

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**

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**Public Advocacy Division
Social Justice Section**

E-Docketed

December 9, 2020

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

Re: 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.

Dear Ms. Westbrook-Sedgwick:

On behalf of the District of Columbia Government (DCG), I enclose for filing the Initial Post-Hearing Brief of the District of Columbia Government in the above-captioned proceeding. If you have any questions regarding this filing, please contact the undersigned.

Sincerely,

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**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

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

**INITIAL POST-HEARING BRIEF
OF THE DISTRICT OF COLUMBIA GOVERNMENT**

Pursuant to the Public Service Commission of the District of Columbia’s (Commission or PSC) Public Notice Extending Briefing Schedule,¹ the District of Columbia Government (DCG or the District), through its Office of the Attorney General, hereby submits its Initial Post-Hearing Brief in the above-captioned proceeding.

I. BACKGROUND

On June 25, 2017, the Commission issued its Final Order on an application by the Potomac Electric Power Company (Pepco) to increase rates and charges for electric distribution service in the District of Columbia.² In that Final Order, the Commission granted Pepco’s request to include in a future rate case, a multi-year rate proposal in addition to a traditional test year filing.³ In so granting Pepco’s request, the Commission stated “[o]ur focus in considering any alternative mechanism will include a review of the benefits that accrue to customers as opposed to solely focusing on the utility.”⁴

¹ Formal Case No. 1156, *rel.* November 12, 2020.

² Formal Case No. 1139, *In the Matter of the Application of the Potomac Electric Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 18846.

³ *Id.* at ¶ 594.

⁴ *Id.*

Nearly two years and two rate cases later, on May 30, 2019, Pepco filed the instant rate Application under two different rate setting methodologies pursuant to the Commission's directives in the Formal Case No. 1139, Order 11846. Pepco filed a Multiyear Rate Plan (MRP) incorporating Performance Incentive Mechanisms (PIMs) and a traditional cost of service rate plan. Pepco's preferred approach is through the implementation of a MRP and Performance Based Rates (PBR) proposal for its electric distribution rates for the years 2020 through 2022. The Application requests authority to increase existing distribution service rates and charges by \$162 million through the 3-year term of the MRP, incorporating rate adjustments, and annual reconciliations, for each of the three years from 2020 to 2022. If granted in full, the increases would amount to \$85 million for 2020, \$40 million for 2021, and \$37 million for 2022. Pepco requests authority to a Return on Equity of 10.3% under its MRP Application. Pepco represents that its Application would translate to an increase in electric bills of approximately \$8.57 in 2020, \$3.69 in 2021, and \$3.19 in 2022 for a typical residential customer who uses 692 kWh per month.

The second method is the traditional cost-of-service method where rates are based on Pepco's costs and revenues during a test-year. Should the Commission reject Pepco's MRP, the Application requests authority to increase existing distribution rates by \$88.6 million using the traditional cost-of-service method based on test period ending June 30, 2019. Pepco requests authority to earn a ROE of 10.3% under its traditional Application in the event its MRP Application is denied. Pepco also represents that its traditional Application would translate to an increase in distribution rates of approximately \$9.55 for a typical residential customer who uses 692 kWh per month.

After opening this proceeding by Public Notice on June 13, 2019, the Commission issued an initial procedural schedule which called for the holding of a two-day technical conference in the September 2019, entitled “Framework for Evaluating Alternative Ratemaking Proposals.”⁵ The technical conference was open to the public, interested stakeholders, in addition to the Parties. After the Technical Conference, the Parties and interested persons were invited to file Comments on their views about various forms of alternative ratemaking. On November 1, 2019, Parties and interested person, including the District, filed their Comments which were incorporated into a Policy Order issued by the Commission on Alternative Forms of Ratemaking (AFOR Order) issued on December 20, 2020.⁶

The AFOR Order established the Commission’s overarching framework principles for evaluating a utility proposed AFOR as follows:

- (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;

⁵ F.C. 1156, Order 20204, at A-1 (*rel.* August 12, 2019).

⁶ Order No. 20273.

- (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.⁷

Importantly, just like the Commission stated in its Final Order in Formal Case No. 1139, the Commission reiterated in its AFOR Order that, “[b]ecause this is the first time that the Commission has considered a request to adopt an alternative form of regulation, we will focus our review on what if any, risks or benefits accrue to customers as compared to the utility.”⁸

Following issuance of the AFOR Order, multiple rounds of testimony were worked into the procedural schedule over the late Winter through late Spring of 2020. In the midst of these rounds of testimonies being filed, the COVID-19 pandemic struck the District of Columbia and the rest of the country hard. The Parties were directed to address in their Surrebuttal testimonies, due June 1, 2020, the impact of the COVID-19 pandemic on Pepco’s MRP. Rather than strictly address this issue, Pepco filed a substantially revised MRP proposal on June 1, 2020, which it dubbed an “Enhanced MRP.” In Order No. 20376, the Commission stated that both the original MRP and the enhanced MRP would be subject to consideration in this proceeding.⁹

