and end dates for each of the 10 feeders in the Second Biennial Plan, the Joint Applicants are directed to provide an explanation within 15 days whenever a delay of more than one month occurs with respect to: (1) the preparation of the final civil design; (2) the preparation of the final electrical design; (3) the award of civil engineering contracts; (4) the award of electrical engineering contracts; and (5) the estimated physical construction start date when compared to the preliminary Gantt Chart and estimated start and end date information which will be part of the 90-day Compliance Filing.

¹¹³ Second Biennial Plan, Appendix P.

¹¹⁴ Second Biennial Plan, Appendix P.

¹¹⁵ See *Formal Case No. 1145* for the estimated start and end dates that were submitted as a part of Pepco's 90-day Compliance Filing on February 7, 2018.

xiii. Project Costs and Cost Recovery (UPC) (Section 1313.08(c)(1))

89. Section 1313.08(c)(1) requires that the Second Biennial Plan include an itemized estimate of the Electric Company Infrastructure Improvement Costs and the proposed UPCs. The section of the Second Biennial Plan entitled “Project Cost” and Appendix H provide the itemized estimates of the Electric Company Infrastructure Improvement Costs and is supported in the testimony of Company witness Smith.¹¹⁶ The section of the Second Biennial Plan entitled “Cost Recovery” and Appendix I, K, and M discuss the proposed UPC, and is supported by the testimony and exhibits of Company witness Blazunas.¹¹⁷ The Biennial Plan provides that Pepco’s cost estimates are calculated using Pepco’s Asset Suite 8, which is consistent with Pepco’s standard method for estimating its cost for constructing new distribution facilities.¹¹⁸ The price of each unit includes: (1) labor, (2) materials, (3) administrative and general, and (4) miscellaneous.¹¹⁹

90. Pepco Witness McGowan asserts that Pepco seeks to recover costs from the First Triennial Plan.¹²⁰ In particular, Pepco has included costs for unused conduit constructed for Feeder 15707 that was part of the First Triennial Plan.¹²¹ Witness McGowan claims that the conduit was constructed in good faith and “Pepco’s subsequent decisions regarding Feeder 15707 were made in the interests of improving customer reliability, [therefore] Pepco requests that the approximately \$216,000 of cost associated with the installation of this conduit be amortized as operating and maintenance expense over one year.”¹²² Witness Smith states that the design for Feeder 15707 was 100% complete because this feeder was selected as an opportunity feeder under the First Triennial Plan. Construction of conduit proceeded under the approved design, but it was never completed due to legal challenges to the funding mechanism. According to witness Smith, since that time, Feeder 15707 was chosen for remediation under Pepco’s BARP initiative and excluded from DC PLUG selection pending the results of that reliability construction. Due to feeder reconfigurations and reconductoring of overhead wire under the BARP, this conduit will no longer be part of a DC PLUG initiative feeder and will remain unused.¹²³

91. Pepco witness Blazunas explains that the forecasted Operation and Maintenance (“O&M”) expenses to be recovered through the UPC include the following cost items: (1) the Company’s portion of the Customer Education Plan; (2) community outreach stations in the

¹¹⁶ Joint Application at 14.

¹¹⁷ Joint Application at 15.

¹¹⁸ Second Biennial Plan at 26.

¹¹⁹ Second Biennial Plan at 26-27.

¹²⁰ Testimony of witness McGowan at 6:11-18.

¹²¹ Testimony of witness McGowan at 6:19-7:2.

¹²² Testimony of witness McGowan at 7:2-7.

¹²³ Testimony of witness Smith at 20:19-21:7.

vicinity of construction activities; (3) Commission costs associated with the Commission's evaluation of DC Plug Initiative filings; and (4) OPC costs associated with OPC's review of the DC PLUG initiative filings.¹²⁴ Blazunas explains that these categories were approved in Order No. 17697 as clarified in Order No. 17770 for inclusion in the UPC.¹²⁵ The forecasted O&M expenses amount to \$778,950 in 2020 and \$1,223,767 in 2021.¹²⁶ The UPC also recovers "Other O&M Expense" which includes a refund of Commission and OPC deposits related to previous filings and costs associated with the unused conduit built for Feeder 15707 from the First Triennial Plan.¹²⁷

92. In addition to the O&M expenses, the revenue requirement includes Pepco's portion of the projected capital costs, which include engineering, design, construction, actual labor, materials, and allowance for funds used during construction ("AFUDC").¹²⁸ A return on investment using the rate of return authorized in Pepco's last rate case (*Formal Case No. 1150*) is also included.¹²⁹

93. As detailed in the summary of the parties' positions in Section IV above, OPC raises two issues concerning costs: (1) that Ward 7 spending should be increased to more closely match the average spend for each Ward;¹³⁰ and (2) the Commission should deny Pepco's request to include in rate base conduits and manholes that are not used or useful.¹³¹ Pepco responds by citing the Joint Stipulation with OPC in *Formal Case No. 1116*, whereby DDOT and Pepco agreed to identify locations that would not benefit from undergrounding in order to assure OPC that partial undergrounding would be considered in order to save money; and consistent with this agreement in the preliminary design for the feeders in Ward 7, Pepco and DDOT were able to identify many opportunities to leave sections of the feeders overhead due to the vegetation management and reliability work that Pepco has been doing over previous years. The final decision as to whether these segments of feeders may remain overhead will occur in the detailed electrical design phase for each of the feeders.¹³² As for the cost of conduit installed on Feeder 15707, Pepco has not proposed to include that cost in rate base, but to amortize it over one year.¹³³

¹²⁴ Testimony of witness Blazunas at 5:4-13.

¹²⁵ Testimony of witness Blazunas at 5:2-15.

¹²⁶ Pepco Exhibit (E)-1 at 3-4 of 14.

¹²⁷ Testimony of witness Blazunas at 5:15-23.

¹²⁸ Testimony of witness Blazunas at 6:9-13.

¹²⁹ Testimony of witness Blazunas at 6:16-18.

¹³⁰ OPC Comments at 11.

¹³¹ OPC Comments at 3.

¹³² Pepco Reply Comments at 15.

¹³³ Pepco Reply Comments at 13.

94. We reject OPC's request to increase spending in Ward 7 and agree with the Company that Pepco and DDOT should continue to identify opportunities to leave portions of feeders overhead when there would be no additional reliability and resilience benefits to spending money to move them underground. We also note that OPC's argument about under-spending in Ward 7 overlooks the \$17 million already budgeted for the BARP during 2017 through 2019 which has brought significant improvements in reliability to customers in Ward 7.¹³⁴

95. We also determine that Pepco's proposal for the approximately \$216,000 of cost associated with the installation of conduit to be amortized as operating and maintenance expense over one year, is reasonable. Section 3111.01(21) of the Act defines "Electric Company Infrastructure Improvement Costs" as follows:

[A]ny costs incurred by the electric company, including the amortization of regulatory assets and capitalized costs relating to electric plant including depreciation expense and design and engineering work incurred, or expected to be incurred, by the electric company in undertaking Electric Company Infrastructure Improvement Activity ... The term includes preliminary expenses and investments associated with Electric Company Infrastructure Improvement Activity that are incurred by the electric company prior to receipt of an order applicable to costs incurred with respect to the Electric Company Infrastructure Improvement Activity in addition to expenses that may be incurred for development of annual construction plans, customer communication, and other expenses that may develop in support of the Electric Company Infrastructure Improvement Activity.

96. OPC claims that Pepco should not be allowed to add this amount to rate base because the installation is not "used and useful." However, the Company requests that the expense be amortized over one year as an operations and maintenance expense, not placed in rate base. OPC made no argument to deny these costs as O&M expenses.

97. Moreover, Pepco witness Smith explained how construction of the subject conduit was undertaken: (1) that Feeder 15707 was one of 21 feeders approved by the Commission to be placed underground in *Formal Case No. 1116* as part of the First Triennial Plan;¹³⁵ (2) Feeder 15707 was identified as an opportunity feeder under the First Triennial Plan; (3) the design for the feeder was 100% complete; and (4) the conduit in question was installed in accordance with the approved design.¹³⁶ However, due to intervening events and delays, such as legal challenges to

¹³⁴ Pepco's response to OPC Data Request 3-1 (December 2, 2019).

¹³⁵ Pepco's Reply Comments at 13; Testimony of Pepco witness Smith at 20:17-19.

¹³⁶ Pepco's Reply Comments at 13; Testimony of Pepco witness Smith at 20:19-21.

the First Triennial Plan and its funding mechanism and the amendment to the Undergrounding Act, electrical construction was never completed.¹³⁷ Pepco witness Smith further explained how, since that time, Feeder 15707 was chosen for remediation under the BARP initiative, and excluded from DC PLUG selection. Due to feeder reconfigurations and reconductoring of overhead wire under the BARP, the conduit could no longer align with the route of Feeder. As such, the conduit could no longer be part of a DC PLUG initiative feeder and will remain unused.¹³⁸ Thus, due to these events, the conduit no longer aligns with the route of Feeder 15707 and cannot be used for Feeder 15707 as OPC's comments suggest.¹³⁹ Additionally, Pepco explained that the Commission explicitly approved Pepco's feeder selection criteria as well as Pepco's decision to remove Feeder 15707 from the list of feeders to be undergrounded (and be included in the BARP).¹⁴⁰ The Act makes it clear that the Company should be allowed to recover prudent expenses that it incurred in support of DC PLUG.¹⁴¹ Under these circumstances, to deny recovery of these expenses that were not only prudent at the time made but expressly approved by the Commission, is not a reasonable conclusion.

98. While we agree with OPC that capital investments that are not "used and useful" should not be included in rate base, the Act does, among other things, require that the costs and expenditures be prudent and accrue to the benefit of the DC electric company's customers.¹⁴² Pepco's decision to incur Feeder 5707 costs were considered prudent at the time it was made. Additionally, those costs were incurred for the benefit of the ratepayers and, importantly, were approved by the Commission. Thus, given: (1) changes to the original Undergrounding Act; (2) the Commission's explicit approval of the feeder selection criteria; (3) the intervening events and delays that forced Pepco's decision to move Feeder 15707 to BARP; (4) the Commission's approval of the First Biennial Plan, including: (a) the recovery of certain costs for feeders in the First Triennial Plan that were not included in the First Biennial Plan; and (b) the moving of Feeder 15707 into the BARP, and the implicit approval that Pepco would receive recovery for the prudent costs incurred on Feeder 15707;¹⁴³ and (5) Pepco's clarification that these costs are being

¹³⁷ Pepco's Reply Comments at 13-14; Testimony of Pepco witness Smith at 20:21-21:1.

¹³⁸ Pepco's Reply Comments at 13-14; Testimony of Pepco witness Smith at 21:2-7.

¹³⁹ Pepco's Reply Comments at 13-14.

¹⁴⁰ See Section 1313.10(b) of the Undergrounding Act.

¹⁴¹ See *Formal Case No. 1145*, Order No. 19167, wherein the Commission approved Pepco's request to recover the cost of feeders that were similar to Feeder 15707 and included in the First Triennial Plan but not included in the First Biennial Plan for undergrounding. Order No. 19167, ¶¶ 101, 140-141, 203-204, 211-212.

¹⁴² See Section 1313.10(b) of the Undergrounding Act.

¹⁴³ In Order No. 19167 (Paragraph 101 and 102), the Commission recognized the Joint Applicants' rationale for selecting Feeder 368 instead of Feeders 15707 and 15705, given that they are part of the BARP program and will undergo significant changes in the following two years. Also, in Paragraph 140 of the same order, the Commission indicates that Witness Clark goes on to assert that "[t]hrough this program, Feeders 15707 and 15705 will undergo significant changes over the next two years aimed at improving reliability and resilience." Therefore, the Joint Applicants chose to identify a separate feeder in Ward 7 (Feeder 368) that would benefit from placement underground.

amortized over one year and is being proposed to be recovered as a non-rate base item, we conclude that the Company should be allowed to recover these costs consistent with the Commission's decision in Order No. 19167 regarding other First Triennial Plan feeders.

99. In order to better monitor spending on construction in progress, we direct Pepco to provide by March 31st of each calendar year, beginning March 31, 2020, a report on all uses of the Contingency Funds for civil and electrical work during the preceding calendar year beginning with 2020, with the details for each use to include feeder number, amount spent, and purpose. We also direct Pepco to include in its April 1, 2020 adjustment filing, detailed schedules (similar to Exhibit E) that adjusts its estimated figures to actual, consistent with Section 34-1313.15 of the Undergrounding Act. We further direct that actual and forecasted capital expenditures, as well as additions to Electric Plant in Service ("EPIS"), be broken out by feeder number so that actual and forecasted expenditures, as well as additions to EPIS can be correlated with completed and planned construction activity.

xiv. DDOT Cost Estimates (Section 1313.08(c)(2))

100. Section 1313.08(c)(2) of the Act requires that the Second Biennial Plan include itemized estimates of the DDOT Underground Electric Company Infrastructure Improvement Costs. The section of the Second Biennial Plan entitled "Project Cost" and Appendix H provide the itemized estimates of the DDOT Underground Electric Company Infrastructure Improvement Costs, as supported by the testimony of Company witness Smith and DDOT witness Williams.¹⁴⁴ Standard DDOT practices were used for estimating the civil cost of a DDOT project in the development phase.¹⁴⁵ DDOT analyzed historical bid prices from previous years to calculate its cost estimates and used a cost-based estimating methodology for specific items that can be calculated using RSMeans Heavy Construction Cost Data, which is also used by DDOT contractors.¹⁴⁶ DDOT employed its engineering judgment and experience in conjunction with the methods described above as well as guidelines, such as DDOT's Standards and Specifications for Highways and Structures.¹⁴⁷

101. None of the other parties commented on this topic. Based on our review of the aforementioned documents, we conclude this section of the Act is in compliance.

