



Sandra Mattavous-Frye, Esq.
People's Counsel

June 8, 2020

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

Re: Formal Case No. 1156, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia*

Dear Ms. Westbrook-Sedgwick:

Please find attached, the *Joint Emergency Motion to Strike Pepco's Surrebuttal Testimony Pertaining to the Company's New MRP Proposal and for Summary Judgment on Pepco's Multiyear Rate Plan ("MRP") Application*. If there are any questions regarding this matter, please contact me at 202.727.3071 or apatel@opc-dc.gov.

Sincerely,

/s/ Anjali G. Patel

Anjali G. Patel
Senior Assistant People's Counsel

Enclosure

cc: Parties of Record

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

In the Matter of:

**The Application of the Potomac Electric Power
Company for Authority to Implement a
Multiyear Rate Plan for Electric Distribution
Service in the District of Columbia**

§
§
§
§
§
§

Formal Case No. 1156

**JOINT EMERGENCY MOTION TO STRIKE PEPCO'S SURREBUTTAL
TESTIMONY PERTAINING TO THE COMPANY'S NEW MRP
PROPOSAL AND FOR SUMMARY JUDGMENT ON PEPCO'S
MULTIYEAR RATE PLAN ("MRP") APPLICATION**

Pursuant to Rule 105.8 of the Commission's Rules of Practice and Procedure,¹ the Office of People's Counsel ("Office" or "OPC"), the statutory representative of District of Columbia ratepayers with respect to utility matters,² the Apartment & Office Building Association of Metropolitan Washington ("AOBA"), and the Baltimore Washington Construction and Public Employees Laborers' District Council ("BWLDC"), (collectively "Joint Movants") respectfully request that the Commission: (1) strike Pepco's surrebuttal testimony concerning its "MRP Enhanced Proposal," and (2) rule summarily to reject the MRP portion of Pepco's rate case application as both of these actions would be in the public interest.³ Given the importance of this matter, the fact that discovery closes on June 8th and that the parties must prepare for hearing that

¹ 15 DCMR § 105.8.

² D.C. Code § 34-804 (Lexis 2019).

³ The effect of such a ruling would leave the alternative, traditional test year portion of Pepco's rate application before the Commission. As the contested issues related to Pepco's traditional test year filing have been largely already addressed by the parties (in contrast to Pepco's MRP proposals), a hearing on the traditional test year portion will be likely be extremely limited, if it is needed at all. While Pepco's proposed Performance Incentive Mechanisms ("PIMs") are part of its MRP application, and should also be rejected summarily, to the extent the Commission is interested in continuing to pursue the development of performance incentive metrics, it could do so independent of the MRP.

is scheduled to begin in two weeks, the Movants request that the Commission exercise its authority to expedite the time for filing responses and set the response deadline to June 10, 2020.

I. EXECUTIVE SUMMARY

“The mission of the Public Service Commission of the District of Columbia is to serve the public interest”⁴ through the establishment of just, reasonable and non-discriminatory rates and services. The case at bar is unprecedented. Indeed, it is one of the most important cases presented to the Commission in decades. Pepco’s application, if granted, would fundamentally change the rate setting methodology that has governed the rate making process in the District for decades. The change would parallel the introduction of grid modernization, climate action and the greening of the economy by diminishing reliance on fossil fuels. Issues such as these justify a careful review and analysis of the record and supporting data.

Moreover, this matter is further muddled by the indisputable fact that right now, the District of Columbia public—its residents, its businesses, and its government—are straining under the weight of the devastating economic and social impacts of the COVID-19 pandemic—impacts that are expected to continue well into the future and are not known fully at this time.⁵ The impact of the COVID-19 crisis on the District of Columbia is further compounded by the recent social unrest that is connected to pervasive and institutional social and economic inequity and society’s demand for justice.⁶

⁴ Public Service Commission of the District of Columbia (“PSC” or “Commission”), Mission and Goals, <https://dcpsc.org/About-PSC/About-the-Commission/Mission-and-Goals.aspx>, last accessed June 3, 2020.

⁵ Indeed, the Mayor’s 2021 Budget notes that “The outlook is for a severe recession beginning in the quarter ending March 2020 with District real gross domestic product not regaining its prior peak until the end of 2021.” *See* Exhibit OPC (2C)-18 at 3-3.

⁶ The economic impacts of the protests have yet to be calculated.

Against this backdrop, and after over a year of OPC and the Intervenor Parties’ expending extensive ratepayer- and Intervenor-resources to review and respond to the Potomac Electric Power Company (“Pepco” or “Company”) expansive May 2019 multiyear rate plan (MRP) application (“Original MRP”),⁷ incredulously, Pepco decided to submit a brand new multiyear rate plan proposal (“New MRP Proposal” or “MRP Enhanced Proposal”) through its surrebuttal testimony. Though Pepco claims that its “MRP Enhanced Proposal [] addresses many of the concerns that have been expressed by others [] regarding the impact of the COVID-19 pandemic,”⁸ in reality the Company’s revised request to increase rates by \$135.9 million over three years harms ratepayers in at least two ways:

- **First**, Pepco’s last minute submission to the proceeding of an over 500-page and new ratemaking proposal—at a point in the schedule where OPC and the Intervenor Parties do not have a right to submit additional testimony and have a mere five days to review and issue data responses—**imperils and prejudices the parties’ abilities to present their respective cases**. Moreover, it violates the public’s due process rights to receive notice of and an opportunity to review, investigate, and respond to a new proposed rate application.⁹ While Joint Movants agree with Pepco that the COVID-19 pandemic requires the Commission take a hard look at what

⁷ *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia* (“*Formal Case No. 1156*”), Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service, filed May 30, 2019 (“*Application*”). Pepco’s initial application consisted of testimony from 18 witnesses. Pepco followed its initial application with three rounds of supplemental testimony and a round of rebuttal testimony.

⁸ Exhibit Pepco (5B) (McGowan) at 1:13-16.

⁹ D.C. Code § 34–909.

mechanisms would best protect the public interest,¹⁰ contrary to Pepco's surrebuttal claims, Pepco has failed to present cogent evidence that would preclude the Commission from adopting such relief without an MRP mechanism.¹¹ Pepco's Second MRP should struck from the record.

- **Second**, in purporting to address COVID-19 pandemic-related concerns through its New MRP Proposal, **Pepco has implicitly conceded that its Original MRP must be "enhanced" to protect customers adequately.** The resulting legal conclusion is that Pepco's Original MRP is not just and reasonable and should be rejected.

In short, neither Pepco's Original nor its Second MRP are needed, warranted, or justified.