I. PEPCO’S ORIGINAL MRP PROPOSAL

The MRP component of Pepco’s original proposal would set revenues for a three-year term for the years 2020, 2021, and 2022. Pepco uses calendar year 2018 as the historical test year and its 2019 budget as the bridge year. Pepco proposes three rate adjustments for each year of the MRP term based on the Company’s projected capital investments and operating and maintenance costs for years 2020-2022. The MRP also includes a reconciliation mechanism with a deadband of +/- 25 basis points around the target proposed Return On Equity (ROE) of 10.3% for each

⁷ *Id.* at ¶ 94. *See also*, ¶ 103 where the AFOR Order establishes broad general guidelines for the development of PIMs.

⁸ *Id.* at ¶ 83.

⁹ ¶ 10, rel. July 8, 2020.

MRP term year. If Pepco's earned ROE exceeds the upper bound of the deadband, then 75% of the overearnings is automatically returned to customers. If Pepco earns below the lower bound of the deadband, Pepco could file a request for a rate adjustment with the Commission with justification for the deviation. Parties could then challenge, or the Commission on its own initiative could find, that certain costs were imprudent. If found to be imprudent, then those costs would be disallowed. However, if the costs were approved by the Commission, then rates would be adjusted to bring the Company's ROE to 75% of the difference between the lower end of the deadband and its earned ROE.

The PIM component includes five proposed financial PIMs with incentives and penalties on specific utility performance: (1) System Average Interruption Duration Index (SAIDI) (2) System Average Interruption Frequency Index (SAIFI); (3) Customer Service Level; (4) Call Abandonment; and (5) Level 1 DER Interconnection Review Timeframe. Pepco also proposes a tracking metric related to collecting and reporting Customers Experiencing at least 4 Multiple Interruption (CEMI-4) performance that is not tied to an incentive or penalty.¹⁰

As set forth in DCG Witness Lane's testimony, PBR plans are generally designed by, or for, utilities, which operate under a strong profit motive, and can therefore be expected to have a bias that favors the utilities. Common pitfalls associated with a poorly designed PBR proposal include:

- Ability of the utility to recover its costs more quickly, without providing increased benefits to customers or advancing energy policy objectives beyond what would have been achieved through traditional cost of service regulation;

¹⁰ DCG (A) at 11:13-19 through 12:1-13.

- A reduction in regulatory lag (and the cost containment incentives associated with regulatory lag) with no commensurate strengthening of cost containment incentives elsewhere;
- Shifting risk onto ratepayers by requesting that the Commission pre-approve investments and costs, thereby substantially reducing the risk of later determinations of imprudence;
- Exploitation of information asymmetries, particularly through reliance on cost forecasts, to increase profits for the utility; and
- PIMs that do not advance public policy goals and reward the utility for performance easily achieved or already required to be achieved pursuant to Commission Orders or regulations.¹¹

As discussed in greater detail below, Pepco MRP proposal exhibits all of the above pitfalls and does not comport with the principles for approving a PBR set out in the Commission's AFOR Order.

A. Pepco's MRP Fails to Protect Ratepayers from Uncontrolled Costs.

Pepco's MRP fails to provide adequate cost containment incentives. As a result, the proposal runs afoul of the Commission's AFOR Order's requirements that an MRP (1) protect consumers (AFOR ¶ 94, Item #1A), and (2) foster productivity and cost control (AFOR ¶ 94, Item #6). On this basis alone, Pepco's MRP should be rejected.

One major design flaw with Pepco's MRP is that it allows for the reconciliation of under earnings. While the sharing of a utilities' over earnings with ratepayers is a common feature of MRPs, reconciliation (or sharing) of a utilities' under earnings with ratepayers is virtually unheard of in MRPs.¹² Providing Pepco with the ability to offset the majority (75%) of its losses by effectively passing those losses on to ratepayers, eliminates the incentives for the Company to operate efficiently by containing its costs. This cost-containment incentive is a key ratepayer

¹¹ DCG (A) at 8: 8-17 through 9:1-8.

¹² DCG (A) at 15:16-17.

benefit of MRPs.¹³ Negating this benefit *reduces* Pepco's incentive to contain costs and protect ratepayers relative to traditional cost of service regulation, in which regulatory lag between rate cases encourages the utility to limit its spending (since it would not recover any overspend between rate cases), and any cost savings between rate cases are retained by the utility.¹⁴

B. Pepco's MRP Unreasonably Shifts Risk to Ratepayers Due to Information Asymmetry.

Pepco's MRP fails to mitigate the risk that Pepco will over-earn its authorized ROE due to information asymmetries. Pepco's MRP runs afoul of the Commission's AFOR Order's requirements that an MRP (1) provide an appropriate level of transparency and reporting into the utility's operational and capital plans ensuring that the plans will be maintained during the duration of the AFOR (AFOR ¶ 94, Item #9), and (2) explain what process or mechanism the utility used to project revenues and expenses (AFOR ¶ 94, Item #4). As a result, Pepco's MRP further contravenes the Commission's AFOR Order that an MRP avoid any unreasonable shifting of risk to utility customers (¶ 94, Item #10).