"We [found] this rationale to be reasonable." Also, in Order No. 19167 (Paragraph 204), the Commission recognizes Pepco's proposal to recover certain costs, including those related to feeders from the first Triennial Plan which were not selected for the first biennial plan, like Feeder 15707. In Paragraphs 211 and 212, the Commission discussed "prudence review" and ultimately found that the Joint Applicants have provided a *prima facie* showing that the Electric Company Undergrounding Infrastructure Improvement costs Pepco will incur will be prudent.

¹⁴⁴ Joint Application at 15.

¹⁴⁵ Second Biennial Plan at 25.

¹⁴⁶ Second Biennial Plan at 25-26.

¹⁴⁷ Second Biennial Plan at 26.

xv. *Assessment of Potential Obstacles (Section 1313.08(c)(3))*

102. Section 1313.08(c)(3) of the Undergrounding Act requires that the Second Biennial Plan include an assessment of potential obstacles to timely completion of a project, including, but not limited to, the need to obtain environmental or other permits, or private easements, the existence of historically sensitive sites, required tree removal, and significant traffic disruptions. The section of the Second Biennial Plan entitled “Obstacles to Timely Completion” provides an assessment of potential obstacles to timely completion for any of the projects in the DC PLUG initiative, and is supported by the testimony of Company witness Smith, who asserts that as of the filing of the Joint Application, the Joint Applicants have not encountered any specific obstacles to the design or construction of the feeders selected for placement underground in the Second Biennial Plan.¹⁴⁸

103. No other parties have addressed this requirement. We reviewed the assessment of potential obstacles provided in the Plan (*e.g.*, adverse weather and the availability of resources and materials) and determine it to be compliant with the statutory requirement. However, we direct the Joint Applicants to provide regular updates on existing and potential obstacles to timely completion as well as resolution strategies of any of the DC PLUG projects in their Annual Update and Semi-Annual Meetings.

xvi. *Employment Opportunities (Section 1313.08(c)(4))*

104. Section 1313.08(c)(4) of the Act requires that the Second Biennial Plan include a description of the efforts taken to identify District of Columbia residents to be employed by DDOT and Pepco contractors during the planned construction of the improvements in the Second Biennial Plan. The section of the Second Biennial Plan entitled “Focus on District of Columbia Businesses and Residents” provides a description of such efforts. The testimony of Company witness Smith and DDOT witness Williams also address this requirement.¹⁴⁹ No other parties address this section of the statute.

105. In accordance with Section 1311.02(7) of the Act, the Mayor (through DDOT) and Pepco are charged with making every practical effort to ensure that District residents are hired for newly created jobs funded by any mechanism wherein the costs of such funding are paid by the District from the DDOT Charges or recovered by Pepco through the Underground Project Charge, with a goal being that 100% of all construction-related jobs are filled by District of Columbia residents and 100% of the construction contracts are awarded to certified business enterprises or certified joint ventures. Pepco maintains that it will make every practical effort to identify and hire qualified local residents for direct-hire positions, including journey electrical workers, electrical apprentices, skilled laborers and engineers.¹⁵⁰ DDOT and Pepco have jointly hosted

¹⁴⁸ Joint Application at 15; Testimony of Pepco witness Smith at 9:7-9.

¹⁴⁹ Joint Application at 16.

¹⁵⁰ Second Biennial Plan at 38.

forums for contractors, during which DDOT and Pepco familiarized contractors with the DC PLUG initiative, the work that would be required, the Pepco procurement process, and explained how to register as an approved Pepco supplier or Certified Business Enterprise in the District of Columbia.¹⁵¹ Pepco will also provide training and internships and will also work with local universities to recruit interns for engineering and other roles.¹⁵²

106. We have reviewed the “Focus on District of Columbia Businesses and Residents” section of the Second Biennial Plan referenced above, as well as the testimony of both Pepco witness Smith and DDOT witness Williams regarding the engagement of District of Columbia residents and businesses to benefit from the DC PLUG program. We conclude that Pepco and DDOT are making a strong effort to meet the goals set in Section 1311.02(7) of the Act.

107. The Commission is once again encouraged by the hiring and training efforts described in the Second Biennial Plan as well as those already undertaken by the Company. As the increase in job opportunities for District residents and business was a key consideration in the Council’s decision to enact the Undergrounding Act, as well as a constant focal point of this Commission, we will continue to closely monitor the Joint Applicants’ hiring practices through its commitment to regularly report on local hiring and contracting throughout the course of the DC PLUG initiative. Thus, we direct the Joint Applicants to provide updates on its hiring practices in its Annual Update and Semi-Annual Meetings. The Commission will also review the Joint Applicants’ hiring and contracting performance in future Biennial Plan Applications, as the performance will factor into future public interest determinations.

108. Even though we conclude that the information provided in the Second Biennial Plan and Joint Applicants’ testimony satisfies Section 1313.08(c)(4) of the Act, we direct Pepco to provide the following information in a March 31st filing in each calendar year, beginning March 31, 2020, until construction ceases in order to monitor compliance with Section 1311.02(7) of the Undergrounding Act as amended by the Power Line Undergrounding Program Certified Business Enterprise Utilization Act of 2019.¹⁵³ For each DC PLUG contract awarded by Pepco and DDOT

¹⁵¹ Second Biennial Plan at 39.

¹⁵² Second Biennial Plan at 39.

¹⁵³ This Act (D.C. Act 23-96 - July 24, 2019) amended the Electric Company Infrastructure Improvement Financing Act of 2014 (the Undergrounding Act) to clarify the requirements related to the utilization of certified business enterprises and procurements for certain architectural and engineering services. Section 1311.02(7) of the Undergrounding Act was amended to read as follows: “The Council finds that the Mayor and the electrical company should make every practical effort to ensure that District residents are hired for newly created jobs funded by any mechanism wherein the costs of such funding are paid by the District from the DDOT Underground Electric Company Infrastructure Improvement Charge or recovered by the electric company through the Underground Project Charge, with a goal being that at least 100% of all related jobs are filled by District residents and 100% of the construction contracts are awarded to certified business enterprises or certified joint ventures, where qualified to perform such work. Moreover, the Mayor and the electric company should make every practical effort to increase the use of District apprentices when executing contractor and subcontractor agreements to implement electric system modernization.” The new language is underlined.

before the end of the preceding calendar year, provide: (1) name of awardee; (2) type of contract (construction, construction management, engineering design, etc.); (3) category of work (civil or electrical); (4) amount of contract; (5) number of the feeder that will be served by the awarded contract; (6) CBE status of awardee; (7) total number of employees expected to be hired under the contract, and (8) total number of District residents hired under the contract to date.

xvii. Alternative Funding (Section 1313.08(c)(5))

109. Section 1313.08(c)(5) of the Act requires that the Second Biennial Plan include an explanation of the availability of alternate funding sources, if any, for relocation of the overhead equipment and ancillary facilities. The section of the Second Biennial Plan entitled “Alternate Funding Sources” and the testimonies of Company witness Smith and DDOT witness Williams explain that neither the Company nor DDOT is aware of any alternate sources of funds. No other party addresses this provision. We, therefore, find that the requirements of Section 1313.08(c)(5) are satisfied.¹⁵⁴

xviii. Underground Project Charges (Section 1313.08(c)(6)(A))

110. Section 1313.08(c)(6)(A) of the Act requires that the Second Biennial Plan include an exhibit setting forth the proposed Underground Project Charges (“UPCs”), workpapers calculating the derivation of these charges, the proposed allocation of billing responsibility among the Pepco’s distribution service customer classes for the UPCs, and a worksheet showing various costs and allocations. The exhibits providing this information can be found in Appendices I, K, and M of the Second Biennial Plan. Further discussion of the contents can be found in the section of the Second Biennial Plan entitled “Cost Recovery.” In addition, the testimony and exhibits of Company Witness Blazunas support the Second Biennial Plan.¹⁵⁵

111. The UPC will recover Pepco’s \$250 million DC PLUG investment in the same manner as approved in Order No. 17697, and as clarified by Order No. 17770, in *Formal Case No. 1145*, and affirmed by the D.C. Court of Appeals.¹⁵⁶ The total revenue requirement is allocated among customers, except RAD customers, based on the allocation of total revenue in the most recent base rate case, exclusive of customer charges, as provided in Section 1313.10(c)(1) of the Undergrounding Act.¹⁵⁷ The revised UPC will be based on a revenue requirement of \$1,159,141 for the first 12-month period and \$2,008,117 for the second 12-month period.¹⁵⁸ Appendix I shows

¹⁵⁴ Second Biennial Plan at 24; Testimony of Pepco witness Smith at 20:13-14; Testimony of DDOT witness Williams at 10:14-15.

¹⁵⁵ Joint Application at 16-17.

¹⁵⁶ Second Biennial Plan at 28.

¹⁵⁷ Second Biennial Plan at 30.

¹⁵⁸ Testimony of Pepco Witness Blazunas at 7:6-13.

the development of the revenue requirement and rate design, Appendix K shows the UPC bill impacts, and Appendix M shows the UPC (and Underground Rider) Tariff Sheets.

112. OPC stated in its Comments that it has concluded that both the Second Biennial Plan and Financing Application largely comply with the statutory requirements of the Undergrounding Act as do the calculations and cost allocations underlying Pepco's UPC and Underground Rider.¹⁵⁹ No parties have submitted any evidence, allegations, or comments that the UPC as developed by Pepco is not in compliance with the Undergrounding Act. Based on our review, the Joint Applicants have satisfactorily complied with this section of the law.

xix. Accounting Treatment (Section 1313.08(c)(6)(B))

113. Section 1313.08(c)(6)(B) of the Act requires that the aforementioned exhibit in Section 1313.08(c)(6)(A) include the proposed accounting treatment for the costs to be recovered through these charges. It also requires that no costs recovered through the UPC be included in rate base or otherwise be incorporated in base tariff rates unless or until Pepco requests that these costs be transferred into rate base and discontinues recovery through the UPC. The section of the Second Biennial Plan entitled "Cost Recovery" provides this information, and it is supported by the testimony and exhibits of Company witness Blazunas.¹⁶⁰

114. According to the Second Biennial Plan, the accounting treatment for the DC PLUG initiative will follow traditional regulatory accounting for capital projects and development of revenue requirements.¹⁶¹ Witness Blazunas describes how and when the Electric Company Infrastructure Improvement Costs will be transferred into rate base:

The Electric Company Infrastructure Improvement Costs will be incorporated into distribution rate base as part of the distribution rate case filing following completion of all Electric Company Infrastructure Improvement Activity and closing of all associated investment to electric plant. At that point, the Company would file a final adjustment to Rider UPC to true-up actual costs and collections for each class as of the effective date of the Company's updated base rates, with refunds or surcharges to occur during the following rate period. At the end of that rate period, Rider UPC will be terminated.¹⁶²

¹⁵⁹ OPC Comments at 2.

¹⁶⁰ Joint Application at 17.

¹⁶¹ Second Biennial Plan at 28.

¹⁶² Testimony of Pepco witness Blazunas at 10:18-11:2.

115. OPC recommends that the cost of conduit installed on Feeder 15707 not be included in rate base.¹⁶³ Pepco responds that the Company is not proposing to add this amount to rate base but rather to amortize it over one year as an operations and maintenance expense as Company Witness McGowan testified.¹⁶⁴ We again reject OPC's argument. As we concluded previously in Section VI. A. xiii., Project Costs,¹⁶⁵ Pepco is allowed to amortize the cost of conduit (\$216,000) in 2020. OPC's argument that these costs should not be added to rate base is not relevant because the costs are not being proposed by Pepco to be added to rate base, but only to be amortized via O&M.

116. Upon reviewing the accounting treatment, we find the Plan to be in compliance with the Undergrounding Act. However, when Pepco transfers DC PLUG improvements costs into rate base in a base rate case application, it shall include a separate ratemaking adjustment clearly indicating the date of transfer.¹⁶⁶

xx. *Education Plan (Section 1313.08(c)(7))*

117. Section 1313.08(c)(7) requires that the Second Biennial Plan include any other information that DDOT or Pepco considers material to the Commission's consideration of the application. The Joint Applicants provided the DC PLUG Education Plan ("Education Plan") and accompanying budget in Appendix N as material parts of the first Biennial Plan. They are discussed in the "DC PLUG Education Plan" section of the Second Biennial Plan. Company witness Kozey testifies about the importance of the Education Plan to the DC PLUG initiative, including the origin of the Education Plan, the Commission's approval of the Education Plan in the First Triennial Plan, the general strategy underlying the Education Plan, the Education Plan budget, and the reasonableness of the Education Plan.¹⁶⁷ OPC states, with regard to the Education Plan, that "the Office believes that, if properly implemented, it, along with the Undergrounding Project Consumer Education Task Force, should suffice in fulfilling the informational needs of residents in affected Wards."¹⁶⁸

118. DDOT and Pepco have included in Appendix N the DC PLUG Education Plan which is the same Education Plan approved in Order No. 17697¹⁶⁹, as clarified in Order 17770.¹⁷⁰

¹⁶³ OPC Comments at 13.

¹⁶⁴ Pepco Reply Comments at 13.

¹⁶⁵ See the discussion under "Project Costs and Cost Recovery (UPC) (Section 1313.08(c)(1))" at ¶¶ 95-98.

¹⁶⁶ Order No. 19167, ¶ 177.

¹⁶⁷ Joint Application at 17-18.

¹⁶⁸ OPC Comments at 14.

¹⁶⁹ *Formal Case No. 1116*, Order No. 17697, rel. November 12, 2014 approving the First Triennial Plan.

¹⁷⁰ *Formal Case No. 1116*, Order No. 17770 rel. January 22, 2015.