II. BACKGROUND

On May 30, 2019, Pepco filed a 2200-page application requesting to increase rates under two different rate setting methodologies: (1) its Original MRP Proposal, and (2) a traditional cost-of-service plan.¹² Between May 30, 2019 and May 31, 2020, Pepco submitted three additional rounds of supplemental testimony and a round of rebuttal testimony on its May 30, 2019 application, and by its own admission, answered more than 2,000 data requests including subparts on its application.¹³ OPC and the Intervenor Parties have, in turn, invested extensive resources into reviewing all of the information provided by Pepco, attending and participating in multiple technical conferences and working groups related to Pepco's application, and drafting and

¹⁰ *Formal Case No. 1156*, Order No. 20273, ¶ 6 rel. Dec. 20, 2019 ("Order No. 20273").

¹¹ *See*, Exhibit Pepco (5B) (McGowan) at 18:3-22.

¹² *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia* ("Formal Case No. 1156"), Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service, filed May 30, 2019 ("Application").

¹³ Exhibit Pepco (5B) (McGowan) at 23:1-3.

submitting their own direct and rebuttal testimony.¹⁴ While each party had its own view on certain issues, collectively, every party that submitted direct testimony on Pepco's proposed MRP recommended that the Commission reject Pepco's proposed MRP because it did not meet the criteria that the Commission established in its Alternative Forms of Ratemaking Order ("AFOR Order").¹⁵

On March 11, 2020, shortly after OPC and the Intervenor Parties submitted their Direct Testimony on Pepco's Application, Mayor Bowser declared both a state of emergency and a public health emergency due to the COVID-19 pandemic.¹⁶ This initial declaration was followed by several further orders that included adjustments to the District Government's operating status,¹⁷ the closure of schools and non-essential businesses,¹⁸ a requirement that individuals stay-at-home,¹⁹ and extensions of the Public Emergency and Public Health Emergency declarations through July 24, 2020.²⁰

¹⁴ Pepco's Surrebuttal Testimony estimates 4.6 million in rate case expenses. Exhibit Pepco (C)-1 at 52.

¹⁵ See generally, Exhibit OPC (A) (Dismukes) at 4:9-16; Exhibit OPC (C) (DeCoursey) at 2:15-3:17; Exhibit AOB (A) (B. Oliver) at 21:14 to 23:11; Exhibit DCG (A) (Lane) at 5:8-11; and Exhibit GSA (A) (Goins) at 10:7 to 11:3.

¹⁶ Mayor's Order 2020-045, Declaration of Public Emergency: Coronavirus (COVID-19), issued March 11, 2020, https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/MO.DeclarationofPublicEmergency03.11.20.pdf; Mayor's Order 2020-046, Declaration of Public Health Emergency: Coronavirus (COVID-19), issued March 11, 2020, https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/MO.DeclarationofPublicHealthEmergency03.11.20.pdf.

¹⁷ Mayor Bowser Adjusts the District of Columbia Government's Operating Status (March 13, 2020), <https://coronavirus.dc.gov/release/mayor-bowser-adjusts-district-columbia-government%E2%80%99s-operatingstatus>.

¹⁸ Mayor's Order 2020-053, Closure of Non-Essential Businesses and Prohibition on Large Gatherings During Public Health Emergency for the 2019 Novel Coronavirus (COVID-19) (March 24, 2020), <https://coronavirus.dc.gov/release/mayor-bowser-orders-closure-non-essential-businesses>.

¹⁹ Mayor's Order 2020-054, Stay at Home Order (March 30, 2020), <https://coronavirus.dc.gov/release/mayorbowser-issues-stay-home-order>.

²⁰ See, e.g. Mayor's Order 2020-063, Extensions of Public Emergency and Public Health Emergency and Preparation for Washington, DC Reopening (May 13, 2020), https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayors-Order-2020-066-Extensions-of-Public-Emergency-and-Public-Health.pdf; Mayor's Order 2020-067, Phase One of Washington, DC Reopening (May 27, 2020),

After a few weeks of watching the health situation devolve and the economic impacts of the pandemic worsen, and after reviewing the Company's April 8, 2020 rebuttal testimony in which Pepco made no changes to its Application to address the current and expected future impacts of COVID-19 on the utility or on ratepayers—the Joint Movants to this Motion filed a joint emergency motion requesting the Commission suspend the procedural schedule during the pendency of the COVID-19 crisis and hold a status conference after the Mayor lifts the state of emergency and public health emergency.²¹ The Joint Emergency Motion to Suspend was supported by numerous community leaders and interest groups, including Commissioners from ANC 3G and 3B, the ANC 4C Commission, the Ward 3 Democrats, and the AARP.²² On April 20,

https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/MO2020-067.pdf.

²¹ *Formal Case No. 1156*, Joint Emergency Motion to Suspend Rate Case During the Pendency of the COVID-19 Crisis, filed April 13, 2020 (“Joint Emergency Motion to Suspend”).

²² *See, e.g. Formal Case No. 1156*, AARP DC's Support for the Joint Emergency Motion to Suspend, filed April 20, 2020 (“Once the Mayor's emergency order is lifted, AARP agrees that PEPCO needs to supplement its filing with new estimates that reflect changes in demand, changes in interest rates, changes in current, projected customer bases and loads, and other metrics that reflect the impact the crisis has on rate payers.”); *Formal Case No. 1156*, Comments of Ann Mladinov, Commissioner ANC3B01, filed May 1, 2020 (“Members of the community who are not formal parties in this case (individuals and ANCs and community organizations) have only one opportunity to speak with the Commissioners about our positions on Pepco's application, which has huge implications for all of us in the District for many years to come. The case raises a number of extremely complicated issues beyond just proposed increases in Pepco's distribution rates to recover expenses already incurred.”); *Formal Case No. 1156*, Comments of Ward 3 Dems T & E Task Force, filed May 1, 2020 (“With so many other community and public interest groups interested in and affected by this case, it would be extremely short-sighted to plunge forward with the timetable adopted last fall--before the virus that is causing the current pandemic was even known--when it is clear that the situation has changed dramatically in the District. If adjustments are not made in this proceeding, ratepayers will face significant hardship, effective public participation will be sacrificed, and the reliability and credibility of any decision in the case will be jeopardized.”); *Formal Case No. 1156*, Comments of Jerry Malitz, Commissioner ANC 3G05, submitted May 2, 2020 and filed May 4, 2020 (“I am particularly concerned for ratepayers because their situation has changed dramatically through the COVID-19 emergency. Demand for power is down, forecasts of future population growth and economic activity are down, even interest rates and returns on investment are down. Those are all part of the calculations Pepco made in developing its projections of infrastructure investment needs, revenue requirements, and proposed increases in its rates. If the timetable goes forward in this proceeding without some adjustments, effective public participation will be sacrificed, the reliability and credibility of any decision in the case will be jeopardized, and I am afraid the result will be that ratepayers will have even greater difficulty paying their utility bills.”); *Formal Case No. 1156*, Comments of Brian Turmail, Chairman and Commissioner ANC 3B05, Jackie Blumenthal, Commissioner ANC 3B02, Ann L. Mladinov, Commissioner ANC 3B01, Mary C. Young, Commissioner ANC 3 B04, and Melissa J. Lane, Commissioner ANC 3B03, dated April 30, 2020 and filed May 4, 2020 (“As the parties making the motion--OPC, OAG, AOBA and LIUNA--note in their letter, a large number of District residents and businesses are facing severe financial difficulties during the COVID-19 crisis, losing jobs, losing revenues, and finding themselves unable to pay for utilities. The District is also experiencing a drop in electricity use, and we are hearing that the local economy,