Asymmetry of information simply means that the utility has more information than the regulator or stakeholders.¹⁵ Because of this, it is notoriously challenging for regulators to ensure that cost forecasts are reasonable.¹⁶ As explained by the National Regulatory Research Institute (NRRI):

Information asymmetry reflects the relatively less knowledge that a regulator has (relative to the utility's) on the correlation between forecasted costs and utility-management competence. When a utility files a cost forecast, how does the regulator know whether it reflects competent management? The analyst or auditor can evaluate the forecast applying state-of-the-art techniques; still, however, a level of uncertainty remains

¹³ DCG (4A) at 7:12-13.

¹⁴ DCG (3A) at 4:5-9 & 23:1-10.

¹⁵ DCG (A) at 18:11-12.

¹⁶ DCG (A) at 18:12-13.

that leaves unknown the utility's level of managerial competence embedded in the forecast.¹⁷

Because regulators and stakeholders can never completely vet the accuracy of forecasts, utilities have an inherent bias to overstate their costs and understate revenues.¹⁸ This bias has been well-recognized by commissions and by organizations such as NRRI. The bias exists because the utility may expect the regulator to lower its cost forecasts, and because there is little payback for a utility that underestimates costs since any overrun would jeopardize its rate of return and penalize its shareholders.¹⁹ Indeed, in the last 6 rate cases that Pepco filed since restructuring, this Commission has granted Pepco an average of only 47% of the distribution increases requested.²⁰

Pepco's MRP suffers from another design flaw, which is that the annual revenue requirements are based on Pepco's own cost forecasts. As mentioned, these forecasts are inherently biased towards overstating costs due to the Commission's tendency to reduce Pepco's cost forecasts.²¹ Due to information asymmetry it is very difficult to establish whether these cost forecasts are accurate.²²

Allowing for any sharing of over-earnings if the utility is using a company specific cost forecast shifts risk to ratepayers due to information asymmetry. The Commission and intervening parties do not have the same level of operational expertise or access as Pepco, thereby making it difficult to determine if a planned investment is necessary or prudent. If an earnings sharing

¹⁷ Costello, Ken, "Multiyear Rate Plans and the Public Interest," pgs. 35-36 (National Regulatory Research Institute, October 2016).

¹⁸ DCG (A) at 19: 3-4.

¹⁹ Costello, "Multiyear Rate Plans and the Public Interest," at 36.

²⁰ F.C. 1156, Order No. 19956 at ¶ 13 (*rel.* June 13, 2019).

²¹ See F.C. 1156, Order No. 19956, ¶ 13 (*rel.* June 13, 2019) (

²² DCG (3A) at 23:14-20.

mechanism is applied to over-earnings in this situation, Pepco would benefit financially if it overstates its cost forecast and then produces cost “savings.” In this scenario, Pepco would keep 100% of the first 25 basis points of any cost “savings,” plus 25% of any additional “savings” outside of the deadband. If these are not true savings, but instead the result of inflated cost forecasts, then ratepayers will actually be harmed by this plan, while Pepco would take home a higher ROE. In short, under Pepco’s proposal, it would be the ratepayer that bear the majority of the risk of forecast errors, in addition to bearing 75% of any cost overruns unless it can be established that any cost overruns were imprudent.

Approving Pepco’s MRP forecasts requires that regulators and stakeholders do much more work up-front to review for reasonableness, but without the benefit of having actual *ex-post* data. Despite Pepco Witness McGowan’s claim that its MRP provides incentives to reduce costs and improve operational efficiency because the Company will share in a portion of the upside while having no guarantees of cost recovery if costs exceed the approved MRP plan,²³ the practical burden of proving imprudence of costs already expended is high. It requires extensive time and resources to comb through vast amounts of data in an attempt to decipher exactly what the utility knew and when. All of this information is far more readily available to Pepco than to the Commission or Interveners. It is generally impractical and burdensome to establish imprudence in all but the most egregious of cases.²⁴

Perhaps foreshadowing what Parties can expect were the Commission to approve Pepco’s MRP, Pepco indicates key inputs to its load forecast include “Prospective New Business (PNB) information received by the Company, load transfers identified during the studied period, and

²³ Rebuttal testimony of Pepco Witness McGowan, Pepco (4B) at pg. 13.

²⁴ DCG (A) at 20: 4-9 (A). *See also*, DCG (4A) at 8:15-20.