The Education Plan is also the same as the Education Plan approved in Order No. 19167, absent improvements made to the Plan since the filing of the First Biennial Plan, to reflect changes in the tools use to communicate information to consumers, such as the increased use of digital communications channels to reach customers.¹⁷¹ The estimated annual budget for the Plan is approximately \$934,500 for Pepco community outreach and associated materials.¹⁷² As referenced above, OPC states that Appendix N, “along with the Undergrounding Project Education Task Force, should suffice in fulfilling the needs of residents in the affected Wards.”¹⁷³

119. We reviewed the Plan and find it to be reasonable and well-suited to achieve its stated objectives, namely: (1) to deliver information related to DC PLUG initiative construction planning, including the project work affecting each ward and coordination with compatible or concurrent initiatives, and project progress; (2) provide timely notice to, and the opportunity to collect feedback from residents; and (3) educate residents, local businesses, and other stakeholders about the benefits of placing distribution feeders underground, including increasing the resiliency and reliability of the electric system in the face of increasingly severe weather.

120. Based on the discussion provided above and considering the fact that no other parties address this requirement, we conclude that the Joint Applicants are in compliance with Section 1313.08(c)(7) of the Act. Furthermore, the Commission finds that the Education Plan provided at Appendix N to the Biennial Plan, in conjunction with the 2014 and 2016 Joint Stipulations, as modified by Order No. 17697 and clarified in Order No. 17770, is reasonable and appropriate. The prudence of the Education Plan Budget is discussed in Section VI. D., ¶ 145 below.

xxi. Contact Information (Section 1313.08(c)(8))

121. Section 1313.08(c)(8) of the Act requires that the plan include contact information of individuals who may be contacted by the Commission with formal or informal requests for clarification or additional information. The required information is listed in Part II of the Joint Application¹⁷⁴ and is in compliance with this section of the Act.

xxii. Form of Notice (Section 1313.08(c)(9))

122. The Form of Notice suitable for publication by the Commission that is required by Section 1313.08(c)(9) was attached to the transmittal letter for the Joint Application, and, therefore, that requirement is satisfied.

¹⁷¹ Testimony of Pepco witness Kozey at 6:13-17.

¹⁷² Testimony of Pepco witness Kozey at 10:9.

¹⁷³ OPC Comments at 14.

¹⁷⁴ Joint Application at 3.

xxiii. *Utility Coordination Plans (Section 1313.08(c)(10))*

123. Section 1313.08(c)(10) requires that the Second Biennial Plan contain “[a] protocol to be followed by the electric company and DDOT to provide notice and to coordinate engineering, design, and construction work performed pursuant to this [act] with the gas company, water utility, and other utilities that own or plan to construct, as approved by the Commission where applicable, facilities that may be affected by DDOT Underground Electric Company Infrastructure Improvement Activity or Electric Company Infrastructure Improvement Activity.”¹⁷⁵ The “Utility Coordination” section of the Second Biennial Plan describes the coordination measures, and Appendix O presents the Utility Coordination Protocol (“Protocol”). This is supported by the testimony of DDOT witness Williams.¹⁷⁶

124. The Protocol establishes the basic principles concerning how DDOT and Pepco will coordinate work affecting the public space of the District in connection with the DC PLUG initiative. This Protocol is separate and apart from any other Memoranda of Understanding (“MOU”) entered into between DDOT or Pepco and any other utilities and is not intended to supersede any such agreements.¹⁷⁷ The Protocol also provides that, throughout the construction of a particular DC PLUG initiative project and as soon as DDOT and Pepco are aware of any changes in the DC PLUG initiative work or schedule, the Joint Applicants will promptly inform the utility companies regarding any changes in the DC PLUG initiative work or schedule that may affect the facilities of a utility company.¹⁷⁸ The Protocol additionally describes the construction and costs for relocation.¹⁷⁹ Also, witness Williams states that DDOT will hold monthly utility coordination meetings during the planning, design, and construction phases of the DC PLUG initiative with the other utilities so they can review and provide comments on the engineering designs at various stages in the process for each DC PLUG initiative feeder.¹⁸⁰

125. The Commission has reviewed Pepco’s utility coordination plans and Appendix O in the Second Biennial Plan. Pepco and DDOT are required by Section 1313.08(b) of the law to submit estimated start and end dates for each project included in the Second Biennial Plan 90 days after approval.¹⁸¹ Prior to finalizing the program schedule, the Joint Applicants will send electronic draft copies of the estimated start and end dates, request feedback, and if required, meet

¹⁷⁵ D.C. Code § 34-1313.08 (c)(10) (2017).

¹⁷⁶ Joint Application at 18-19.

¹⁷⁷ Second Biennial Plan, Appendix O at 1.

¹⁷⁸ Second Biennial Plan, Appendix O at 2.

¹⁷⁹ Second Biennial Plan, Appendix O at 2-3.

¹⁸⁰ Testimony of DDOT witness Williams at 11:7-13.

¹⁸¹ Joint Application at 14; Testimony of Pepco witness Smith at 18:5-9.

with the other utilities to coordinate and sequence work prior to finalizing the estimate program schedule.¹⁸²

126. In confirming the Plan's compliance with Section 1313.08(c)(10), the Commission also directs the Joint Applicants to provide a schedule of formal utility coordination meetings, state their plan for communicating ongoing updates when there is a change in DC PLUG initiative work or schedule, and further state their strategy to overcome any challenges with gas and telecom coordination in their 90-day Compliance Filing. To ensure that the utility coordination protocol is working as intended, we direct the Joint Applicants to inform the Commission in writing when they deliver 30% and 65% civil drawings, and when they update or convey any DC PLUG related information to WGL. This would apply to all 10 feeders in the Second Biennial Plan and the remaining four feeders from the First Biennial Plan (14758, 14007, 15009 and 368). The Commission seeks to minimize the potential cost of gas plant relocation work by improving the efficacy of utility coordination and will continue to monitor and confirm that the utility coordination protocol is working as intended.

127. WGL maintains that it is concerned that its gas lines and mains will be impacted by DC PLUG work that is in close proximity and may result in an increased likelihood of gas leaks. It, therefore, requests the Commission to direct the affected parties to enter into an MOU to address WGL's concerns. Additionally, WGL requests the Commission to establish a working group, including Pepco and DDOT, to address these issues, including how the costs for any needed Washington Gas replacement work resulting from Pepco's DC PLUG project are appropriately recovered in light of the current statute.¹⁸³

128. Pepco responds that WGL ignores the utility coordination procedures submitted in Appendix O of the Second Biennial Plan, contending that these procedures are consistent with the protocol the Commission approved as part of the First Biennial Plan and which are currently in use.¹⁸⁴ Pepco also asserts that establishing a working group to address, among other issues, how WGL's replacement costs are recovered, would be improper because replacement costs are not recoverable under the Undergrounding Act. Pepco claims that the Act instead allows WGL to create a regulatory asset to recover relocation costs related to the DC PLUG under certain circumstances.¹⁸⁵

129. We are not convinced by WGL's arguments that another MOU or working group to determine replacement or relocation costs is warranted. Section 1314.04(a) of the statute clearly sets forth the conditions by which WGL can recover certain relocation costs through the creation of a regulatory asset. We cannot circumvent that statutory procedure, and so we will deny WGL's request for a working group to make any determination on recovery of such costs. As for WGL's

¹⁸² Pepco's Response to Staff DR 1, Question 11.

¹⁸³ WGL Comments at 2.

¹⁸⁴ Pepco Reply Comments at 4.

¹⁸⁵ Pepco Reply Comments at 5.

request for another MOU, we deny such request on the grounds that the Joint Applicants' Protocols provide sufficient avenues for utility input during all stages of the projects. In this regard, we direct the Joint Applicants to copy the Commission on any formal notices provided by DDOT to WGL regarding relocation work consistent with the Undergrounding legislation.

B. The Proposed Electric Company Underground Infrastructure Improvements are Appropriately Designed and Located (Section 34-1313.10 (b)(2))

130. Pursuant to D.C. Code § 34-1313.10(b)(2), the Commission must find that the proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located for the electric company to recover its expenses and costs for those improvements. Based on the testimony of Pepco witness Smith and Appendix D of the Second Biennial Plan, the Commission finds that the proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located. No other parties address this requirement.

131. The locations of the feeders are shown in the Feeder Locations and One-Line Drawings in Appendix D of the Second Biennial Plan. Witness Smith testifies that Pepco designed the proposed Underground Infrastructure Improvements based on Company standards that are in accordance with sound engineering principles and generally accepted principles of electric distribution system design.¹⁸⁶ Additionally, "DDOT and Pepco modified their designs to facilitate load increases as well as to accommodate changes in technology or operating conditions that may occur in the near future." Finally, DDOT and Pepco have incorporated methods and technologies into their designs to minimize project costs and maximize reliability benefits.¹⁸⁷

132. The preliminary schematics included in the Plan constitute a redesign of the overhead feeders that Pepco proposes to place underground. The designs call for a loop configuration to enhance reliability and resilience and to minimize the impact of faults. The overhead feeders do not include a loop. However, in performing detailed engineering analysis and field surveys, Pepco witness Smith asserts, some changes may be made to the feeders' designs and/or routes to avoid physical obstructions or to improve reliability, resilience and/or operational efficiency of the underground system. In most cases, the final, constructed configuration of the underground feeders will closely resemble the preliminary schematics. However, before construction, the Joint Applicants will perform physical surveys and further analyze each feeder, the results to be used to modify the preliminary design schematics and produce final engineering designs and construction plans.¹⁸⁸

133. The Joint Applicants also commit to continuing to "look for opportunities to allow certain limited portions of DC PLUG initiative feeders to remain overhead without impacting the

¹⁸⁶ Testimony of Pepco witness Smith at 6:17-22.

¹⁸⁷ Testimony of Pepco witness Smith at 7:3-10.

¹⁸⁸ Testimony of Pepco witness Smith at 7:13-8:9.

anticipated reliability and resilience gains associated with placing the feeder underground.” So, if a section of a feeder has not experienced or is not susceptible to overhead outages, that section of the feeder may remain overhead, which would allow the Joint Applicants to apply the cost of placing that particular section underground to a future DC PLUG initiative.¹⁸⁹

134. OPC recommends that additional portions of Feeder 15705 in Ward 7 be undergrounded, even though this feeder is included in the BARP.¹⁹⁰ Pepco replies that “[i]f Feeder 15705’s future reliability performance justifies its inclusion in the Third Biennial Plan, Pepco will perform the detailed engineering analysis required to determine what segments of those feeders should be undergrounded at that time.”¹⁹¹ The Commission rejects OPC’s recommendation because it is more prudent to consider undergrounding portions of Feeder 15705 after the impact of reliability improvements on the feeder and more detailed engineering analysis has been completed.

135. Based on the above, the Commission finds that the proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located.

C. The Intended Reliability Improvements Will Accrue to the Benefit of the Electric Company’s Customers (Section 34-1313.10(b)(3))

136. The Joint Applicants assert that District customers will realize reliability improvements as a result of placing the feeders underground because, among other reasons, Pepco’s customers are currently impacted by severe weather events, and because the feeders selected are expected to reduce the duration and frequencies of outages.¹⁹² Based on nine years of historical reliability data included in a quantitative model used to rank overhead feeders, Pepco contends that customer interruptions that occurred on the overhead primary mainline and overheard lateral portions of the feeders scheduled to be placed underground in the first Biennial Plan will be significantly reduced and the total system reliability performance indices will be improved.¹⁹³ Pepco witness Lipari asserts that “[t]he Feeder Ranking Model assumes that all of the outages associated with faults that occurred on the primary main lines and laterals will be avoided once those portions of the feeder are placed underground.”¹⁹⁴ Pepco witness Lipari concludes that the Application satisfies Section 310 (b)(3) of the Act because the benefits to reliability and resiliency “will be realized both by customers on the specific feeder being placed underground as well as on feeders that are not part of the DC PLUG initiative because having

¹⁸⁹ Testimony of Pepco witness Smith at 8:12-20.

¹⁹⁰ OPC Comments at 11.

¹⁹¹ Pepco Reply Comments at 13.

¹⁹² Second Biennial Plan at 19-20.

¹⁹³ Testimony of Pepco witness Lipari at 9:10-15.

¹⁹⁴ Testimony of Pepco witness Lipari at 9:15-17.

fewer overhead lines will result in less storm damage and associated restoration cost, faster restoration when outages do occur, and lower economic impact to customers from loss of electric power during major storms.”¹⁹⁵

137. We note here that OPC recommends that “the Company annually file geographic representations of CELID and CEMI+3 in order to permit the Commission, the Office, and interested stakeholders to track the effectiveness of Pepco's area reliability plans.”¹⁹⁶ As determined in Section V. B. above, this is not the proper proceeding to address changes in the reporting requirements, and we therefore defer consideration of OPC’s recommendation to the Annual Consolidated Report (“PEPACR”) docket, which is a more appropriate proceeding in which to consider these changes.¹⁹⁷

138. The Commission finds that, as Joint Applicants’ witness Smith states, once the feeders are placed underground, Pepco customers and the residents of the District should experience less storm damage and associated restoration costs, faster electric service restoration when outages do occur since fewer lines will be overhead, and lower economic impact to customers from loss of electric power during major storms. Furthermore, Pepco’s representation is consistent with the overarching premise accepted by the Mayor’s Task Force as well as the D.C. Council that undergrounding power lines would improve electric system reliability during a wide variety of weather conditions. The Commission finds that the Second Biennial Plan will result in reliability enhancing improvements that will inure to the benefit of Pepco’s customers resulting in the reduction of interruptions to D.C. customers. Accordingly, we find that the Application meets Section 1313.10(b)(3) of the Act.