2020, Pepco filed an opposition to the Joint Emergency Motion to Suspend claiming that “the [Original] MRP is well-suited to address the issues presented in the Joint Motion, including any uncertainty.”²³

On May 20, 2020, the Commission issued Order No. 20349, denying the Joint Emergency Motion to Suspend, but in so doing the Commission made clear that “[i]f any party believes that the presentation of their case is imperiled or prejudiced, they can notify the Commission and we will address it at that time.”²⁴ The Commission further directed the “Parties [] to include in their Surrebuttal Testimony how and to what extent the pandemic-related events affect the evaluation of the Potomac Electric Power Company’s Rate Application.”²⁵ The Commission noted that “[n]ormally, this is not how surrebuttal testimony is used, but under these circumstances we will allow wider latitude.”²⁶ The Commission extended the procedural schedule to allow parties until June 1, 2020 to file Surrebuttal Testimony and to close discovery on June 8, 2020.²⁷ However, no

population growth, development and virtually every other measure of economic activity are likely to take years to get back to previous levels. That will affect the forecasts for power demand, investment needs, interest rates, rate of return, and other factors that Pepco has used for forecasting future revenue requirements and calculating the proposed rate increases in its application.”); Resolution of the ANC 4C Commission in Support for Suspension of Pepco Rate Increase Proceeding, issued May 13, 2020 and filed May 21, 2020 (supporting the Joint Motion to Suspend, on among other things, following: “WHEREAS, ANC 4C is very concerned about the magnitude of economic effects that COVID-19 is having on our residents and small businesses, including their consumption of electricity and their ability to pay utility bills, which are major considerations in the Pepco rate case and will be hard to gauge fully until the District emerges from the public health emergency; WHEREAS, the Joint Motion to Suspend notes that forecasts of population and economic growth, future demands for electricity, infrastructure needs, investment plans, as well as market rates of interest and rates of return, all are in question as a result of the COVID-19 crisis, which means that the basis for Pepco’s proposals for forward looking rate increases require re-evaluation. Going forward with Pepco’s proposed rate increases without more time to scrutinize the basis for the estimated revenue needs would have a significant detrimental effect on District ratepayers.”)

²³ *Formal Case No. 1156*, Pepco’s Response to the Joint Emergency Motion to Suspend at 3, filed April 20, 2020.

²⁴ *Formal Case No. 1156*, Order No. 20349, ¶ 11, rel. May 20, 2020 (“Order No. 20349”).

²⁵ *Id.* ¶¶ 9, 11.

²⁶ *Id.* ¶ 9.

²⁷ *Id.* ¶¶ 9, 12 & Attachment A.

amendment was made to the hearing dates which are scheduled to be held during the week of June 29, 2020.²⁸

On June 1, 2020 the Joint Movants timely filed their respective surrebuttal testimony addressing Pepco's Rebuttal Testimony and the Commission's directives in Order No. 20349. Witnesses for each of the Joint Movants independently commented on the wide-ranging and destructive impacts of the COVID-19 pandemic on the economy and labor force in the District, and the changes that the health crises have wrought on energy usage in the District.²⁹ Each of the Joint Movants further recommended that because the long-term impacts of the COVID-19 pandemic are not known at this time, and because Pepco has done no studies or analyses concerning potential impacts on its business or on its spending, that the Commission should reject Pepco's proposed MRP (i.e. the Original MRP) and decide the case based on Pepco's alternative historic test year filing.³⁰

On June 1, 2020 Pepco also filed its own surrebuttal testimony. Pepco's submission, however, went well beyond the confines of responding to OPC and the Intervenor's rebuttal testimony and the Commission's Order No. 20349 directive to address how and to what extent the pandemic-related events affect the evaluation of Pepco's rate application. Rather, Pepco "introduce[d]" in its surrebuttal testimony a brand new MRP proposal that it has termed the "Company's MRP Enhanced Proposal."³¹ Pepco claims that this new proposal "addresses many of the concerns that have been expressed by others, including the Commission, regarding the impact of the COVID-19 pandemic."³² Pepco claims that the "Company's MRP Enhanced Proposal is an integrated package with interdependent elements

²⁸ *Id.* ¶

²⁹ *See generally* Exhibit OPC (2C)(DeCourcey) at 5:3-14:5; Exhibit AOBA (3A) (B. Oliver) at 2:13-15:2; Exhibit DCG (3A)(Lane) at 5:12-9:17.

³⁰ *E.g.* Exhibit OPC (2C)(DeCourcey) at 13:6-16; Exhibit DCG (3A) (Lane) at 11:4-7; Exhibit GSA (2A) (Goins) at 19:4-8.

³¹ Exhibit Pepco (5B) (McGowan) at 1:14.

³² Exhibit Pepco (5B) (McGowan) at 1:14-16.

designed to operate as a whole” and that “[t]he individual elements are not severable as they all need to operate in unison if the MRP Enhanced Proposal is to work.”³³ Despite the fact that the MRP Enhanced Proposal is substantially different than the Original MRP Proposal, Pepco also claims that this new proposal is not “a new rate request,”³⁴ and that under the current procedural schedule the “parties have an adequate opportunity to address the MRP Enhanced Proposal.”³⁵ Pepco further asserts that “in light of the MRP Enhanced Proposal and given the present circumstances, the parties could resolve this matter without the need for evidentiary hearings.”³⁶

III. PEPKO’S SURREBUTTAL TESTIMONY CONCERNING ITS NEW MRP PROPOSAL MUST BE STRICKEN AS UNTIMELY AND PREJUDICIAL.

Pepco’s decision to submit—after a year-long proceeding and at a stage where none of the parties have a right to provide additional testimony—a new MRP proposal subverts the procedural processes that are in place to protect customers and “*imperils [and] prejudices*” the Joint Movants presentation of their own cases. While Joint Movants recognize that “striking all or part of a pleading [i]s a severe remedy,” Commission action is needed here because the striking of Pepco’s testimony concerning the MRP Enhanced Proposal is “palpably require[ed] for the administration of justice.”³⁷ There are several reasons for doing so.