DER installations.”²⁵ However, the Company objected to DCG’s request for more information regarding these critical inputs that will determine system needs.²⁶ This response illustrates the information asymmetry and lack of transparency associated with reviewing the Pepco’s operational and capital plans, that should support the cost forecasts upon which the MRP is based.

As noted by the Commission, the utility’s AFOR proposal should include information as to how it “identifies baseline revenue and cost information, and clearly explains what process or mechanism the utility used to project revenues and expenses.”²⁷ The development and implementation of an integrated distribution plan (IDP), as recommended by DCG Witness Lane, could go a long way in addressing challenges presented by information asymmetry to the Commission and Interveners when assessing the reasonableness of Pepco’s cost forecasts. As summarized by ICF, an IDP:

. . . involves two general efforts: 1) multiple scenario-based studies of distribution grid impacts to identify “grid needs,” and 2) a solutions assessment including potential operational changes to system configuration, needed infrastructure replacement, upgrades and modernization investments, and potential for non-wires alternatives.²⁸

These studies are generally conducted annually with a 5- to 10- year planning horizon and with considerable input from stakeholders regarding planning assumptions.²⁹ IDPs also tend to use forecasts with multiple load and DER scenarios to “to assess current system capabilities, identify incremental infrastructure requirements and enable analysis of the locational value of

²⁵ See Exhibit DCG (A)-3.

²⁶ See Exhibit DCG (A)-4.

²⁷ F.C. 1156, AFOR Order No. 20273, at 37.

²⁸ ICF International, *Integrated Distribution Planning*, Prepared for the Minnesota Public Utilities Commission, August 2016, at vi. Available at <https://www.energy.gov/sites/prod/files/2016/09/f33/DOE%20MPUC%20Integrated%20Distribution%20Planning%208312016.pdf>

²⁹ DCG (A) at 21:6-7.

DERs.”³⁰ An IDP would be beneficial to vetting and justifying any proposed costs within the MRP.³¹ Without an IDP, the Commission and stakeholders do not have the information necessary to understand whether Pepco’s proposed investments optimize grid assets and minimize total system costs.³²

In stark contrast to an IDP, the Company’s construction report is a short-term investment plan based on a single, deterministic load forecast, rather than a consideration of multiple scenarios with various levels of DER adoption and electrification.³³ Pepco’s construction report provides little information on how its investments will facilitate continued development of DERs on the system, nor any information regarding what investments will be needed in the future to support increased DER adoption and address barriers to DER integration. Notably absent from Pepco’s construction report is any form of long-term grid modernization and investment plan such as an IDP.³⁴

Pepco’s construction report also fails to adequately address alternatives to traditional capital construction. The “alternatives” listed in Pepco’s construction report only consist of traditional solution alternatives, with no consideration of NWAs, except for one battery pilot for Alabama Ave (ITN Name: 71138).³⁵ There is no documentation that the other \$225.7 million in load growth related capital projects from 2020-2023 were screened for more cost-effective NWA solutions.³⁶

³⁰ *Supra*, *Integrated Distribution Planning*. See DCG (A)-2 for an example of IDP requirements for Xcel Energy in Minnesota. Minnesota has been a leader in this area and requires its utilities to conduct comprehensive, coordinated, and transparent integrated distribution plans on an annual basis.

³¹ DCG (A) 21:18.

³² DCG (A) at 21:19 through 22:1-2.

³³ DCG (3A) at 21:1-5.

³⁴ DCG (A) at 22: 5-12.

³⁵ DCG (A) at 23:4-6.

³⁶ F.C. 1156 Pepco Response to DCG DR 6-8(A) & Attachment attached hereto as Exhibit DCG (A)-5.

In stark contrast to Pepco's construction report, an IDP would include a process for seeking the least cost solution to identified system needs, giving equal weighting to consideration of NWAs through open-sourced solicitations to third-parties and through Company-specific actions, including the targeted deployment of demand response, energy efficiency, and time-varying rates.³⁷ Pepco has not demonstrated that its proposed MRP capital budget adequately considers such alternatives.³⁸ Thus, Pepco's cost forecasts are not adequately supported or justified.³⁹

C. Pepco's MRP Fails to Sufficiently Advance or Otherwise Align with the District's Public Policy Goals.

In its AFOR, the Commission states that it has "long recognized that other forms of regulation may facilitate achieving the District's aggressive goals regarding greenhouse gas emission reductions, transportation electrification, renewable energy development, grid modernization, and other District goals."⁴⁰ However, Pepco's MRP does not include measures to address any major public policy goals of the District. Therefore, the proposal runs afoul of the AFOR Order's requirement that an MRP (1) advance the conservation of natural resources, and the preservation of environmental quality, including effects on global climate change and the District's public climate commitments (AFOR ¶ 94, Item #2) and (2) advance or otherwise align with the District's public policy goals (AFOR ¶ 94, Item #3).

The investments contained within Pepco's MRP are simply a continuation of investments that have historically been made under cost of service regulation, rather than enhancing progress

³⁷ DCG (A) at 23:8-12.