D. The Projected Costs of Pepco’s Undergrounding Infrastructure Improvements are Prudent (Section 34-1313.10(b)(4))

139. The Undergrounding Act defines Electric Company Infrastructure Improvement Activity (“Pepco Activity”), which incorporates the definition of Electric Company Improvements (“Pepco Improvements”).¹⁹⁸ Additionally, the Act defines Electric Company Infrastructure Improvement Costs (“Pepco Costs”).¹⁹⁹

¹⁹⁵ Testimony of Pepco witness Lipari at 10:5-9.

¹⁹⁶ OPC Comments at 10.

¹⁹⁷ See Section V. B., ¶¶ 39-41, in this Order.

¹⁹⁸ See D.C. Code § 34-1311.01(20) (2017) (Electric Company Infrastructure Improvement Activity); D.C. Code § 34-1311.01(19) (2017) (Electric Company Infrastructure Improvements).

¹⁹⁹ See D.C. Code § 34-1311.01(21) (2017) (Electric Company Infrastructure Improvement Costs).

140. For the first 12-month rate period of the Second Biennial Plan, the revenue requirement is \$1,159,141.²⁰⁰ For the second 12-month rate period of the Second Biennial Plan, the revenue requirement is \$2,008,117.²⁰¹ Both figures are subject to adjustment in the future pursuant to Section 1313.15 of the Undergrounding Act.

141. The Pepco costs were detailed in Paragraphs 89-99 above in our discussion whether the Section 1313.08(c)(1) requirement that the Second Biennial Plan includes an itemized estimate of the Electric Company Infrastructure Improvement Costs and the proposed UPCs. We note again that the section of the Second Biennial Plan entitled “Project Cost” and Appendix H provides the itemized estimates of the Pepco Costs, and the section of the Second Biennial Plan entitled “Cost Recovery” and Appendices I, K, and M discuss the proposed UPC, as supported by the testimony and exhibits of Company witness Blazunas.²⁰² As stated previously, the Second Biennial Plan projects the costs of Pepco Improvements’ using Pepco’s Asset Suite 8, which is consistent with Pepco’s standard method for estimating its cost for constructing new distribution facilities. The price of each unit includes: (1) labor, (2) materials, (3) administrative and general, and (4) miscellaneous.²⁰³

142. Pepco witness Blazunas explains that forecasted O&M expenses to be recovered through the UPC are the same categories that were approved in Order No. 17697, as clarified in Order No. 17770, for inclusion in the UPC.²⁰⁴ Witness Blazunas further explains that the UPC also recovers as Other O&M expenses: (1) the refund of Commission and OPC deposits related to previous DC PLUG filings; and (2) the costs associated with an Opportunity Project selected in the First Triennial Plan that will no longer be part of the DC PLUG initiative (unused conduit from Feeder 15707), as discussed by Pepco witnesses McGowan and Smith.²⁰⁵

143. Witness Blazunas states that the revenue requirement is calculated using Pepco’s portion of the projected capital costs, which includes the projected costs of engineering, design, and construction; actual labor; materials; and, allowance for funds used during construction. Additionally, the revenue requirement includes the O&M expenses described above. The revenue requirement includes a return on investment through depreciation expense based on the plant investment that is placed into service. The revenue requirement also includes a return on

²⁰⁰ Testimony of Pepco witness Blazunas at 7:6-8.

²⁰¹ Testimony of Pepco witness Blazunas at 7:8-10.

²⁰² Joint Application at 14-15.

²⁰³ See Paragraph 89 herein.

²⁰⁴ Testimony of Pepco witness Blazunas at 5:4-17. The O&M expenses can be found on page 4 of PEPCO (E)-1. Those expenses include: (1) the Company’s portion of the Customer Education Plan; (2) community outreach stations in the vicinity of construction activities; (4) Commission costs associated with the Commission’s evaluation of DC Plug Initiative filings; and (5) OPC’s costs associated with the OPC’s review of the DC PLUG initiative filings.

²⁰⁵ Testimony of Pepco witness Blazunas at 5:15-23 and Second Biennial Plan at 28-29.

investment based on the rate of return (7.45%) authorized in *Formal Case No. 1150*, Pepco's most recently decided base rate case.²⁰⁶

144. DDOT primarily will perform the required civil engineering, design, and construction work, while Pepco primarily will perform the electrical engineering, design, and construction work.²⁰⁷ Because of the nature of the work, the cost associated with the civil portion will outweigh the cost associated with the electrical portion of the Plan. While the Joint Applicants intend to recover approximately 50% of the project costs each, because the civil costs exceed the electrical costs, "Pepco will reimburse DDOT for the Civil Engineering/Program Management Services and other fees DDOT pays to their contractors. Additionally, Pepco will furnish the manhole and conduit material for each DC PLUG initiative project."²⁰⁸

145. With regard to the prudence of the budget for implementation of the Education Plan, Pepco witness Kozey asserts that the total annual budget for the Education Plan is \$934,500 which will be recovered through the UPC.²⁰⁹ Witness Kozey submits that the proposed Education Plan budget is reasonable because it is "scalable and flexible to address the community needs and interests throughout the duration of the project construction." He concludes that the "current Education Plan will effectively communicate the necessary project-related information while also ensuring that the bulk of the funds allotted to the DC PLUG initiative will be directed toward placing power lines underground. As a result, the budget that supports the Education Plan is reasonable given the objectives."²¹⁰ Given that the Joint Applicants and OPC entered into the 2014 and 2016 Joint Stipulations, which have been accepted by the Commission, and that no further concerns have been raised regarding the prudence of the proposed Education Plan-related expenditures, the Commission finds that the proposed DC PLUG Education Plan Budget set forth in Attachment N of the Biennial Plan is prudent.

146. The Commission has previously stated: "A prudence review must determine whether the utility's actions, based upon what it knew at the time . . . were reasonable and prudent in light of the circumstances that then existed."²¹¹ The Commission has examined the line-item

²⁰⁶ Testimony of Pepco witness Blazunas at 6:9-19 and Second Biennial Plan at 30-31.

²⁰⁷ Second Biennial Plan at 22.

²⁰⁸ Second Biennial Plan at 22.

²⁰⁹ Testimony of Pepco witness Kozey at 10:8-11.

²¹⁰ Testimony of Pepco witness Kozey at 10:13-18.

²¹¹ See *Formal Case No. 920, In the Matter of the Investigation of the Construction Program and Budget of the Chesapeake and Potomac Telephone Company.*, Order No. 10276, ¶ 24, rel. August 23, 1993. ("However, a prudence review must determine whether the utility's actions, based on what it knew at the time of construction of plant, were reasonable and prudent in light of the circumstances that existed. Therefore, a determination of prudence based on the facts known at the time of the prudence review are likely to be a better indication of prudence than a hindsight evaluation at the time of a rate case. Consequently, any showing that the prior prudence determination is incorrect would have to be supported by strong evidence.")

descriptions and cost breakdowns for each of the proposed construction projects²¹² and the description in the Joint Application of Pepco's and DDOT's cost sharing arrangement. The Commission concludes that the various attributions of infrastructure additions to either Pepco or DDOT are consistent with the Company Infrastructure Improvement definitions referenced above and that the cost sharing arrangement between Pepco and DDOT described in the Joint Application is consistent with the funding provisions of the Undergrounding Act. Accordingly, the Commission finds that the Joint Applicants have reasonably allocated the estimated overall project costs among Pepco and DDOT.

147. The Commission concludes that the Joint Applicants have provided a *prima facie* showing that the Electric Company Undergrounding Infrastructure Improvement costs Pepco will incur will be prudent. To the extent that actually incurred costs deviate from these estimates, those cost differentials will be captured at the time the Company makes its annual filings to adjust its UPC surcharge levels to avoid any over- or under-recovery of actual costs incurred. Accordingly, the Commission finds that the projected Electric Company Infrastructure Improvement costs are prudent.

E. The Projected Costs of DDOT's Infrastructure Improvements are Prudent (Section 34-1313.10 (b)(5))

148. The Undergrounding Act defines DDOT Underground Electric Company Infrastructure Improvement Costs ("DDOT Costs").²¹³ The Second Biennial Plan includes an itemized estimate of the DDOT Costs in a section entitled "Project Cost" and Appendix H provides the itemized estimates of the DDOT Costs, as supported by the testimony of Company witness Smith and DDOT witness Williams.²¹⁴

149. As stated in Paragraph 100 above, the section of the Second Biennial Plan entitled "Project Cost" and Appendix H provide the itemized estimates of the DDOT Underground Electric Company Infrastructure Improvement Costs, as supported by the testimony of Company witness Smith and DDOT witness Williams.²¹⁵ Standard DDOT practices were used for estimating the civil cost of a DDOT project in the development phase. DDOT analyzed historical bid prices from the previous three years to calculate its cost estimates and used a cost-based estimating methodology for specific items that can be calculated using RSMeans Heavy Construction Cost Data, which is also used by DDOT contractors. DDOT employed its engineering judgment and experience in conjunction with the methods described above as well as guidelines, such as DDOT's Standards and Specifications for Highways and Structures.²¹⁶

²¹² These are found in the confidential workpapers filed with the Joint Application.

²¹³ See D.C. Code § 34-1311.01(14) (DDOT Underground Electric Company Infrastructure Improvement Costs)

²¹⁴ Joint Application at 20.

²¹⁵ Joint Application at 15.

²¹⁶ Second Biennial Plan at 25-26; Testimony of DDOT witness Williams at 5:7-6:5.

150. The DDOT Charges for which the District is seeking approval to impose on Pepco for the Second Biennial Plan is \$60 million, or \$30 million per year.²¹⁷

151. DDOT asserts that it is currently analyzing its planned road resurfacing (Annual Paving Plans) and reconstruction (Six-Year Transportation Improvement Program) projects to identify opportunities for coordination with DC PLUG and potential cost savings. DDOT witness Williams testified that, “in addition to the 10 feeders selected to be placed underground, DDOT and Pepco may prioritize whole or portions of other feeders to take advantage of these opportunities, where it is appropriate and cost-effective to do so. Although the Joint Applicants were unable to identify any “opportunity project” feeders in the Second Biennial Plan at this time,²¹⁸ the Commission is concerned given the amount of time that has passed since the beginning of the First Biennial Plan and the Application submitted for the Second Biennial Plan that the Joint Applicants have yet to determine opportunity projects within DDOT’s capital programming in which to complete portions of the DC PLUG work. Since DDOT prepares a six-year capital plan for federally-funded projects, such as the Oregon Avenue Reconstruction Project that will incorporate the undergrounding of Feeder 14900, and an annual capital plan for locally funded projects, the Joint Applicants should be able to preliminarily determine if a proposed capital project can incorporate any of the feeders listed in the second biennial plan. As such, we direct the Joint Applicants to submit a list of potential opportunity projects for the Second Biennial Plan projects as part of their 90-day compliance filing. The Joint Applicants shall provide an update of their efforts to coordinate the projects in the Second Biennial Plan in the Annual Update as well as in Semi-Annual meetings on the Second Biennial Plan. In addition, the Joint Applicants shall report on the status of coordination efforts in future Biennial Plans filed with the Commission.”²¹⁹

152. The Commission reviewed the itemized estimates of DDOT Project Costs contained in Confidential Appendix H of the Second Biennial Plan. No party has challenged or otherwise opposed the estimates themselves as inaccurate, unreasonable, or imprudent. We find that the cost estimates appear reasonable and prudent, recognizing, however, that the estimates are preliminary and based on the development phase of the undergrounding projects. The Commission directs Pepco to continue reporting quarterly on all payments made to DDOT, using the cost categories in Appendix H. Further, at the next Semi-Annual Meeting after each successive Six-Year Transportation Improvement Plan is released, the Joint Applicants shall report on the “opportunity projects” that have been identified.

²¹⁷ Testimony of DDOT witness Williams at 6:20-21.

²¹⁸ Second Biennial Plan at 12. Opportunity project feeders minimize costs by identifying areas where DC PLUG initiative work can be coordinated with DDOT reconstruction and planned resurfacing projects. See Testimony of Pepco witness Smith at 20, fn.10.

²¹⁹ Testimony of DDOT witness Williams at 8:6-9:7.

F. The Electric Company's Proposed Underground Project Charges will be Just and Reasonable (Section 34-1313.10 (b)(6))

153. The Joint Applicants assert that based on the information provided in the Joint Application (including the Second Biennial Plan and accompanying testimony and exhibits), the proposed UPCs are just and reasonable.²²⁰ The Biennial Plan states that the UPC is a volumetric surcharge that will be collected from all distribution customers, excluding RAD customers, to recover Pepco's portion of the DC PLUG initiative investments as defined in Section 1311.01(42) of the Undergrounding Act.²²¹ The Joint Applicants assert that the UPC will recover Pepco's \$250 million investment in the same manner as approved in Order No. 17697, and as clarified by Order No. 17770, in *Formal Case No. 1116*, and in Order No.19167 in *Formal Case No. 1145*, and affirmed by the D.C. Court of Appeals.²²²

154. The Joint Applicants further assert in the Second Biennial Plan, that the revenue requirement and resulting rates included in the UPC are calculated using Pepco's portion of the projected capital cost data including, but not limited to, the actual costs of engineering; design and construction; and actual labor, materials, and Allowance for Funds Used During Construction. The revenue requirement also includes O&M expenses; a return of investment through depreciation based on the plant investment that is placed in service; and a return on investment based on a rate of return of 7.45%, as authorized in *Formal Case No. 1150*, Pepco's last base rate case. O&M expenses do not earn a return on investment. The Joint Applicants maintain that, in accordance with Section 1313.10(c)(1) of the law, the total revenue requirement is allocated among customer classes, except RAD customers, in proportion to non-customer charge related distribution revenue as approved in *Formal Case No. 1150*.²²³ The Joint Applicants state that for each customer class, a volumetric surcharge is developed on a per-kilowatt-hour basis by dividing the class revenue requirement by the forecasted billing units for that class for the applicable 12-month period.²²⁴

155. According to the Second Biennial Plan, the initial UPC will be effective on January 1, 2020,²²⁵ and it will be based on forecasted project costs of approximately \$59.6 million for feeders placed in service through 2022 under the Plan.²²⁶ Although Pepco represents in the testimony of its witness Blazunas that the Riders become effective on January 1, 2020, we order

²²⁰ Joint Application at 20.