³³ *Id.* at 15:19-22.

³⁴ *Id.* at 22:15-17.

³⁵ *Id.* at 35:20-22.

³⁶ *Id.* at 36:8-10.

³⁷ See, e.g. Formal Case No. 1137, *In the Matter of the Application of Washington Gas Light Company for the Authority to Increase Existing Rates and Charges for Gas Service*, Order No. 18548, ¶ 17. Accord Formal Case No. 1024, *In the Matter of the Implementation of the Triennial Review Order in the District of Columbia*, Order No. 13113, ¶¶ 9-10 rel. Feb. 24, 2004 (stating that “There are no statutory or regulatory provisions that limit the Commission in ruling on a motion to strike. Absent such limitations, rulings on motions to strike are within the sound discretion of the Commission.”)

As a preliminary matter, and despite Pepco's protest to the contrary,³⁸ the New MRP Proposal *is* new testimony and a new and different MRP. Pepco's submission of a new proposal this late in the proceeding is a clear example of sandbagging and the Company should not be rewarded for doing so. Due to the complexity and breadth of the filing, Joint Applicants have not had the opportunity to review fully the New MRP Proposal, but on a facial review, a few of the major differences include that:

- Pepco's Original MRP Proposal proposed to determine plant additions and O&M expenses on the basis of forecasted costs, but under Pepco's New MRP Proposal, Pepco plans to determine its plant additions and O&M expense by escalating actual levels of each category by 2.5% annually.³⁹
- Pepco proposes to modify the Original MRP Annual Reconciliation Filing proposal to now allow the Company to file in its next rate case a "consolidated reconciliation" of all costs in the MRP Enhanced Proposal term (2020-2022) available through the end of the historic test year used in the new rate case" and a "rider mechanism to adjust customer rates for any over- or under-collections ultimately approved by the Commission."⁴⁰ Pepco claims that it relied on a Maryland PSC process, but that process is being tested as a pilot program and was neither developed nor litigated in this proceeding;
- Further, Pepco now proposes to conduct the Second MRP reconciliations against an "updated detailed capital additions (by project) and O&M expense projections

³⁸ Exhibit Pepco (5B) (McGowan) at 22:15-17.

³⁹ Compare Exhibit Pepco (B) (McGowan) at 20:17-19 with Exhibit Pepco (5B) (McGowan) at 23:15-17.

⁴⁰ Exhibit Pepco (6C) at 16:1-17:1.

(by FERC account) for 2021-2022” which Pepco plans to file “in February 2021, approximately 90-120 days after a final decision in this proceeding.”⁴¹ As such neither the parties nor the Commission will know what the baseline expenses are to be until after the proceeding closes.

- Pepco proposes a number of new enhanced customer benefits which have not been discussed in this proceeding before and will apparently incur Operation and Maintenance (“O&M”) costs, but no explanation is provided as to the level of the associated costs needed to run the programs.⁴²

Pepco claims that its New MRP Proposal responds to the parties’ concerns.⁴³ But the parties raised their concerns about Pepco’s original MRP in Direct Testimony that was filed on March 6, 2020. The correct course to respond to those concerns would have been to do so through Rebuttal Testimony so that parties could review and respond accordingly to these changes through their own surrebuttal testimony. Pepco did not do so.⁴⁴ Rather, Pepco now claims that “[g]iven the timing of the COVID-19 pandemic, the schedule in this proceeding and the issuance of Order No. 20349, surrebuttal testimony was the first (and only) reasonable opportunity that Pepco had to . . . present the MRP Enhanced Proposal.” But Pepco’s claim is incorrect.

At the time that Pepco submitted its rebuttal testimony on April 8, 2020, the Mayor’s emergency declarations had been in place for four weeks; but Pepco presented no plans to change

⁴¹ Exhibit Pepco (6C) at 17:17-19.

⁴² Exhibit Pepco (5B) (McGowan) at 31:9-15.

⁴³ Exhibit Pepco (5B) (McGowan) at 15:8-10.

⁴⁴ Indeed, the rebuttal stage was the appropriate time for Pepco to address/concede to any arguments that OPC or the intervenor parties make to ratemaking adjustments so that the parties could narrow the issues that they needed to address in Surrebuttal. By waiting until Surrebuttal Testimony to address these ratemaking changes, Pepco deprived the parties of an opportunity to appropriately respond and increased the parties’ costs as it necessitated addressing issues that Pepco apparently is conceding.

its MRP rate design or to offer consumers any rate relief. Pepco also had an opportunity to inform the PSC and the parties that it was considering revising its MRP proposal to address the impacts of COVID-19 in response to the Joint Emergency Motion to Suspend the schedule, but, again, it did not do so. Instead, Pepco claimed in both its rebuttal testimony and in response to the Joint Emergency Motion to Suspend that its original Application sufficiently addressed the impacts of the COVID-19 pandemic. Joint Movants submitted their surrebuttal testimony based on Pepco's declarations that the Company had no plans to change its Original MRP design.⁴⁵

While Pepco claims that it is submitting its New MRP Proposal in response to Order No. 20349, the plain language of Commission Order No. 20349 did not contemplate such a filing. In Order No. 20349, the Commission asked the parties to explain "how and to what extent the pandemic-related events affect the evaluation of the Potomac Electric Power Company's Rate Application,"⁴⁶ the Order did not ask Pepco to submit a completely new rate proposal that should be the subject of a new proceeding. The public has a due process rights to receive notice of and an opportunity to review, investigate, and respond to a new proposed rate application;⁴⁷ Pepco's submission of a Second MRP proposal through surrebuttal testimony deprives the public of its due process rights.

⁴⁵ See, e.g. Exhibit Pepco (4B) (McGowan) at 8:4-9:3, 18:13-19 ("Pepco's MRP is based on the Company's projections of capital investments, 14 O&M costs, and other rate base and income items for the years 2020 through 2022. 15 Rates would be adjusted following the Commission's order in this proceeding and 16 then on January 1, 2021 and January 1, 2022."); see also *Formal Case No. 1156*, Pepco Response to Joint Motion at 4 ("The Joint Movants' speculation about the economy's condition once the time the state of emergency declaration is lifted is not a basis on which to suspend the procedural schedule in this critical proceeding. More significantly, the issues raised by the Joint Movants can all be effectively and efficiently addressed within the context of the MRP.")

⁴⁶ Indeed, in *Formal Case No. 1119*, the Commission encouraged OPC and AOBA "to file a motion to strike any testimony that they believe is outside of the scope" of the Commission's order. *Formal Case No. 1119, N The Matter Of The Joint Application Of Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Exelon Energy Delivery Company, LLC, And New Special Purpose Entity, LLC For Authorization And Approval Of Proposed Merger Transaction So*

⁴⁷ D.C. Code § 34-909.