³⁸ DCG (A) at 23:12-13.

³⁹ DCG (A) at 23:4-14.

⁴⁰ At ¶ 4.

towards grid modernization, which ought to be the rationale for adopting the MRP.⁴¹ Pepco's Witness McGowan claims that without expedited cost recovery provided by the MRP, it would be challenging to fund projects that advance the District's public policy goal.⁴² However, Pepco did not propose any investments in MRP that would accelerate achievement of the District's goals.⁴³ The Company has provided no specific details in its MRP regarding any broader grid modernization plan that would facilitate integration of DERs, transportation electrification, and other goals, and certainly does not do so in a transparent and collaborative way.⁴⁴ All of Pepco's clean energy and grid modernization activities such as implementing battery storage, deployment of public purpose microgrids, electric vehicle charging infrastructure, deployment of community solar projects, energy efficiency programs with demand response, and AMI are either largely dependent on the actions of other parties or are generally funded through other means that are not included in, and in addition to, the Company's MRP budget.⁴⁵ These activities are the subject of separate proceedings that will move forward independent of whether or not Pepco's MRP is ultimately approved.⁴⁶

The Company's MRP does not demonstrate how it will support additional renewable energy development or reductions in greenhouse gas emissions.⁴⁷ Further, in his deposition,

⁴¹ DCG (3A) at 4:6-16.

⁴² Rebuttal Testimony of Pepco Witness McGowan, Pepco (4B) at pg. 10.

⁴³ DCG (3A) at 12:14-17.

⁴⁴ DCG (A) at 26:17-19 through 27:1-2. (See DCG (A)-7, wherein Pepco objects to DCG's data requests regarding load forecasts and long-term modernization plans.)

⁴⁵ DCG S-25 ("To the extent there are incremental costs during the MRP period (2020-2022) which Pepco will need to incur in the future to comply with Order No. 20286 or future Power Path DC decisions, those costs would be reflected in Pepco's actual results included in the proposed Annual Reconciliation Filing").

⁴⁶ See, DCG S-15 for a listing of clean energy proceedings in which Pepco is involved that have been moving forward independent of whether the MRP is approved.

⁴⁷ Pepco's proposed interconnection PIM does not adequately support additional renewable energy development. There are existing standards for Level 1 Interconnection Average Authorization to Install (ATI) performance of five days and the Company has not quantified how performance better than five days provides a net benefit to customers or an increase in renewable resources. Pepco's interconnection PIM also fails to address Levels 2-4 interconnections or delays in the interconnection of Community Renewable Energy Facilities (CREFs).

Company witness McGowen stated that “There's no specific investment I recall that is targeted to... lower greenhouse gas emissions.”⁴⁸ Nor could Mr. McGowan at his deposition provide an estimate of greenhouse gas emissions reductions that would result from the MRP.⁴⁹ This, despite Mr. McGowan stating in his Rebuttal Testimony that the Company’s investments in energy efficiency and GHG emission reductions represent a measurable and quantifiable benefit of the MRP.⁵⁰ Indeed, Pepco’s entire MRP proposal is devoid of any measurable or quantifiable benefits that advance the District’s public policy goals and commitments.⁵¹

Pepco Witness McGowan also testified at deposition that the Company’s reliability-driven investments enhance grid modernization.⁵² While a reliable grid is a necessary precondition for a modern grid, it is also core responsibility for the Company to provide reliable electricity service.⁵³ Reliability investments in themselves do not modernize the grid. Instead, Pepco’s reliability investments represent traditional infrastructure investments, characterized by Pepco Witness Clark as “replacement of existing infrastructure, upgrades to reduce outages and improve system performance, and cost of emergency replacement of failed equipment during storms and other events.”⁵⁴ A capital plan focused on Pepco’s basic obligation to provide a reliable grid for its customers can be evaluated under the traditional rate case and does not justify an MRP.⁵⁵

⁴⁸ OPC-SI, at 159:7-13.

⁴⁹ OPC-SI, at 169:9-22 through 170:1-3.

⁵⁰ Rebuttal Testimony of Pepco Witness McGowan, Pepco (4B) at pg. 10.

⁵¹ DCG (3A) at 14:11-19 through 15:1-4. *See also*, DCG (A) at 34:6-14 and DCG (A) at 35:15-16. *See also*, OPC-S1, 169:21-22 through 170:1-3.

⁵² OPC-S1 at 159:3-6.

⁵³ DCG (3A) at 12:6-8.

⁵⁴ PEPCO (I) at i.

⁵⁵ DCG (3A) at 15:19 through 16:1-2.