²²¹ Second Biennial Plan at 27.

²²² Second Biennial Plan at 28.

²²³ Second Biennial Plan at 30.

²²⁴ Second Biennial Plan at 31.

²²⁵ Second Biennial Plan at 33 and Appendix M.

²²⁶ Appendix I shows the development of the UPC revenue requirement, the revenue allocation and the UPC for each customer class. (Second Biennial Plan at 31-32).

here that the revised tariff sheets be filed with the Commission within 10 days from the date of this Order and become effective 30 days from the date of this Order.

156. The Joint Applicants contend that, pursuant to Section 1313.15 of the Act, the Company will file an adjustment to the UPC on or before April 1 of each year; the first adjustment expected on or around April 1, 2020.²²⁷ The update will include all of the requirements in Section 1313.15 of the Undergrounding Act. In addition to the forecasted expenditures that are placed into service for the two calendar years for which the update is filed, the annual adjustment will include a true-up of UPCs for the prior calendar year.²²⁸

157. Pepco witness Blazunas asserts that the annual true-up will be conducted by customer class and that for each class, an over- or under-recovery amount will be calculated as the difference between actual Electric Company Infrastructure Improvement Costs incurred during the prior calendar year and actual booked revenues under Rider UPC during the same time period.²²⁹ Actual Electric Company Infrastructure Improvement Costs will be allocated among the classes in proportion to the UPC revenue requirement that was in effect during the true-up period. The Joint Applicants assert that the Rider UPC collections are tracked by distribution service customer class and will be directly assigned. For each class, the under-recovery amount will be added to, or the over-recovery amount credited to, that class's revenue requirement for the next rate period.²³⁰

158. The "Underground Project Charge Rider - Rider UPC" is provided in Appendix M of the Biennial Plan. It is applicable to all rate schedules except RAD customers. The Joint Applicants assert that the UPC will be shown on customer bills as "Underground Charge, Pepco."²³¹ Monthly bill impacts are shown in PEPCO (E)-3 for 2020 and 2021, as well as in Appendix K to the Second Biennial Plan, based on *Formal Case No. 1150* in the Joint Application.

159. According to the Joint Applicants, the annual revenue requirement under Rider UPC is allocated to customer classes based on the total rate class distribution service revenue minus the customer charge revenue.²³² On this basis, the Residential Class is allocated 8.8% of the revenue requirement and the MMA Class is allocated 0.97%.²³³

160. We note here that OPC "has concluded that both the Second Biennial Plan and Financing Application largely comply with the statutory requirements of the Undergrounding Act

²²⁷ Second Biennial Plan at 32.

²²⁸ Second Biennial Plan at 32.

²²⁹ Second Biennial Plan at 32-33; Testimony of Pepco witness Blazunas at 9:20-10:2.

²³⁰ Second Biennial Plan at 32-33; Testimony of Pepco witness Blazunas at 10:2-9.

²³¹ Second Biennial Plan at 33; Testimony of Pepco witness Blazunas at 7:15-16.

²³² Testimony of Pepco witness Blazunas at 8:6-9.

²³³ Pepco Exhibit (E) – 1 at 2 of 14.

as do the calculations and cost allocations underlying Pepco's Underground Project Charge...and Underground Rider."²³⁴ We also note again in this section that OPC maintains that "Pepco requested that \$213,000 be added to the rate base for conduits that were installed on Feeder 15707 near Minnesota Ave. NE and Grant Street."²³⁵ Because the conduits remain unused, OPC "recommends that the Commission deny Pepco's request to include in rate base these conduits and manholes that are not used or useful."²³⁶

161. Pepco responds that "[a]s Company Witness McGowan indicated, Pepco is requesting Commission approval to amortize the cost associated with the installation of this conduit as operating and maintenance expense over a period of one-year."²³⁷ Further, Pepco points out that "[i]n Order No. 19167, the Commission permitted Pepco to recover the costs spent on the feeders included in the First Triennial Plan but not subsequently included in the First Biennial Plan."²³⁸ The Commission believes that amortization of the \$216,000 in 2020 is reasonable, and no evidence exists that these costs were not prudently incurred. Based on the above, we conclude that Pepco shall be allowed to recover these costs as requested. The Commission, therefore, rejects OPC's challenge to recovery of the cost of conduits installed for Feeder 15707 and approves Pepco's recovery of those costs as operating and maintenance expense rather than rate base.

162. Based on the above discussion, the Commission finds that Pepco's proposed Underground Project Charges are just and reasonable.

G. Additional Matters Related to the Biennial Plan (Section 34-1313.10(c)(1)-(4))

i. Section 1313.10(c)(1)-(4) Requirements

163. Section 1313.10(c) of the Undergrounding Act requires that the Commission include four additional pieces of information in its order on the Biennial Plan: (1) authorization for the electric company to impose and collect the UPCs from its distribution service customers in the District in accordance with the distribution service customer class cost allocations approved by the Commission for the electric company and in the electric company's most recent base rate case (excluding RAD customers); (2) authorization for the electric company to bill the UPCs to the distribution service customers (excluding RAD customers) as a volumetric surcharge; (3) approval of the annual revenue requirement, which shall include the rate of return on equity as set by the Commission's most recently decided base rate case used in calculating the UPCs; and (4) a description of the frequency of project construction update reports for the DDOT Underground Electric Company Infrastructure Improvements. The Commission discussed the first two issues

²³⁴ OPC's Comments at 2.

²³⁵ OPC Comments at 13.

²³⁶ OPC Comments at 13.

²³⁷ Pepco's Reply Comments at 13.

²³⁸ Pepco's Reply Comments at 14.

in the discussion of the UPCs in Section VI.F. above and makes the requisite authorizations in the findings and conclusions section of this Order. We address the remaining two issues below.

ii. *Approval of the Annual Revenue Requirement (Section 1313.10(c)(3))*

164. Section 1313.10(c)(3) of the Undergrounding Act requires the Commission to approve the annual revenue requirement, which shall include the rate of return on equity as set by the Commission's most recently decided base rate case used in calculating the UPCs. The Joint Applicants proposed the following revenue requirement for two (2) years:

Joint Applicants' Second Biennial Plan's Revenue Requirement (9/30/2019)²³⁹		
Year	2020	2021
Revenue Requirement	\$1,159,141	\$2,008,117

165. The proposed revenue requirement includes gross plant additions, a return on plant (using the 7.45% Rate of Return ("ROR") approved in *Formal Case No. 1150* – the last Pepco rate case), and a depreciation expense (using the depreciation rates approved in *Formal Case No. 1150*). The revenue requirement also includes the statutorily authorized recovery of \$216,000 in amortized deferred costs related to the unused conduit constructed for Feeder 15707 which was approved in *Formal Case No. 1116* but never constructed.²⁴⁰

166. The Commission observes that the Company provided a revenue requirement for the years 2020 and 2021 only in the Joint Application. In order for the public to better understand the impact of DC PLUG in the future, Pepco is directed to provide an estimated revenue requirement for the UPC through the expected conclusion of construction in the 90-day Compliance Filing, including details of any applicable District property taxes. For purposes of this estimation, the Company should assume: (1) that all three Biennial Plans are approved and constructed as planned; and (2) that the Third Biennial Plan will exhaust, but not exceed, Pepco's \$250 million capital expenditure budget authorized under the DC PLUG statute.

167. The Commission finds that Pepco/DDOT's revised revenue requirement for the Second Biennial Plan is accurate and properly reflects the proposed undergrounding investment costs and return of those investments as provided for in the Act. The Commission notes, however, that in Order No. 17697, at paragraph 218, the Commission directed Pepco, because of the possibility of double counting, to exclude the Cost of Removal from the revenue requirement and recover those costs as a separate ratemaking adjustment in a base rate case. Similarly, here, if Pepco has included the Cost of Removal in the revenue requirement, then those costs should be excluded from the UPC when the Company files its first annual adjustment.

²³⁹ See Pepco Exhibit (E)-1 at 1 of 14.

²⁴⁰ Testimony of Pepco witness McGowan at 6:21-7:7.

iii. *Project Construction Update Reports (Section 1313.10(c)(4))*

168. Section 1313.08(b) of the Act requires that Pepco and DDOT identify estimated start and end dates for each project approved in the plan no more than 90 days after approval of the biennial Underground Infrastructure Improvements Projects Plan. In the Application, Pepco and DDOT indicated that they would identify estimated start and end dates within 90 days of approval of the Application and Biennial Plan.²⁴¹ Thereafter, Section 1313.10(c)(4) requires that the Commission's order include a description of the frequency of project construction update reports for the DDOT Underground Electric Company Infrastructure Improvements funded by the DDOT Underground Electric Company Infrastructure Improvement Charges and the Electric Company Infrastructure Improvements as set forth in the [biennial] Underground Infrastructure Improvement Projects Plan, as approved by the Commission, to be filed by Pepco and DDOT with the Commission and served concurrently on OPC.²⁴²

169. The Joint Applicants propose that the Commission continue the requirement approved in *Formal Case No. 1116*, Order No. 17697, to file annual update reports no later than September 30 of each year in the years in which a biennial plan is not filed. The Joint Applicants assert that the report should be made concurrently with the status report required pursuant to Section 1313.07(b) of the Act. In addition, pursuant to the 2014 Stipulation of OPC, Pepco, and DDOT, the Joint Applicants assert that they will continue to hold semi-annual meetings and file the thirty-day reports on those meetings.²⁴³

170. The Commission recognizes that only preliminary drawings and schematics were included in the Second Biennial Plan. We are approving the plan based on these preliminary drawings, with the understanding that final construction drawings will be made available for review by Commission Staff and OPC as they are finalized. We also direct the Joint Applicants to file, within 90 days of the date of this Order, the start dates and projected end dates for each of the 10 projects. The Joint Applicants shall include in the 90-day Compliance Filing a status report on all design work for the 10 DC PLUG feeders in the Second Biennial Plan, both civil drawings and electrical schematics. The Joint Applicants shall also schedule formal design review sessions for OPC and Commission Staff as the construction drawings are finalized.

H. The Grant of Authorizations and Approvals Sought by the Joint Applicants in the Joint Application is in the Public Interest (Section 34-1313.10(b)(7))

171. In Section 1311.02(1)(2) of the Act, the D.C. Council found that “[g]lobal climate change has increased the frequency and severity of destructive weather patterns. Accordingly, electric power distribution service in the District of Columbia is vulnerable to equipment failures on the overhead electric distribution system of the electric company for many reasons, including

²⁴¹ Joint Application at 14; Testimony of Pepco witness Smith at 18:5-9.

²⁴² The Commission notes that a scrivener's error exists in the Undergrounding Act. Section 1313.10(c)(4) refers to the “triennial Underground Infrastructure Improvement Projects Plan,” when the text should read “biennial Underground Infrastructure Improvement Projects Plan.”

²⁴³ Joint Application at 23.

high winds, flooding, lightning strikes, snow and ice accumulations, foreign contact between overhead equipment and animals, trees, and other objects, and other causes.” The D.C. Council goes on to assert that “this damage has caused the loss of electric power over extended time periods to residential and commercial customers; which damage and power loss have created economic losses for the District and its citizens, including critical infrastructure customers and other high-priority users of electricity, and has otherwise adversely affected the general welfare of the public.” The D.C. Council concludes that “absent taking additional intensified outage-prevention measures,” “similar outages on the electric company’s overhead distribution system will continue to occur.” Therefore, the D.C. Council reasons that “selectively undergrounding certain overhead power lines can be expected to increase system reliability,” resiliency, and flexibility and “reduce the economic, social, and other impacts caused by repeated power outages on the District’s residents, businesses, workers and visitors,” which clearly “promote[s] the public interest.”

172. In support of a conclusion that the Second Biennial Plan is in the public interest, the Joint Applicants submit that the Plan ensures that the investment in the District of Columbia’s electric distribution infrastructure will be reasonable, cost-effective, and prudent—by using selection criteria that result in the greatest reduction in duration and frequency of outages once the feeders are placed underground as well as the greatest reduction in the minutes of interruption for every dollar spent to place those feeders underground, taking into account other relevant considerations (such as limiting the number of concurrent projects in a Ward at any one time and maximizing the number of customers in each Ward who will realize the benefits associated with the Second Biennial Plan).²⁴⁴ While we generally concur with the Joint Applicants, the Commission makes no finding regarding the overall cost effectiveness of the DC PLUG initiative. However, the Commission notes that the Joint Applicants appear to be managing the costs of the proposed construction in a reasonable manner.

173. The Undergrounding Act lays the foundation for Pepco to address the concerns that the D.C. Council, many District residents, as well as Pepco customers have expressed over the years regarding system reliability and resilience. The Joint Application’s proposal to underground 10 feeders in the Second Biennial Plan is an appropriate step towards addressing those concerns, consistent with the Act. We are hopeful that the undergrounding projects proposed in this Second Biennial Plan will greatly enhance the reliability and resilience of the electric distribution system as well as minimize the impact of more frequent severe weather events on the electric distribution system in the District of Columbia. Accordingly, the Commission finds that granting the authorizations and approvals sought by Pepco and DDOT in their Joint Application is in the public interest.