While Pepco claims that the parties have a sufficient opportunity to respond to its MRP Enhanced Proposal because “[t]he Commission by Order No. 20349 provided the parties an opportunity to address the impact of COVID-19 on the Company’s MRP in surrebuttal testimony and also provided additional time to conduct discovery through June 8, 2020,”⁴⁸ this claim is utterly without merit. Per Pepco’s own admission, the parties have invested significant resources into reviewing Pepco’s application,⁴⁹ but these resources were invested into reviewing the *Original Proposal*. The parties have had NO opportunity to date to investigate the revised MRP proposal. As the Commission has previously held, it will not countenance when “Pepco seek[s] to introduce new testimony that will enhance its case without the data’s undergoing appropriate scrutiny.”⁵⁰ The design of the multiyear rate plan “is an important component [of this] rate proceeding[], requiring careful and fair consideration and weighing of the evidence. Fairness requires that the parties be given an opportunity to examine the new data and to challenge it, if they so desire.”⁵¹

But the current procedural schedule does not “afford[the parties’] that opportunity.”⁵² Joint Movants have five business days to issue discovery requests on Pepco’s 500 page revised MRP application while simultaneously preparing for hearing and pre-hearing status conferences. Moreover, neither the Commission staff nor Joint Movants have the resources, time, nor sufficient information from the Company to investigate Pepco’s competing MRPs. The parties have already

⁴⁸ Exhibit Pepco (5B) (McGowan) at 35:22-24.

⁴⁹ See, e.g. Pepco (5B) (McGowan) at 12:6-8 (“Significant resources have been invested by all of the parties and the Commission to fully vet the issues.”)

⁵⁰ See Formal Case No. 1076, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges For Electric Distribution Service*, Order No. 1710, ¶ 68, n. 148 (granting AOBA’s request to exclude certain cross examination exhibits because Pepco attempted to introduce new testimony at hearing.)

⁵¹ *Id.*

⁵² *Id.*

spent considerable expense in reviewing Pepco's Original Proposal, much of which is collected from ratepayers.

The Commission has made plain numerous times that evaluating new ratemaking approaches would require additional time.⁵³ Pepco's presentation of a moving target at the end of the proceeding gives the Joint Movants no time to review the proposal, puts Joint Movants at a competitive and financial hardship, and prejudices their due process rights.⁵⁴ Worse, Pepco appears to believe that with Surrebuttal Testimony no hearing is needed.⁵⁵ Pepco's Surrebuttal Testimony does not "substantially narrow the issues that the Commission must consider;"⁵⁶ rather, it adds a slew of new issues that none of the parties will have time to effectively process.

The Joint Movants do not dispute that customers in the District of Columbia need relief. The economic impacts of the COVID-19 pandemic, compounded with the recent social unrest, has taken its toll on District of Columbia residents and businesses. Compared to Pepco, who has received authorization to track its COVID-related expenses,⁵⁷ customers do not yet have any long-term protections. In its surrebuttal testimony, Pepco appears to claim that customer relief is only

⁵³ *Formal Case No. 1139, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service (Formal Case No. 1139)*, Order No. 18846 at ¶ 594, rel. July 25, 2017; *see also Formal Case No. 1156*, Order No. 20204 at ¶ 27 (noting that the Company's initial eleven month consolidated schedule was "overly abbreviated.")

⁵⁴ Several of the community comments submitted in support of the Motion to Suspend noted how the COVID-19 pandemic and associated stay-at-home orders have made it difficult for ANC's and other community groups to review and respond to Pepco's testimony. *See n. 54, supra*. These complications will be compounded if the groups also have to review a new application, especially one for which no official notice has been provided.

⁵⁵ Exhibit Pepco (5B) (McGowan) at 36:9-11 ("Pepco would hope that, in light of the MRP Enhanced Proposal and given the present circumstances, the parties could resolve this matter without the need for evidentiary hearings.")

⁵⁶ *Id.* The parties note that while they have submitted data requests on Pepco's surrebuttal testimony, they did so based on a very rapid review of the new proposal. The five-day time period remaining in the discovery period falls woefully short of proper process on a new ratemaking design.

⁵⁷ *See* GD2020-01, *In the Matter of the Establishment of Regulatory Assets for Covid-19 Related Incremental Costs*, Order No. 20329, ¶ 1, rel. April 15, 2020.

available through its New MRP Proposal, and that the components are indivisible of one another.⁵⁸

But this is wrong. The central component of Pepco's New MRP Proposal is a deferral of rate increases for consumers. The Commission could achieve the same result absent the adoption of an MRP by directing a rate deferral as part of its rate order on the traditional rate case. Indeed, Pepco's Response to the Joint Emergency Motion to Suspend recognizes this fact. In that Response, the Company specifically acknowledges that:

- “[T]he Commission can take steps to mitigate, until after the COVID-19 crisis has ended, the impact of any rate adjustments to ensure that customers’ best interests are protected.” (at 8);
- “Further, the Commission has significant discretion and options available in approving the amount and timing of rates that balance the needs of all the parties.” (at 9);
- “The Commission reserves the authority to evaluate all concerns expressed by the Joint Movants to ensure that any adjustments are just and reasonable and determine the appropriate timing.” (at 11); and
- “The Commission and the parties can also evaluate the potential cost impact to customers and address various possible mechanisms for rate deferrals or other means of mitigating the impact of rate adjustments.” (at 12)

As was noted in the Joint Emergency Motion to Suspend, many commissions, either on their own or at the request of the utility, have adopted rate adjustments to address COVID-19

⁵⁸ Exhibit Pepco (5B) (McGowan)

pandemic impacts.⁵⁹ And since that time, even more Commissions have followed suit.⁶⁰ An MRP is not needed to provide this flexibility.⁶¹

“Procedural due process outweighs any probative value the testimony might possess,”⁶² and therefore, Pepco’s new and “enhanced” MRP testimony should be struck.⁶³

⁵⁹ See, e.g. Gheorghiu, Julia, *Utilities move to delay rate case proceedings during pandemic*, UtilityDive, April 8, 2020; New York Public Service Commission, PSC Chair Approves Orders Suspending Rate Increases in Response to COVID-19, issued March 25, 2020, [http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/EFCBF3CC9E94E9268525853500649D06/\\$File/pr20033.pdf?OpenElement](http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/EFCBF3CC9E94E9268525853500649D06/$File/pr20033.pdf?OpenElement); State of North Carolina Utilities Commission, Docket No. E-7, Sub 1214, *In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina*, issued March 16, 2020, <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=a34da862-5ffa-4f6b-835f-064841fabe2b>; Public Service Commission of South Carolina, Docket No. 2019-281-S, *Application of Palmetto Utilities, Incorporated for Adjustment (Increase) of Rates and Charges, Terms and Conditions, for Sewer Service Provided to Customers in Its Richland and Kershaw County Service Areas*, and Docket No. 2020-106-A, *Actions in Response to COVID-19*, Order No. 2020-259, <https://dms.psc.sc.gov/Attachments/Matter/9831695e-3bb4-4483-ba72-abb9e171f245>; Palmetto Utilities, Incorporated, Motion for Stay of All Proceedings, filed March 19, 2020, <https://dms.psc.sc.gov/Attachments/Matter/fa550c8c-26d0-4306-bddf-b9e3e7e0ec74>.