Pepco Witness McGowan also claims that other types of investment would modernize the grid and advance the District's goals such as "distribution automation and the continued installation of Remote Monitoring Systems, as well as Area Reliability Plans, network transformer and protector replacements, and increased cybersecurity efforts."⁵⁶ However, these are the exact same investments Pepco has been making for years without an MRP -- \$19.56 million on Remote Monitoring System deployments between 2013 and 2018 vs. \$14.73 budgeted between 2020 and 2023.⁵⁷ Pepco spent \$2.9 million on Distributed Automation communications and integration projects between 2015 and 2018 vs. \$1.98 between 2020 and 2023. Finally, Pepco's cybersecurity projects are simply aimed at increasing the capacity of existing firewalls⁵⁸ and upgrading router hardware to handle new router codes,⁵⁹ rather than innovative cybersecurity initiatives.⁶⁰

Pepco's MRP does not have a resilience plan,⁶¹ nor does it have metrics for measuring resilience.⁶² Resilience is a side benefit of standard reliability investments, rather than the result of innovative projects aimed at utilizing new technologies and approaches such as investing in DERs as grid assets, developing rules to allow for DER islanding, or establishing ancillary service markets for DER.⁶³

Pepco Witness McGowan states in his Direct Testimony that "An MRP will allow stakeholders to review and better understand the investments it is planning to make to address

⁵⁶ Rebuttal Testimony of Pepco Witness McGowan, Pepco (4B) at pg. 36.

⁵⁷ Pepco (I)-1, page 38 of 78.

⁵⁸ Pepco (I)-2, page 226 of 238.

⁵⁹ Pepco (I)-2, page 233 of 238.

⁶⁰ DCG (3A) at 13:11-18 through 14:1-10.

⁶¹ See DCG (3A)-4.

⁶² See DCG (3A)-5.

⁶³ DCG (3A) at 16:3-10.

changing customer needs and evaluation of the costs to make those investments relative to the goals they are designed to achieve.”⁶⁴ However, Pepco’s MRP investments are presented primarily as a disjointed list of projects without adequate explanation for how these projects will achieve the District’s clean energy goals and the MEDSIS Vision Statement.⁶⁵ When Pepco was asked to provide a list of specific projects contained in the Distribution Construction Program Report that fall under the grid modernization rubric as envisioned through the MEDSIS, Pepco responded with a list of three battery storage NWA solutions it had considered,⁶⁶ only one of which is included in the Construction Report (No: 64 Alabama Ave.).⁶⁷ Pepco admits it does not categorize and identify projects as grid modernization projects.⁶⁸ This leads to the conclusion that there is no list or comprehensive plan to Pepco’s grid modernization efforts.

Although Pepco’s construction report provides a list of projects and forecasted future budgets this does equate to a meaningful benefit of the MRP. The context of a rate case proceeding provides little opportunity for stakeholder comment, and the list of proposed investments fails to provide context for how the investments will further the District’s energy policy goals. This is akin to Pepco informing stakeholders of its driving route but failing to specify its destination, its time of arrival, or any alternative routes considered.

A more efficient and effective means of providing transparency into Pepco’s investment plans would an IDP discussed above. An IDP is ideally suited for this objective. As explained in DCG Witness Lane’s direct testimony, an IDP is a planning process that looks ahead 5 to 10 years with the goal of optimizing grid assets, minimizing total system costs, and achieving

⁶⁴ Direct Testimony of Pepco Witness McGowen (B) at pgs 21-22.

⁶⁵ DCG (A) at 32:14-15 through 33:1-2.

⁶⁶ See DCG (A)-11.

⁶⁷ Pepco (I)-2 at 79.

⁶⁸ Attached hereto as Exhibit DCG (A)-12.

energy policy goals, such as measurable progress toward the District's commitment to reduce greenhouse gas emissions by 100 percent by 2050. The IDP process involves two general efforts:

- 1) multiple scenario-based forecasts of DERs and load growth to anticipate potential distribution grid impacts to identify grid needs, and
- 2) a solutions assessment, including potential operational changes to system configuration, needed infrastructure replacement, upgrades and modernization investments, which favors DER aggregation and NWA solutions.⁶⁹

Further, DCG submits that the kind of stakeholder review and understanding envisioned by the Commission cannot be achieved without such a comprehensive plan that details the Company's grid modernization goals and investment plans as it pertains to changing customer needs.⁷⁰

D. Pepco's MRP Fails to Adequately Qualify, Quantify, or Measure Benefits its Proposal Would Provide to its Customers.

Pepco's MRP does not adequately quantify benefits, either in terms of cost savings to customers, or advancement of the District's policy commitments and goals. Therefore, the proposal runs afoul of the AFOR Order's requirement that an MRP provides benefits that are measurable, quantitative, and qualitative to customers (AFOR ¶ 94, Item #5).

While the Company states that the MRP will facilitate investment and allow the company to respond to a changing landscape and allow it to become more innovative and proactive,⁷¹ there are no details in its Distribution Construction Program Report to support these statements.