VII. THE FINANCING ORDER

174. The Undergrounding Act, among other things, authorizes the funding of the undergrounding of certain vulnerable feeders in the District and the establishment of a mechanism by which the undergrounding project will be funded. In Section VI.D. of this Order, the

²⁴⁴ Joint Application at 21-22.

Commission addressed the funding of the activities to be undertaken by Pepco with respect to the Electric Company Infrastructure Improvement Costs. This Financing Order focuses on the financing of the Underground Project activities to be undertaken by DDOT, referred to as DDOT Underground Electric Company Infrastructure Improvement Costs (“DDOT Costs”).²⁴⁵

175. The District Government collects DDOT Costs by imposing on Pepco the DDOT Underground Electric Company Infrastructure Improvement Charge (“DDOT Charge”) to pay the DDOT Costs for the applicable year.²⁴⁶ Pepco pays the DDOT Charge to the District Government in equal installments for the duration of the Biennial Plan by depositing funds into the DDOT Underground Electric Company Infrastructure Improvement Fund (“Fund”).²⁴⁷ Pepco, in turn, collects the costs of the DDOT Charge from ratepayers through the Underground Rider, which is an annually adjusted rider to Pepco’s volumetric rates associated with distribution service paid by all of Pepco’s distribution service customers, except for RAD customers, to recover money Pepco pays to the District Government.²⁴⁸

A. Content of the Financing Application (Section 34-1313.02)

176. As an initial matter, the Financing Application is included in the Second Biennial Plan in accordance with Section 1313.02(a) of the Act. Additionally, the Financing Application, as per Section 1313.02(b)(2), includes the DDOT Charges for the next two-year period, a calculation of the Underground Rider by distribution service customer class estimated to be sufficient to generate an amount equal to the DDOT Charge, and a proposed public notice of the application. These matters are in the “Cost Recovery” section of the Second Biennial Plan, Appendices J, L, M, and the testimonies and exhibits of Pepco witnesses McGowan and Blazunas, and DDOT witness Williams.²⁴⁹ Having reviewed the Financing Application, the Commission finds that it meets the requirements of Section 1313.02.

B. Required Content of the Financing Order (Section 34-1313.01)

i. Description of DDOT Activities (Section 1313.01(a)(1))

177. DDOT Underground Electric Infrastructure Improvement Activities (“DDOT Activities”) are defined as the civil engineering for the construction and installation of DDOT

²⁴⁵ D.C. Code § 34-1311.01(14) (2017).

²⁴⁶ D.C. Code § 34-1311.01(13) (2017).

²⁴⁷ D.C. Code § 34-1311.01(12) (2017); D.C. Code § 34-1313.03a. (2017).

²⁴⁸ D.C. Code § 34-1311.01(42A) (2017).

²⁴⁹ Joint Application at 24-25; Testimony of Pepco witness McGowan at 7:12-8:5; Complete Testimony of Pepco witness Blazunas; and Appendix J containing the revenue requirement and rate design for the Underground Rider.

Underground Electric Company Infrastructure Improvements (“DDOT Improvements”).²⁵⁰ The DDOT Improvements that will be constructed by DDOT include underground conduits, duct banks, electrical vaults, manholes, transformer pads, and similar facilities for the distribution of electricity within the District.²⁵¹

178. A description of the DDOT Underground Electric Infrastructure Improvement Activities to be paid through the DDOT Charge for the next two years, pursuant to Section 1313.01(a)(1), is included in the Application in Appendices B, C, G, and H, and is discussed in the testimony of Pepco witness Smith and DDOT witness Williams.

ii. Assessment of DDOT Charge (Section 1313.01(a)(2))

179. The Second Biennial Plan explains that the Undergrounding Act limits the DDOT portion of the DC PLUG initiative to \$187.5 million over the course of three Biennial Plans. DDOT witness Williams explains that under the Act, DDOT and Pepco will file three Biennial Plans, each with a DDOT Charge of \$60 million (\$30 million per year). These three Biennial Plans would total \$180 million which is less than the statutory maximum of \$187.5 million.²⁵²

180. Pursuant to the Act, the District will assess Pepco an annual fee equal to the cost of the work to be performed by DDOT in the next two-year period in the form of the DDOT Charge.²⁵³ Pepco will remit the funds, equal to 1/24 of the DDOT Charge, within the first 10 days of each month during the applicable billing period.²⁵⁴ Pepco’s payments for the DDOT Charge will be placed into the DDOT Improvement Fund for exclusive use in paying DDOT Costs.²⁵⁵ The Fund is to be used “solely” to pay DDOT Costs.²⁵⁶ Under the statute, “any amounts collected with respect to the [DDOT Charge] and not expended for [DDOT Costs] as contemplated by this chapter

²⁵⁰ See D.C. Code § 34-1311.01(11) (2017) (DDOT Underground Electric Company Infrastructure Improvement Activities); D.C. Code § 34-1311.01(10) (2017) (DDOT Underground Electric Company Infrastructure Improvements).

²⁵¹ D.C. Code § 34-1311.01(10) (2017).

²⁵² Testimony of DDOT witness Williams at 7:2-11.

²⁵³ Second Biennial Plan at 33-34; *See also* D.C. Code § 34-1311.01(13) (2017). (DDOT Charge “means a charge imposed by the District on the electric company pursuant to a financing order issued by the Commission, which charge shall be used by the District to pay the” DDOT Costs).

²⁵⁴ Second Biennial Plan at 34; Testimony of DDOT witness Williams at 7:11-16; *See also*, D.C. Code § 34-1313.01(a)(2)(B) (2017).

²⁵⁵ Second Biennial Plan at 34; Testimony of DDOT witness Williams at 7:16-19; *See also*, D.C. Code § 34-1313.03a(b) (2017).

²⁵⁶ D.C. Code § 34-1313.03a(c) (2017).

shall be refunded to the electric company and thereafter credited to customers as the Commission may direct.”²⁵⁷

181. Within the bounds of the statute laid out by the D.C. Council, the Commission has clear oversight responsibilities concerning the Underground Act and the recovery of the costs of DDOT Activities from Pepco through the DDOT Charge.²⁵⁸ The Commission finds that all DDOT Charge payments will be placed in the DDOT Fund, which can only be used for to pay for DDOT Costs.²⁵⁹ Any review of DDOT Charges would be limited to determine if the withdrawal from the DDOT Fund were only to pay for DDOT Costs. To facilitate review and to promote transparency, the Commission directs the Joint Applicants to file a semi-annual report 45 days after the middle and the end of the District’s fiscal year on the balance of the DDOT Fund and all payments made to and from the DDOT Fund in the preceding two years. The information provided in the report should be sufficiently detailed to demonstrate that withdrawals by DDOT comply with Section 1313.03a(c) of the law. This DDOT Fund Report shall also include a separate section providing details of all expenditures since inception charged to the \$62.5 million of DDOT Capital Improvement funding identified on page 23 of the Second Biennial Plan.

182. Based on the discussion provided above, the Commission directs Pepco to pay the DDOT Charge into the DDOT Fund as explained in the Application and pursuant to Section 1313.01(a)(2)(A) of the Act. The Commission also directs Pepco to remit by the 10th day of each month, during the applicable two-year periods, a payment equal to 1/24 of the DDOT Charges approved for the applicable two-year period pursuant to this Financing Order to the DDOT Underground Electric Company Infrastructure Improvement Fund established in Section 1313.01(a)(2)(B) of the Act.

iii. Assessment of Underground Rider (Section 1313.01(a)(3))

183. As described in the Biennial Plan, the Underground Rider is an annually adjusted rider to Pepco’s volumetric distribution service rates paid by all of Pepco’s distribution service customers, except RAD customers. The Underground Rider can be expected to generate sufficient revenues to permit Pepco to recover the DDOT Charge of \$60 million over the two years of the first Biennial Plan. The annual revenue requirement to be collected under the Underground Rider is \$30 million (or 12/24ths) of the DDOT Charges approved in this Financing Order.²⁶⁰

²⁵⁷ D.C. Code § 34-1313.01(a)(2)(A) (2017).

²⁵⁸ D.C. Code § 34-1313.01(a)(5) (2017) (The Commission, within the Financing Order, is empowered to “[p]rescribe the filing of billing and collection reports related to the DDOT [Charges] and Underground Rider ...”); and D.C. Code § 34-1313.01(a)(6) (2017) (The Financing Order may, “[c]onsistent with this chapter, contain such other findings, determinations, and authorizations as the Commission considers necessary and appropriate”).

²⁵⁹ See D.C. Code § 34-1313.03a(c) (2017).

²⁶⁰ Second Biennial Plan at 34.

184. The Underground Rider will allocate costs to Pepco's distribution service customer classes, excluding customers served through the RAD program, in accordance with the distribution service customer class cost allocations in effect pursuant to Pepco's most recently decided base rate case.²⁶¹ The Application was filed utilizing the Commission's decision in *Formal Case No. 1150*. It is important to note, that the cost allocation, but not the total cost, of the Underground Rider is subject to modifications as part of a true-up, as discussed in the next section, to reflect any Commission decisions regarding cost allocation of Pepco distribution rates that are issued during this Biennial Plan.²⁶²

185. The distribution service customer class cost allocation methodology for the Underground Rider's revenue requirement is the same as the allocation methodology approved by the Commission in *Formal Case Nos. 1116 and 1121 and 1145*, and as affirmed by the Court of Appeals.²⁶³ The Act defines the methodology as "the means of allocation of the electric company's revenue requirement to each customer rate class on the basis of the total rate class distribution service revenue minus the customer charge revenue."²⁶⁴ This approved methodology aligns each class's revenue responsibility under the Underground Rider with that class's base revenue responsibility, as determined by the Commission in the most recent Pepco distribution base rate case.²⁶⁵

186. The rates under the Underground Rider are developed for each applicable customer class as a volumetric surcharge (*i.e.*, on a per kilowatt-hour basis). The billing units used to set the rates are forecasted kWh sales for the time period corresponding to the Underground Rider's rate period.²⁶⁶ The Underground Rider is subject to a true-up on, at most, a semi-annual basis as established in Section 1313.14 of the Underground Act.

187. The Commission finds that the cost allocation methodology used for the Underground Rider is the same methodology directed by the Act. Just like for the UPC, Pepco has taken the total revenue requirement allocated to each customer rate class in *Formal Case No. 1150* and removed the customer charge to set the volumetric rates for the Underground Rider. On this basis the Commission concludes that the cost allocation methodology and volumetric structure of the Underground Rider appropriately complies with the Undergrounding Act. Based on the discussion provided above, the Commission directs Pepco to apply the Underground Rider to customer's bills as explained in the Application and pursuant to 1313.01 (a)(3) of the Act.

²⁶¹ Second Biennial Plan at 34.

²⁶² See D.C. Code § 34-1313.14(b)(1) (2017).

²⁶³ *Apartment & Office Building Association of Metropolitan Washington v. Public Service Commission of District of Columbia*, 203 A. 3d 772 (D.C. 2019).

²⁶⁴ See D.C. Code § 34-1311.01(8A) (2017).

²⁶⁵ Second Biennial Plan at 35.

²⁶⁶ Second Biennial Plan at 36.

iv. *Inter-Class True-up Mechanism (Section 1313.14)*

188. Under Section 1313.14 of the Undergrounding Act, rates under the Underground Rider will be subject to true-up, at most, twice a year. For each customer class subject to the Underground Rider, an over- or under-collection amount will be calculated as that class's Underground Rider collections, less actual DDOT Charges attributable to that class during the true-up period. For the purpose of calculating each class's over- or under-collection amount, actual DDOT Charges will be imputed to classes consistent with the distribution service class cost allocation of the revenue requirement that was used to develop the Underground Rider rates that were in effect during the true-up period. Collections from each class under the Underground Rider will be tracked separately. The amount of the true-up of the Underground Rider will be allocated to each distribution service customer class in the proportion to which the customer class contributed to the under- or over-collection. Pepco witness Blazunas and the Second Biennial Plan explain that this methodology is consistent with Section 1313.14(f)(1) of the Act.²⁶⁷ In accordance with Section 1313.14(c), the Commission will review the accuracy any true-up calculations when the Company files requests for approval of a schedule applying the true-up mechanism.

v. *Financing Order Irrevocability (Section 1313.01 (b))*

189. Pursuant to Section 1313.01(b) of the Act, the Commission determines that this Financing Order will be operative and in full force and effect from the date of issuance of this Order.²⁶⁸

190. Finally, we note that, pursuant to Section 1313.01(c), except to implement any true-up mechanism as required by Section 1313.14, the Commission may not reduce, impair, postpone, terminate, or otherwise adjust the Underground Rider approved in the Financing Order unless the Commission similarly adjusts the DDOT Charge by an equal amount.²⁶⁹

VIII. FINDINGS OF FACT AND CONCLUSIONS

191. The Commission has conducted an independent review of the Joint Application and Second Biennial Plan submitted by the Joint Applicants and recognizes that most of the content of the Application was unchallenged by the parties. The Joint Applicants have made a *prima facie* showing that the Application complies with the requirements of the Undergrounding Act; meaning that they have provided a sufficient quantum of evidence to meet their burden of production.²⁷⁰ In

²⁶⁷ Second Biennial Plan at 36; Testimony of Pepco witness Blazunas at 14:14-15:4. Appendix M contains the Underground Rider and Appendix L shows the monthly bill impacts.

²⁶⁸ See D.C. Code § 34-1313.01(b) (2017).

²⁶⁹ See D.C. Code § 34-1313.01(c) (2017).