⁶⁰ See, e.g. National Association of Regulatory Utility Commissioners, State Response Tracker, accessible at <https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/>

⁶¹ As part of its suite of rate relief, Pepco also proposes to accelerate timing of TCJA benefits. This is the customers’ own money and not a “benefit” of an MRP. Moreover, the amortization schedule of the non-protected property EDIT benefits was established through a settlement agreement. The Commission has already told Pepco once in this proceeding that it cannot change that settlement agreement unilaterally (*see* Formal Case Nos. 1150, 1151, and 1156, Order No. 20293, ¶ 23, rel. February 5, 2020 (“Order No. 20293”)) yet, Pepco proposes to do so again through its surrebuttal testimony. The Joint Movants, all of whom were parties to the Settlement Agreement, do not take a position in this motion on accelerating the amortization of non-protected EDIT benefits, but raise this issue to make clear that such a change is not dependent on an MRP and such relief could be implemented through agreement of the parties to the settlement agreement. Similarly, in its review of the historic test year portion of the application, the Commission could choose to “accelerate[] the amortization of the projected state income tax benefit attributable to the recognition of an incremental increase to the Maryland ‘Additional Subtraction Modification’ to provide those benefits to customers in their entirety by December 31, 2022” in order to offset any rate increase that may result from a decision in this case.

Pepco also lists a suite of purported “important customer assistance programs” including modifications to Pepco’s arrearage management program and adjustments to installment plans. *See, generally*, Exhibit Pepco (5B) (McGowan) at 25:14-27:7. But again none of these programs are tied to the adoption of an MRP. Indeed, the Commission recently opened Formal Case No. 1164 to review whether they need to investigate any customer assistance programs in light of COVID-19. All of the programs listed that Pepco proposes here could be reviewed in Formal Case No. 1164.

⁶² Order No. 1710, ¶ 68, n. 148.

⁶³ This includes the majority of Mr. McGowan, Mr. Wolverton, and Mr. Blazunas’s surrebuttal testimony.

IV. THE COMMISSION SHOULD SUMMARILY RULE THAT AS A MATTER OF LAW PEPCO'S ORIGINAL MRP PROPOSAL WOULD HARM RATEPAYERS AND THEREFORE SHOULD BE REJECTED.

While Pepco's MRP Enhanced Proposal is a new proposal that is procedurally inappropriate and must be stricken, the Company's submission of this testimony does establish clearly it makes clear that Pepco's Original (the only MRP properly before the Commission) fails to satisfy the Commission's express requirements for approval of an MRP, especially given the economic impacts of COVID-19 on both the Company and consumers. Joint Movants submit that the proper evidentiary record before the Commission is sufficiently developed to permit the Commission to make an informed decision on this issue.⁶⁴ Because Original Pepco's MRP does not meet the legal standard for approval, the public interest requires that Pepco's Original MRP Proposal be summarily rejected and the Commission should decide this proceeding on the traditional cost-of-service portion of the Company's application.

The Commission has held that summary judgment is in order where the matters at issue involve "no genuine issues of material fact" and "the moving party is entitled to judgment as a matter of law."⁶⁵ The Commission has explained:⁶⁶

Materiality is determined by the governing law or tariff and only factual disputes that might affect the outcome under the governing law are considered relevant. Summary judgment is not appropriate if there is a "genuine" dispute of material fact, that is, if a reasonable person could, based on the evidence, rule in favor of the party opposing summary judgment. However, a person opposing

⁶⁴ *Formal Case Nos. 1156, 1150, and 1151*, Order No. 20293 at ¶¶ 4-5, 9.

⁶⁵ *Formal Case No. 1063, In the Matter of the Investigation into Verizon Washington, DC Inc.'s 2007 Earnings* ("Formal Case No. 1063"), Order No. 15046, ¶ 8 (August 25, 2008); *Formal Case No. 1126, In the Matter of the Office of People's Counsel's Complaint Against Washington Gas Light Company Regarding the Unlawful Compensation of Competitive Service Providers in Violation of its Rate Schedule No. 5* ("Formal Case No. 1126"), Order No. 18008, ¶ 37 rel. Oct. 27, 2015 (referencing D.C. Rules of Civil Procedure 56).

⁶⁶ *Id.*, ¶ 37.

summary judgment must show that there is a genuine issue for trial not simply rest on a general denial in a pleading.

In Order No. 20273, the PSC established ten “overarching framework principles” that it would consider in examining a utility’s alternative form of ratemaking (“AFOR”) application such as Pepco’s proposed MRP.⁶⁷ The Commission further made clear that, “[a]s the proponent of a rate increase, Pepco has the burden of proof to demonstrate that its MRP/PIM proposal can be approved and adopted at this time.”⁶⁸ Taking the “facts” in the light most favorable to the

⁶⁷ *Formal Case No. 1156*, Order No. 20273, ¶ 6. The ten criteria are:

- (1) The AFOR: (A) protects consumers; (B) ensures the quality, availability, and reliability of regulated utility services; and (C) is in the interest of the public, including shareholders of the utility;
- (2) The AFOR advances the public safety, the economy of the District, the conservation of natural resources, and the preservation of environmental quality, including effects on global climate change and the District’s public climate commitments;
- (3) The AFOR’s ratemaking mechanisms advance or otherwise align with the District’s public policy goals;
- (4) The AFOR identifies baseline revenue and cost information, and clearly explains what process or mechanism the utility used to project revenues and expenses;
- (5) The AFOR provides benefits that are measurable, quantitative, and qualitative to customers, as opposed to solely focusing on the AFORs benefits to the utility;
- (6) The AFOR impacts the operational incentives of the utility with respect to maintaining a high level of customer service, while fostering productivity and cost control; maintains the financial strength, credit ratings, and financial flexibility of the utility; and helps ensure a consistently high level of energy delivery system reliability, while promoting safe and reliable operations over time;
- (7) The revenue requirements will be allocated across customer classes over time, and how rate design issues within customer classes will be handled over time, in a just and reasonable manner;
- (8) The risk of over-earning a utility’s authorized return will be mitigated during the duration of AFOR for the benefit of the customers, while also preserving the Commission’s ability to conduct cost prudence reviews as needed;
- (9) The AFOR provides an appropriate level of transparency and reporting into the utility’s operational and capital plans ensuring that the plans will be maintained during the duration of the AFOR; and
- (10) The AFOR avoids any unreasonable shifting of risk to utility customers.