⁶⁹ ICF International, *Integrated Distribution Planning*, Prepared for the Minnesota Public Utilities Commission, August 2016, at vi. Available at <https://www.energy.gov/sites/prod/files/2016/09/f33/DOE%20MPUC%20Integrated%20Distribution%20Planning%208312016.pdf>

⁷⁰ DCG (A) at 33:3-6.

⁷¹ Direct Testimony of Pepco Witness McGowan (B) at pg. 26

While the Company states that the MRP will promote resiliency, neither the Company's proposed PIMs nor any other aspect of the Company's MRP advance resiliency in the District of Columbia; instead the Company's proposal focuses only on traditional reliability metrics.⁷²

Finally, as discussed in the preceding section, Pepco's entire MRP proposal is devoid of any measurable or quantifiable benefits that advance the District's public policy goals and commitments, particularly with respect to GHG emissions reduction, or grid modernization.

E. Pepco's Proposed PIMs Do Not (a) Advance the Energy Goals of the District; (b) Target Activities that the Company is Already Required to Perform under Commission Regulations, and (c) Quantify the Incremental Benefits to Ratepayers.

The PIMs proposed by Pepco in its MRP application run afoul of the AFOR Order's requirements that any proposed PIM should (1) advance or otherwise align with the District's public policy goals and the PowerPath DC objectives (such as grid modernization, energy efficiency, clean energy, and climate goals) (AFOR ¶ 103, Item #1), (2) not duplicate a target or objective that is already addressed by any existing standards, metrics or requirements (AFOR ¶ 103, Item #6), and (3) should be considered only when the utility lacks an incentive (or has disincentive) to align its performance with the public interest, there is evidence of under-performance, and evidence that improved performance will deliver incremental benefits (AFOR ¶ 103, Item #9). Therefore, the Commission should reject all of Pepco's proposed PIMs.

Pepco's PIMs proposed in its MRP do not make a meaningful contribution to achieving the District's clean energy goals. For example, Pepco has proposed no PIMs related to the goals of reduced greenhouse gas emissions, development of microgrids, grid modernization, or

⁷² Pepco Witness Zarakas refers to "resilience" as "as hardening assets and making the grid smarter so that it can come back from outages due to extreme and unavoidable events (such as major storms) quickly and efficiently." (Direct Testimony of Pepco Witness Zarakas (J) at pg. 4). However, Pepco's proposed SAIDI and SAIFI PIMs exclude Major Service Outages Direct Testimony of Pepco Witness Clark (I), at pg. 8. Therefore, these PIMs do not promote resiliency.

electrification of public transportation. Instead, Pepco's proposed PIMs all encourage activities that are required by existing standards and regulations, and that Pepco should be delivering as part of its core service obligations.⁷³ And aside from the proposed Level 1 interconnection timeline PIM, Pepco acknowledges that the other 4 proposed PIMs and tracking metric do not create alignment with the District's or the Commission's energy and climate goals, nor were they intended to address those goals.⁷⁴

Pepco proposes 2 PIMs with financial rewards and penalties involving the reliability metrics SAIDI (average duration of outages on system) and SAIFI (average frequency of outages on system). These PIMs violate the AFOR principle that PIMs should only be applied where the utility has a disincentive to align its performance with the public interest. As part of its public service obligation, Pepco is already responsible for providing reliable electric service to its customers.⁷⁵ Further, Pepco earns an ROE on its capital investments, and therefore already has a financial incentive to invest in its system to improve reliability.

Both reliability PIMs violate the AFOR principle that PIMs should not offer a utility more financial benefit than is necessary to align its performance with the public interest. Pepco's SAIDI level has improved by 58% between 2013 and 2018 and its SAIFI level has improved by 40% over the same timeframe. The Company has also been meeting the more stringent reliability standards set forth in the Merger commitments between Pepco and Exelon.⁷⁶ The Company has achieved these goals with a penalty-only structure. There is no justification for why the

⁷³ DCG (A) at 36:7-18.

⁷⁴ OPC-SI, 167:18-22 through 168:1-4.

⁷⁵ See D.C. Code § 34-401 and 15 D.C.M.R. § 3600 *et. seq.*

⁷⁶ Direct Testimony of Pepco Witness Clark Pepco (I), at pg 5.

Company should receive additional financial benefit for meeting standards it has been able to meet without such an incentive.⁷⁷

Finally, Pepco has failed to quantify the incremental benefit to customers from higher levels of reliability (i.e. incremental less frequent or shorter outages), so it is unclear whether the benefits outweigh the costs of additional reliability investments let alone the cost of an additional financial incentive to achieve that benefits. Therefore, the Commission should reject both of Pepco's proposed reliability PIMs.