²⁷⁰ *Nader v. de Toledano*, 408 A.2d 31, 48 (D.C. 1979). See also, *In re Sukhbir Singh Bedi*, 917 A.2d 659, 665 (D.C. 2007). "A party satisfies his burden of production with respect to an issue material to his case when he has made out a "prima facie" case as to such issue – i.e., a sufficient quantum of evidence which, if credited, would permit

this instance there has been no clear showing by the parties that the requirements of the Act have not been met. The Commission further recognizes that Section 34-1313.10(a) of the Act gives the Commission authority to impose in this Order, and condition our approval of the Application on, “such reasonable terms and conditions” as we determine necessary.²⁷¹ Therefore, in accordance with the requirements established in the Undergrounding Act, and after a thorough review of the Application, including the parties’ contentions as discussed above, we make the following findings of fact and conclusions of law:

- a. The Application satisfies D.C. Code § 34-1313.10(b)(1) and the applicable requirements of D.C. Code § 34-1313.08, which includes, among other things, the ranking of reliability performance of individual feeders being properly conducted and the primary selection criteria utilized substantially complying with the requirements of the Act.
- b. The Application satisfies D.C. Code § 34-1313.10(b)(2) in that the Proposed Underground Infrastructure Improvements are Appropriately Designed and Located.
- c. The Application satisfies D.C. Code § 34-1313.10(b)(3) in that the Intended Reliability Improvements for Pepco’s Customers will Accrue to the benefit of Pepco’s customers.
- d. The Application satisfies D.C. Code § 34-1313.10(b)(4) in that the Projected Costs Associated with Pepco’s Proposed Underground Infrastructure Improvement Activity are prudent.
- e. The Application satisfies D.C. Code § 34-1313.10(b)(5) in that the projected costs of DDOT’s Underground Electric Company Infrastructure Improvements Costs funded by DDOT Underground Electric Company Infrastructure Improvement Charges are prudent.
- f. The Application satisfies D.C. Code § 34-1313.10(b)(6) in that Pepco’s proposed Underground Project Charges are just and reasonable.
- g. The Application satisfies D.C. Code § 34-1313.10(b)(7) in that approval of the Joint Application is in the public interest.
- h. In accordance with D.C. Code § 34-1313.10(c)(1), Pepco is authorized to impose and collect the Underground Project Charges, as approved in this Order, from its distribution service customers in the District; however, no such charges shall be assessed against RAD customers.

judgment in his favor unless contradicted by credible evidence offered by the opposing party.” (citing *Nader*, 408 A.2d at 48).

²⁷¹ D.C. Code § 34-1313.10(a) (2017).

- i. In accordance with D.C. Code § 34-1313.10(c)(2), Pepco is authorized to bill the Underground Project Charges, as approved in this Order, to distribution service customers, excluding RAD customers, as a volumetric surcharge;
- j. In accordance with D.C. Code § 34-1313.10(c)(3), the Commission approves the annual revenue requirement of \$1,159,141 for Year One which includes a return on investment based on a rate of return of 7.45%.
- k. Pepco's proposal that the approximately \$216,000 of cost associated with the installation of conduit be amortized as operating and maintenance expense over one-year is reasonable (as discussed in Paragraphs 95-98, 115, 160-161, and 165 of this Order).
- l. The 2014 and 2016 Joint Stipulations filed by OPC, Pepco, and DDOT are just and reasonable and accepted without modification, but pursuant to the reasonable terms and conditions imposed in Order Nos. 17697 and 17770, as discussed in this Order at ¶¶ 42-43.
- m. Pursuant to D.C. Code § 34.1313.03a(c) the Commission finds the projected DDOT Underground Electric Company Infrastructure Improvement Costs to be funded by the DDOT Underground Electric Company Infrastructure Improvement Charges are prudent and that the amount of the DDOT Underground Electric Company Infrastructure Improvement Charges is reasonable and that the Underground Rider reasonably can be expected to generate sufficient revenues to permit the electric company to recover the DDOT Underground Electric Company Infrastructure Improvement Charges.
- n. The Joint Applicants shall continue to file a semi-annual report forty-five (45) days after the middle and the end of the District's fiscal year on the balance of the DDOT Fund and all payments made to and from the DDOT Fund in the preceding two (2) years. This DDOT Fund Report shall also include a separate section providing details of all expenditures since inception charged to the \$62.5 million of DDOT Capital Improvement identified on page 23 of the Second Biennial Plan. The information provided in the report should be sufficiently detailed to demonstrate that withdrawals by DDOT comply with D.C. Code § 34-1313.03a(c).
- o. Pursuant to D.C. Code § 34-1313.01(b), the Financing Order is operative and in full force and effect from the date of this Order.
- p. Pursuant to D.C. Code § 34-1313.01(c), except to implement any true-up mechanism as required by D.C. Code § 34-1313.14, the Commission may not reduce, impair, postpone, terminate, or otherwise adjust the Underground Rider approved in the financing order unless the Commission similarly adjusts the DDOT Charge by an equal amount.

THEREFORE, IT IS ORDERED THAT:

192. The Joint Application of the Potomac Electric Power Company and District of Columbia Department of Transportation for Approval of the Second Biennial Underground Infrastructure Improvement Projects Plan and Financing Order is **APPROVED**;

193. The Potomac Electric Power Company's proposed Underground Project Charge rider that increases electric distribution rates by no more than \$1,159,141 for Year One of the Second Biennial Plan is **ACCEPTED**;

194. The Potomac Electric Power Company's proposal that the approximately \$216,000 of cost associated with the installation of conduit be amortized as operating and maintenance expense over one-year is **GRANTED**;

195. The 2014 and 2016 Joint Stipulation filed by the Office of the People's Counsel, the Potomac Electric Power Company, and the District of Columbia Department of Transportation is **INCORPORATED** into the record of this proceeding;

196. All Discovery responses are **INCORPORATED** into the record of this proceeding;

197. In accordance with D.C. Code § 34-1313.08(b), the Potomac Electric Power Company shall identify the estimated start date and projected end date for each project approved in the Underground Infrastructure Improvements Projects Plan within 90 days of the date of this Order;

198. The Potomac Electric Power Company shall file all revised tariff sheets and the proposed rate design, including the Underground Project Charge Rider and the Underground Rider within 10 days from the date of this Order, which shall become effective 30 days from the date of this Order unless otherwise ordered by the Commission;²⁷²

199. The Joint Applicants are directed to file a report on the status of the Benning Area Reliability Plan within 30 days from the date of this Order. The report must contain the status of all pending work related to the BARP, including a timeline for completion and all budgeted and actual expenditures to date. The Joint Applicants are further directed to report on the reliability improvements achieved from the BARP, including Feeders 15705 and 15707. This report must be filed twice a year for three years after the completion of the BARP;

200. The Joint Applicants shall submit a 90-day Compliance filing that includes:

- a. A report on the status of all design work for the 10 feeders, both civil drawings and electrical schematics;

²⁷² The filed tariff sheets are marked "Effective January 1." Pepco must file new tariff sheets with the corrected effective date. See also Paragraph 155 in this Order.

- b. A report on plans for undergrounding any portion of any parallel feeder, including details of any additional costs;
- c. A preliminary Gantt Chart for the 10 feeders in the Second Biennial Plan; Such Gantt Chart must reflect the detailed schedule for each of the 10 feeders in the Second Biennial Plan;
- d. A schedule of formal utility coordination meetings, the Joint Applicants' plan for communicating updates to other utilities when there is a change in DC PLUG work or schedule, and an explanation of their strategy for overcoming challenges with gas and telecom coordination;
- e. Estimated annual revenue requirements, including details of any applicable District property taxes, for DC PLUG through the conclusion of construction (as discussed in Paragraph 165 above);
- f. a reconciliation of the \$60 million First Biennial Plan DDOT Charge inclusive of the \$62.5 million opportunity project costs, and the total DDOT construction spending planned for the first Biennial Plan; and
- g. Confirmation that the Third Biennial Plan will conform to the \$500 million statutory spending limits.²⁷³

201. The Joint Applicants shall inform the Commission in writing when they deliver 30% and 65% civil drawings, and when they update or convey any DC PLUG related information to Washington Gas Light Company regarding any of the feeders in the First and Second Biennial Plans;

202. The Joint Applicants shall copy the Commission on any formal notices provided by either of them to Washington Gas Light Company regarding relocation work consistent with the Undergrounding legislation;

203. By March 31st of each calendar year (including 2020), for each DC PLUG contract awarded by the Joint Applicants before the end of the preceding calendar year, the Potomac Electric Power Company shall provide to the Commission: (1) the name of the awardee; (2) the type of contract (construction, management, or design); (3) the category of contract (civil or electrical); (4) the amount of the contract; (5) the number of the feeder that will be served by the awarded contract; (6) the CBE status of the awardee; (7) the total number of employees expected to be hired under the contract; and (8) the total number of District residents hired under the contract;

²⁷³ The total capital expenditures proposed under the First and Second Biennial Plans already amount to \$398 million leaving only \$102 million for the Third Biennial Plan.

204. The Joint Applicants shall provide updates on its hiring practices in its Annual Update and Semi-Annual Meetings;

205. The Potomac Electric Power Company shall submit the final civil drawings and electrical schematics once they are finalized. Final civil drawings and electrical schematics should at a minimum include:

- a. Intertie markings for all ten DC PLUG feeders;
- b. Feeder source information for all ten DC PLUG feeders (substation, bus, and alternate feed);
- c. Identification of equipment remaining overhead;
- d. Details of any Automatic Sectionalizing and Reclosing scheme and any further decisions regarding Distributed Automation implementation on the ten selected feeders of the Second Biennial Plan, including the three feeders (118, 467, and 15171) not addressed in the Incorporation of Innovative Methods and Advanced Technology section of the Plan;
- e. Clarification of any parallel feeder depiction in the final electrical schematics including a description of all the relevant parallel feeders;
- f. A discussion of each of the discrepancies noted in Paragraph 64 above; and
- g. Details of changes to the cost estimates provided in Appendix H once the designs are finalized.

206. The Joint Applicants shall schedule informal review sessions for Commission Staff and the Office of People's Counsel to review the final civil and electrical designs as they are finalized;

207. The Joint Applicants shall submit to the Commission an explanation of any delay of more than one month for any of the 10 feeders with respect to: (1) the preparation of the final civil design; (2) the preparation of the final electrical design; (3) the award of civil engineering contracts; (4) the award of electrical engineering contracts; and (5) the estimated physical construction start date when compared to the preliminary Gantt Chart and estimated start and end date information which will be part of the 90-day Compliance Filing;

208. Every six months until the construction is complete, the Potomac Electric Power Company shall provide to the Commission a Gantt Chart including all feeders from the First and Second Biennial Plans and shall update this Gantt Chart every six months with any changes since the previous version highlighted;

209. By March 31st of each calendar year, beginning March 31, 2020, the Joint Applicants shall file details of any contingency expenditures (*i.e.*, expenditures for costs that are funded by the 10 percent contingency for electrical cost and 20 percent for civil costs as shown in Appendix H that the Joint Applicants included to cover estimate uncertainty and risk exposure) during the preceding calendar year by amount, purpose and feeder number;

210. Joint Applicants shall submit regular updates on existing and potential obstacles to timely completion as well as resolution strategies of any of the DC PLUG projects in their Annual Update and Semi-Annual Meetings;

211. The Potomac Electric Power Company shall continue to report quarterly on all payments made to the District of Columbia Department of Transportation, using the cost categories in Appendix H, beginning on April 1, 2020;

212. In its April 1st UPC Adjustment Application, the Potomac Electric Power Company shall: (1) provide a detailed schedule that adjusts its estimated costs to actual costs; and (2) provide a break-out by feeder number of actual and forecasted capital expenditures as well as additions to EPIS;

213. The Potomac Electric Power Company shall reflect the impact of any enacted changes to federal corporate income tax rates in its annual adjustment application made pursuant to D.C. Code § 34-1313.15;

214. At the next Semi-Annual Meeting after each successive Six-Year Transportation Improvement Plan is released, the Joint Applicants shall report on the “Opportunity Projects” that have been identified;

215. When the Potomac Electric Power Company transfers DC PLUG improvements costs into rate base in a future base rate case application, it shall include a separate ratemaking adjustment clearly indicating the date of transfer;

216. The Joint Applicants must appear before the Commission in a legislative-style hearing to report on the status of the First Biennial Plan Feeders (see Paragraph 87 above);

217. The Joint Applicants must report within 15 days on delays of more than one month in the key construction milestones detailed in Paragraph 88 above;

218. The Potomac Electric Power Company shall exclude the Cost of Removal from the UPC Revenue Requirement in the April 1st adjustment filing made pursuant to D.C. Code § 34-1313.15;

219. The Joint Applicants shall file a semi-annual report 45 days after the middle and the end of the District’s fiscal year on the balance of the DDOT Fund and all payments made to and from the DDOT Fund in the preceding two years. This DDOT Fund Report shall also include a separate section providing details of all expenditures since inception charged to the \$62.5 million of DDOT Capital Improvement identified on page 23 of the Second Biennial Plan. The

information provided in the report should be sufficiently detailed to demonstrate that withdrawals by the District of Columbia Department of Transportation comply with D.C. Code § 34-1313.03a(c); and

220. The Potomac Electric Power Company and the District Department of Transportation shall comply with all other directives included in this 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**

ATTACHMENT A: STATUTORY OVERVIEW – UNDERGROUND ACT**A. Applicable Requirements for the Second Biennial Plan Application***i. D.C. Code § 34-1313.08(a)(A) and (B)¹*

1. Section 1313.08(a)(1)(A) requires that the Biennial Plan include “a measurement and ranking of the reliability performance of the electric company’s overhead and combined overhead-underground mainline primary and lateral feeders in the District of Columbia since January 1, 2010 through the most recently completed calendar year, using the primary selection criteria set forth in paragraph (2) of this subsection.”