⁶⁸ *Id.* ¶ 7.

Company, and applying those facts to the requirements set forth in Commission Order No. 20273, the Commission can only conclude that at this time, Pepco's Original MRP does not comply with the express requirements for an alternative form of regulation and therefore, must be rejected.

No party disputes that the COVID-19 pandemic has had deleterious social and economic impacts on the District. Indeed, in its response to the Joint Emergency Motion, Pepco explains that "[t]he Company is very sensitive to the current COVID-19 pandemic and its intense impact on our customers and communities."⁶⁹ In its surrebuttal testimony, the Company seemingly agrees stating that, "Pepco further recognizes that the economic recovery from the public health emergency is not likely to happen quickly, thus, it is also important to provide certainty to customers for a period of time."⁷⁰

No party disputes that electric sales have fallen in the District due to the COVID-19 pandemic.⁷¹ Further, no party disputes that:

- there is "uncertainty [as to] when the public health emergency will end and how long the impact from the COVID-19 pandemic conditions will continue."⁷²
- notwithstanding that uncertainty, Pepco has not yet conducted any analysis on the longer-term impacts that the COVID-19 pandemic will have on the District of

⁶⁹ *Formal Case No. 1156*, Pepco Response to Joint Emergency Motion at 2; *see also* Exhibit AOB (3A) (B. Oliver), at 2:13-6:13; Exhibit OPC (2C)(DeCoursey) at 5:3-14:5; Exhibit DCG (3A)(Lane) at 5:12-9:17.

⁷⁰ *Id.* at 4:2-5. The negative economic impacts of the COVID-19 pandemic on a number of District of Columbia businesses have been further exacerbated by the recent rioting and looting that occurred during the social justice protests advocating for equality at the hands of police.

⁷¹ *See* Exhibit Pepco (5B) (McGowan) at 6:14-18 (declaring, without reference that "For 2020, based on four months of actual and eight months of estimated data, [the Company] anticipate[s] overall 2020 calendar sales in the District of Columbia to be reduced by approximately 3%, as compared to 2019."); *Compare* Exhibit AOB (3A) (B. Oliver) at 3:18- 6:13, 13:18-15:2; Exhibit AOB (3A) (B. Oliver Workpapers), Q1 2020 Exelon Earnings Call Presentation Slides, page 11; Exhibit OPC (C) (DeCoursey) at 7:9-15.

⁷² Exhibit Pepco (5B) (McGowan) at 6:23-7:1; *see also, id.* at 19:2-3 where witness McGowan describes the state of the District of Columbia's economic environment as likely to be "shifting . . . during the next few years."

Columbia's ratepayers, on distribution load, or on the utility's capital investment plans. For example, on page 7 of his surrebuttal testimony (Exhibit Pepco (5B) at 7:5-10), Company witness McGowan states that :

Analysis of the longer-term impact of the COVID-19 pandemic in 2021 and beyond is expected to be developed over the summer and the fall. This will allow the Company time to gather several months of actual data that is reflective of the onset of the COVID-19 pandemic and the Mayor's designation of a public health emergency as well as to assess conditions once the public health emergency is lifted and "non-essential" businesses in the District of Columbia are allowed to reopen and re-commence operation.

- Pepco has not yet identified which "projects will be eliminated or deferred until future periods."⁷³ Rather, Pepco states "[t]he projects will be identified in the future once there is more certainty around the impact of the COVID-19 pandemic and its effect on the Company's construction program;"⁷⁴ and
- "Since the public health emergency is occurring in real time and will have impacts on the economy and customers, it is important and timely to address the impact of the COVID-19 pandemic in this proceeding."⁷⁵

In its surrebuttal testimony, the Company claims that it "stands by" its Original MRP Proposal, but it nevertheless concedes that "the COVID-19 pandemic-related events [should] affect the Commission's evaluation of the Pepco's Original MRP proposal."⁷⁶ Pepco states that

⁷³ See, e.g. Exhibit Pepco (5B) (McGowan) at 24:15-17.

⁷⁴ Exhibit Pepco (5B) (McGowan) at 24:17-19.

⁷⁵ Exhibit Pepco (5B) (McGowan) at 3:16-18.

⁷⁶ Exhibit Pepco (5B) (McGowan) at 7:11-13.

the reason it “worked to design and propose the MRP Enhanced Proposal [was] to address the emergent and serious circumstances of the COVID-19 pandemic.”⁷⁷ It further states that the New MRP Proposal will give “customers more certainty.”⁷⁸

The New MRP Proposal voids the Original MRP Proposal. The radical changes that Pepco proposes in its New MRP Proposal vis-à-vis its Original MRP Proposal, are in essence an implicit concession that the Original MRP Proposal does not adequately protect customers in light of the impacts of the COVID-19 pandemic on the District of Columbia. The protection of customers is the first, and one of the most important, prongs of the Commission’s AFOR evaluation framework. The lack of adequate protections renders Pepco’s Original MRP Proposal unjust and unreasonable. Moreover, one of the Company’s primary reasons for proposing an MRP was that it would reduce the number of rate cases. But based on the surrebuttal testimony, the Company plans to file a new rate case in 2022.⁷⁹ Such a plan does not conserve any expenses vis-à-vis a traditional rate case. Rather than continuing to expend resources on an evaluation of this proposal, the Commission should rule summarily to reject the Original MRP in light of the COVID-19 pandemic impacts and should resolve this rate proceeding based on the Company’s alternative, historic cost-of-service based, rate request.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, the Joint Movants notify the Commission that Pepco’s surrebuttal presentation has imperiled and prejudiced the Joint Movants presentation of its cases in violation of their right to due process. Pepco is using the veneer of “customer relief”

⁷⁷ Exhibit Pepco (5B) (McGowan) at 12:19-21.

⁷⁸ *Id.* at 8:2-4.

⁷⁹ Exhibit Pepco (6C) (Wolverton) at 16, n. 34.

and “rapid resolution” to influence a decision on a rate plan that seeks a minimum of \$135.9 million over three years without providing the parties with adequate due process to examine the reasonableness of the plan.

Pepco’s Original MRP Proposal should be summarily rejected on the basis that the record establishes that this proposal fails to satisfy the express requirements of the Commission for adoption of an MRP. Consequently, Joint Movants request that the Commission: (1) strike the portions of Pepco’s Surrebuttal Testimony that introduce and discuss the Company’s New “MRP Enhanced Proposal”; and (2) grant summary judgment rejecting the portion of the Company’s application proposing the adoption of Pepco Original Proposal. Joint Movants further request that the Commission provide any and all additional relief deemed necessary.