2. Section 1313.08(a)(1)(B) requires “on the basis of the foregoing rankings, an identification of the electric company’s recommended selection of mainline primary and lateral feeders that will utilize the DDOT Underground Electric Company Infrastructure Improvements identified in the plan.”

ii. Section 34-1313.08(a)(2)

3. Section 1313.08(a)(2) requires a showing of certain enumerated metrics based on “all sustained interruptions that affect the public welfare (inclusive of major service outages and District major event days) occurring on each overhead and combined overhead-underground mainline primary and lateral feeder circuits in the District of Columbia from January 1, 2010 through the most recently completed calendar year, averaged using the following data, weighted equally: (A) Number of outages per feeder; (B) Duration of the outages occurring on the feeder; and (C) Customer minutes of interruption per cost of undergrounding on the feeder.”

iii. Section 1313.08(a)(3)(A)-(I)

4. Section 1313.08(a)(3)(A) requires that the plan “[i]n addition to the measurements, rankings, and selections required by paragraphs (1) and (2) of this subsection, the . . . Plan shall include for each mainline primary and lateral feeder recommended by the electric company to be placed underground an identification and description of the feeder number and feeder location (by street address, ward, and neighborhood).”

5. Section 1313.08(a)(3)(B) requires that the plan include “[o]verhead electrical cables, fuses, switches, transformers, and ancillary equipment, including poles, to be relocated underground or removed.”

6. Section 1313.08(a)(3)(C) requires that the plan include “[o]verhead primary and lateral feeders that are currently located parallel to the selected primary and lateral feeders that the electric company recommends [] be placed underground.”

¹ The Undergrounding Act has been codified in Chapter 13A of Title 34 of the District of Columbia Official Code (D.C. Code § 34-1311.01, *et. seq.* (2017)). In the interest of shortening statutory citations in this Order, most references to the sections of the Undergrounding Act in this Order will cite only the section number instead of the official D.C. Code citation. For example, D.C. Code § 34-1313.08(a)(A) and (B) will be cited as Section 1313.08(a)(A) and (B).

7. Section 1313.08(a)(3)(D) requires that the plan include “[o]verhead secondary feeder circuits and ancillary facilities, and telecommunications and cable television cables and ancillary aboveground equipment, including poles, that will not be relocated underground or removed.”

8. Section 1313.08(a)(3)(E) requires that the plan identify the “[p]roposed Electric Company Infrastructure Improvements and DDOT Underground Electric Company Infrastructure Improvements funded by the Underground Project Charge and the DDOT Underground Electric Company Infrastructure Improvements Charges.”

9. Section 1313.08(a)(3)(F) requires that the plan identify “[n]ew distribution automation devices and segmentation capability to be obtained” through the DC PLUG initiative.

10. Section 1313.08(a)(3)(G) requires that the plan identify “[i]nterties that will enable the feeder to receive power from multiple directions or sources.”

11. Section 1313.08(a)(3)(H) requires that the plan identify “[t]he capability to meet current load and future load projections.”

iv. Section 1313.08(c)(1)–(10) (Projected Plans and Costs)

12. Section 1313.08(c)(1) requires that the plan include “[a]n itemized estimate of the project plan’s Electric Company Infrastructure Improvement Costs and the proposed Underground Project Charges for the costs that correspond with an itemized list of the Electric Company Infrastructure Investment Activity shown.”

13. Section 1313.08(c)(2) requires that the plan include “[a]n itemized estimate of the DDOT Underground Electric Company Infrastructure Improvement Costs that correspond with an itemized list of the DDOT Underground Electric Company Infrastructure Improvement Activity.”

14. Section 1313.08(c)(3) requires that the plan include “[a]n assessment of potential obstacles to timely completion of a project, including, but not limited to, the need to obtain environmental or other permits or private easements, the existence of historically sensitive sites, required tree removal, and significant traffic disruptions.”

15. Section 1313.08(c)(4) requires that the plan include “[a] description of the efforts taken to identify District residents to be employed by the electric company and DDOT contractors during the construction of the DDOT Underground Electric Company Infrastructure Improvements and the Electric Company Infrastructure Improvements contained in the biennial Underground Infrastructure Improvement Projects Plan.”

16. Section 1313.08(c)(5) requires that the plan include “[a]n explanation of the availability of alternate funding sources, if any, for relocation of the overhead equipment and ancillary facilities that will utilize DDOT Underground Electric Company Infrastructure Improvements, such as contributions in aid of construction, the grant of federal highway or economic development funds, and other sources.

17. Section 1313.08(c)(6)(A) requires that the plan include “[a]n exhibit setting forth

the proposed Underground Project Charges, work papers calculating the derivation of these charges, the proposed allocation of billing responsibility among the electric company's distribution service customer classes for the Underground Project Charges." The section also requires a worksheet depicting the: "(i) [p]rojected total expenses, (ii) [c]apital costs, (iii) [d]epreciation expenses, (iv) [a]nnual revenue requirement and rate of return on equity, as set by the Commission in the most recently decided base rate case [*Formal Case No. 1139*]; and (v) [a]llocation of billing responsibility utilized in these calculations."

18. Section 1313.08(c)(6)(B) requires that the aforementioned exhibit in Section 1313.08(c)(6)(A) "include the proposed accounting treatment for the costs to be recovered through these charges, which shall provide that no costs recovered through the Underground Project Charges shall also be afforded rate base or other treatment that would incorporate recovery of the Underground Project Charges into the design of the electric company's base tariff rates until such time as the electric company shall request the transfer of these costs into rate base and the discontinuance of the costs being recovered in the Underground Project Charge."

19. Section 1313.08(c)(7) requires that the plan include any "[o]ther information the electric company and DDOT considers material to the Commission's consideration of the application."

20. Section 1313.08(c)(8) requires that the plan include "[i]dentification and contact information of one or more individuals who may be contacted by the Commission with formal or informal requests for clarification of any material set forth in the application or requests for additional information."

21. Section 1313.08(c)(9) requires that the plan include "[a] proposed form of public notice of the application suitable for publication by the Commission."

22. Section 1313.08(c)(10) requires that the plan include "[a] protocol to be followed by the electric company and DDOT to provide notice and to coordinate engineering, design, and construction work performed pursuant to this chapter with the gas company, water utility, and other utilities that own or plan to construct, as approved by the Commission where applicable, facilities that may be affected by DDOT Underground Electric Company Infrastructure Improvement Activity or Electric Company Infrastructure Improvement Activity."

B. Applicable Requirements for a Commission Order

i. Section 1313.10 (Commission Order)

23. Section 1313.10(b) requires the Commission to make specific findings that:

- a) The electric company's application satisfies the applicable requirements of Section 1313.08 of the Act;
- b) The proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located;
- c) The intended reliability improvements will accrue to the benefit of the

electric company's customers;

- d) The projected costs of associated with the proposed Electric Company Underground Infrastructure Improvement Activity are prudent;
- e) The projected DDOT Underground Electric Company Infrastructure Improvement Costs funded by DDOT Underground Electric Company Infrastructure Improvement Charges are prudent;
- f) The electric company's proposed Underground Project Charges will be just and reasonable; and
- g) The grant of authorizations and approvals sought by the electric company and DDOT in their joint application is otherwise in the public interest.

24. Section 1313.10(c) requires the Commission's Order to include:

- 1. Authorization for the electric company to impose and collect the Underground Project Charges ("UPC") from its distribution service customers in accordance with the class cost allocations approved in the electric company's most recent base rate case, except for residential aid discount ("RAD") customers;
- 2. Authorization for the electric company to bill the UPC to the distribution customers as a volumetric surcharge;
- 3. Approval of the annual revenue requirement which shall include the rate of return on equity from the electric company's most recent base rate case; and
- 4. A description of the frequency of project construction update reports for the improvements funded by the DDOT Underground Electric Company Infrastructure Improvement Charge and the electric company's Infrastructure Improvements in the Second Biennial Plan as approved by the Commission.

C. Applicable Requirements for Financing Application and Order

i. Section 1313.01(a)(1)-(c) (Commission Authorizations)

25. Section 1313.01 sets out the financing order's required provisions.

26. Section 1313.01(a)(1) requires the Commission to "[d]escribe the DDOT Underground Electric Infrastructure Improvement Activities to be paid through the DDOT Underground Electric Company Infrastructure Improvement Charge for the next 2-year period."

27. Section 1313.01(a)(2)(A) requires that the Commission "[a]ssess the DDOT Underground Electric Company Infrastructure Improvement Charge on the electric company for

the next 2-year period sufficient to fully satisfy the DDOT Underground Electric Company Infrastructure Annual Revenue Requirement to enable DDOT Underground Electric Company Infrastructure Improvement Activity to be undertaken in the next 2-year period plus an amount necessary to recover any DDOT Underground Electric Company Infrastructure Improvement Costs incurred by DDOT but not reimbursed through prior collections of the DDOT Underground Electric Company Infrastructure Improvement Charge; provided, that the DDOT Underground Electric Company Infrastructure Charges approved by the Commission under this chapter shall not exceed \$187.5 million in the aggregate; provided further, that any amounts collected with respect to the DDOT Underground Electric Company Infrastructure Improvement Charge and not expended for DDOT Underground Electric Company Infrastructure Improvement Costs as contemplated by this chapter shall be refunded to the electric company and thereafter credited to customers as the Commission may direct.”

28. Section 1313.01(a)(2)(B) requires the Commission to direct the electric company to remit “by the 10th day of each month during the applicable 2-year period, . . . a payment equal to 1/24 of the DDOT Underground Electric Company Infrastructure Improvement Charges approved for the applicable 2-year period pursuant to the financing order to the DDOT Underground Electric Company Infrastructure Improvement Fund established pursuant to § 34-1313.03a.”

29. Section 1313.01(a)(3) requires the Commission to assess “the Underground Rider for the next 2-year period among the distribution service customer classes of the electric company in accordance with the distribution service customer class cost allocations approved by the Commission for the electric company and in effect pursuant to the electric company’s most recently decided base rate case in an amount sufficient for the electric company to recover the DDOT Underground Electric Company Infrastructure Charge; provided, that no such charges shall be assessed against the electric company’s residential aid discount customer class or any succeeding customer class approved by the Commission for the purpose of providing economic relief to a specified low-income customer class; provided further, that the Underground Rider shall be billed to customers by the electric company on a volumetric basis.”

30. Section 1313.01(a)(4) requires that the Commission “[d]escribe the true-up mechanism as provided in § 34-1313.14² to reconcile actual collections of the Underground Rider with forecasted collection on at least an annual basis to ensure that the collections of the Underground Rider are adequate for the electric company to recover an amount equal to the aggregate amount of the DDOT Electric Company Infrastructure Improvement Charges.”

31. Section 1313.01(a)(5) requires that the Commission “[p]rescribe the filing of billing and collection reports relating to the DDOT Underground Electric Company Infrastructure Improvement Charges and the Underground Rider.”

32. Section 1313.01(a)(6) gives the Commission authority to include in the financing

² The Commission notes that a scrivener’s error exists in the Undergrounding Act. The correct true-up mechanism section is D.C. Code § 34-1313.14 titled “Approval of schedule provisions applying the true-up mechanism to the Underground Rider,” not D.C. Code § 34-1313.12, as indicated D.C. Code §§ 34-1313.01 (a)(4) and 34-1313.01 (c).

order “such other findings, determinations, and authorizations as the Commission considers necessary or appropriate.”

33. Section 1313.01(b) requires that “[a]ll financing orders shall be operative and in full force and effect from the time fixed for them to become effective by the Commission.”

34. Section 1313.01(c) requires that the “financing order shall provide that except to implement any true-up mechanism as required by D.C. Code § 34-1313.14, the Commission may not reduce, impair, postpone, terminate, or otherwise adjust the Underground Rider approved in the financing order unless it has similarly adjusted the DDOT Underground Electric Company Infrastructure Improvement Charges by an equal amount.”

ii. Section 1313.02(b)(1)–(2)(C) (Application for Financing Order)

35. Section 1313.02 sets the specific contents Pepco should include in its Financing Application for approval of its Biennial Plan.

36. Section 1313.02(b)(1) requires: “[c]oncurrently with each application filed for approval of a biennial Underground Infrastructure Improvement Projects Plan, the electric company shall file for the Commission's consideration and decision an application for a financing order for the 2-year period corresponding to the biennial Underground Infrastructure Improvement Projects Plan.”

37. Section 1313.02(b)(2)(A)–(C) requires that the “financing order application and all subsequent applications by the electric company for a financing order shall contain: (A) [t]he DDOT Underground Electric Company Infrastructure Improvement Charges for the next 2-year period; (B) [a] calculation by the electric company of the Underground Rider by distribution service customer class estimated to be sufficient to generate an amount equal to the DDOT Underground Electric Company Infrastructure Improvement Charges for the next 2-year period; and (C) [a] proposed form of public notice of the application suitable for publication by the Commission, which notice may be combined with the form of public notice for the application for approval of the biennial Underground Infrastructure Improvement Projects Plan.”

iii. Section 1313.03(b)(3)–(c) (Application Consideration)

38. Section 1313.03(b)(3) provides: “The Commission may not approve the DDOT Underground Electric Company Infrastructure Improvement Charges unless it shall have also approved the Underground Rider in an amount reasonably expected to generate sufficient revenues to permit the electric company to recover the DDOT Underground Electric Company Infrastructure Improvement Charges.”

39. Section 1313.03(c) states that the “Commission is authorized to issue a financing order if the Commission finds that the projected DDOT Underground Electric Company Infrastructure Improvement Costs to be funded by the DDOT Underground Electric Company Infrastructure Improvement Charges are prudent and that the amount of the DDOT Underground Electric Company Infrastructure Improvement Charges is reasonable and that the Underground Rider reasonably can be expected to generate sufficient revenues to permit the electric company to recover the DDOT Underground Electric Company Infrastructure Improvement Charges.”