Respectfully submitted,

/s/ Sandra Mattavous-Frye

Sandra Mattavous-Frye
People's Counsel
D.C. Bar No. 375833

Karen R. Sistrunk
Deputy People's Counsel
D.C. Bar No. 390153

Laurence C. Daniels
Director of Litigation
D.C. Bar No. 471025

Anjali G. Patel
Senior Assistant People's Counsel
D.C. Bar No. 1000826
apatel@opc-dc.gov

Adrienne Mouton-Henderson
Assistant People's Counsel
D.C. Bar No. 1046753

**OFFICE OF THE PEOPLE'S COUNSEL
FOR THE DISTRICT OF COLUMBIA**
1133 Fifteenth Street, NW, Suite 500
Washington, DC 20005

**The Apartment and Office Building
Association of Metropolitan Washington**

Frann G. Francis

Frann G. Francis, Esq.
DC Bar Number 210385
1025 Connecticut Ave, N.W., Suite 1005
Washington, DC 20036
(202) 296-3390

/s/ Brian J. Petruska

Brian J. Petruska
General Counsel
Laborers' International Union of North
America (LIUNA) Mid-Atlantic Region
11951 Freedom Drive, Suite 310
Reston Virginia, 20190
bpetruska@maliuna.org

BALTIMORE WASHINGTON
CONSTRUCTION AND PUBLIC
EMPLOYEES LABORERS' DISTRICT
COUNCIL (BWLDC)

June 8, 2020

CERTIFICATE OF SERVICE

Formal Case No. 1156, *In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia*

I certify that on June 8, 2020 a copy of the *Joint Emergency Motion to Strike Pepco's Surrebuttal Testimony Pertaining to the Company's New MRP Proposal and for Summary Judgment on Pepco's Multiyear Rate Plan ("MRP") Application* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

Brinda Westbrook-Sedgwick
Commission Secretary
Christopher Lipscombe
General Counsel
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA
1325 G Street, NW, Suite 800
Washington, DC 20005
bwestbrook@psc.dc.gov
CLipscombe@psc.dc.gov

Frann G. Francis, Esq.*
Senior Vice President and General Counsel
Nicola Y. Whiteman
Excetral K. Caldwell
APARTMENT AND OFFICE BUILDING
ASSOCIATION OF METROPOLITAN
WASHINGTON
1025 Connecticut Avenue, N.W.
Suite 1005
Washington, D.C. 20036
(202) 296-3390
ffrancis@aoba-metro.org

Kim Hassan
Associate General Counsel
Andrea H. Harper
Assistant General Counsel
Dennis P. Jamouneau
Assistant General Counsel
Brian Doherty,
Manager, Regulatory Affairs
POTOMAC ELECTRIC POWER
COMPANY
701 Ninth Street, N.W.
Washington, DC 20068
Kim.hassan@exeloncorp.com
ahharper@pepcoholdings.com
djamouneau@pepcoholdings.com
bdoherty@pepcoholdings.com

Michael R. Engleman, Esq.*
Robert C. Fallon, Esq.
ENGLEMAN FALLON, PLLC
Counsel on behalf of D.C. Water and Sewer
Authority
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 464-1332
Meena Gowda
Deputy General Counsel
DISTRICT OF COLUMBIA WATER AND
SEWER AUTHORITY
5000 Overlook Avenue, S.W.
Washington, D.C. 20032
mengleman@efenergylaw.com
rfallon@efenergylaw.com
Meena.gowda@dcwater.com

*Designated for Service

Brian R. Caldwell*
Assistant Attorney General
Public Integrity Section
OFFICE OF THE ATTORNEY GENERAL,
DISTRICT OF COLUMBIA
GOVERNMENT
441 4th Street, N.W., Suite 600-S
Washington, D.C. 20001
Brian.caldwell@dc.gov

Karen M. Hardwick
Senior Vice President and General Counsel
Cathy Thurston-Seignious
Supervisor, Administrative and Associate
General Counsel
WASHINGTON GAS LIGHT COMPANY
1000 Maine Avenue, SW, Suite 700
Washington, DC 20024
(202) 624-6105
cthurston-seignious@washgas.com

Kristi Singleton*
Assistant General Counsel
Michael Converse
Assistant General Counsel
Lariza Sepulveda
Economist
THE U.S. GENERAL SERVICES
ADMINISTRATION
1800 F Street NW, #2016
Washington DC, 20405
(202) 969-7136
Dennis Goins
POTOMAC MANAGEMENT GROUP
P.O. Box 30225
Alexandria, Virginia 2310-8225
Kristi.Singleton@gsa.gov
michael.converse@gsa.gov
Lariza.Sepulveda@gsa.gov
dgoinspmg@verizon.net

Brian R. Greene
Eric J. Wallace
GREENEHURLOCKER, PLC
Counsel for Maryland DC Virginia Solar
Energy Industries Association
1807 Libbie Avenue, Suite 102
Richmond VA 23226
BGreene@GreeneHurlocker.com
EWallace@GreeneHurlocker.com

Lucas R. Aubrey*
Logan J. Place
Bart Sheard <sheard@shermardunn.com>
SHERMAN DUNN, P.C.
Counsel for International Brotherhood of
Electrical Workers, Local No. 1900
900 7th Street, N.W., Suite 1000
Washington, D.C. 20001
aubrey@shermardunn.com
place@shermardunn.com
sheard@shermardunn.com
brian@shermardunn.com

Brian J. Petruska
General Counsel
Gabriele Ulbig
Associate Counsel
Laborers' International Union of North
America (LIUNA) Mid-Atlantic Region
11951 Freedom Drive, Suite 310
Reston Virginia, 20190
May Va Lor
Corporate Affairs Department
LIUNA
905 16th Street, NW
Washington, DC 20006
BALTIMORE WASHINGTON
CONSTRUCTION AND PUBLIC
EMPLOYEES LABORERS' DISTRICT
COUNCIL (BWLDC)
bpetruska@maliuna.org
gulbig@maliuna.org
mlor@liuna.org

James Birkelund
SMALL BUSINESS UTILITY
ADVOCATES
548 Market St., Suite 11200
San Francisco, CA 94104
Soyun Park
SMALL BUSINESS UTILITY
ADVOCATES C/O MICRO BUSINESS
NETWORK
777 6th Street NW
Washington, DC 20001
james@utilityadvocates.org
microbiznetwork@gmail.com

/s/Anjali G. Patel
Anjali G. Patel
Senior Assistant People's Counsel