In addition, the Company proposes 2 Customer Operations PIMs with financial rewards and penalties – (1) a Service Level PIM and (2) a Call Abandonment Rate PIM. Pepco proposes these customer service PIMs to incentivize performance levels that are in the first quartile relative to its peers in the industry.⁷⁸ Pepco is proposing a Service Level PIM starting with 2020 performance, including target performance of 90%, with a deadband of +/- 3 points around that performance level. In this case, the deadband represents a range of Service Level of 87% to 93%. This would be a 20-point improvement upon the Electric Quality of Service Standards (EQSS) performance level. For Call Abandonment, Pepco is proposing a PIM starting with 2020 performance, including target performance of 1.5%, with a deadband of +/- 1 point around that performance level. This represents an 8.5-point improvement upon the EQSS performance level. The Company is proposing a symmetrical -/+ 2.5 basis points penalty/reward structure for each PIM.⁷⁹

⁷⁷ DCG (A) at 55:10-17.

⁷⁸ Direct Testimony of Pepco Witness McGowan Pepco (B) at 9:17-19.

⁷⁹ DCG (A) at 56:11-19 through 57:1-2.

Both Customer Service PIMs violate the AFOR principle that PIMs should only be applied where the utility has a disincentive to align its performance with the public interest. Utilities already have a vested interest in improving customer satisfaction.⁸⁰ For example, customer satisfaction metrics like the J.D. Power rating is an important signal to regulators when reviewing a utility rate increase and to rating agencies when assessing the financial strength of investments.⁸¹ It is also not uncommon for utility executives to have financial goals and bonuses tied to achieving certain customer satisfaction ratings. This appears to be the case for Pepco as Company Witness Poncia indicates that “certain performance metrics are incorporated in the employee Annual Incentive Program (AIP), which is designed to incent high performance that aligns with the goals of Pepco, PHI, and Exelon, for high levels of Customer Satisfaction and Operational Performance.”⁸² Further, Pepco has demonstrated its commitment to improving customer satisfaction through the level of recent investment. Witness McGowan indicates that the Company has made several improvements to its call center operations over the past several years including an Interactive Voice Recognition system, increased training for first-call resolution, and an enhanced customer website.⁸³ The Company attributes these investments to improvements in key call center metrics over the past two years.⁸⁴ These investments were not driven by a PIM.

Both Customer Service PIMs also violate the AFOR principle that PIMs should not offer a utility more financial benefit than is necessary to align its performance with the public interest. The Company has already shown an increase in performance levels related to these PIMs with a

⁸⁰ DCG (A) at 57: 8-9.

⁸¹ DCG (A) at 57:9-10.

⁸² Direct Testimony of Pepco Witness Poncia, Pepco(Q) at pgs 11-12.

⁸³ Direct Testimony of Pepco Witness McGowen, Pepco (B) at pg 11.

⁸⁴ *Id.*

penalty-only structure. For example, from 2013 to 2018 performance levels increased in both Service Level and Call Abandonment.⁸⁵ In 2017 and 2018, Pepco's Service Level was at 92 percent, higher than the proposed PIM's Service Level target of 90 percent.⁸⁶ Likewise, Pepco's Call Abandonment rate was at 0.7 in 2017 and 0.9 percent in 2018, lower (i.e. better) than the proposed PIM target of 1.5%.⁸⁷ Therefore, the Commission should reject both Pepco proposed Customer Service PIMs.

Pepco proposes a PIM with financial rewards and penalties based on the average number of days for Level 1 Approval To Install (ATI), with a target set at five days to mirror the Commission's January 2019 interconnection timeline rule.⁸⁸ The Company is proposing a deadband of plus or minus 0.5 days with an asymmetrical reward structure of – 5 basis points as a penalty and a + 10 basis points as a reward.⁸⁹

This interconnection timeline PIM violates the AFOR principle that a PIM should not duplicate a target or objective that is already addressed by any existing standards, metrics or requirements. As the Company notes, in January 2019, the Commission promulgated a new rule that "accelerates the timeline for the vast majority of interconnection review and approvals. Specifically, the size of Level 1 interconnection requests has been increased from 10kW to 20KW, and the time to complete the approval to install has been decreased from 15 days to five days."⁹⁰

⁸⁵ Direct Testimony of Pepco Witness Poncia, Pepco (Q) at pg 15.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ See 15 D.C.M.R. § 4004.3(c)

⁸⁹ Direct Testimony of Pepco Witness Zarakas, Pepco (J) at 25:2-9.

⁹⁰ See, DCG (A)-15

Pepco Witness Clark indicates that, using 2018 interconnection data, Pepco would have underperformed with regards to the new timelines in this rule for Level 1 ATI. Under the new five-day timeline, Pepco's performance would be at 46.62%.⁹¹ Pepco uses this performance to justify the need for an interconnection PIM. However, since the five-day standard was established by the Commission on January 25, 2019, Pepco has generally met the performance standard without any positive financial incentive.⁹² However, in order to ensure ongoing performance with the new interconnection timeline requirements for Level 1 ATI, the Commission could convert this PIM into a penalty only PIM.

F. MRP in the Context of Impacts from COVID-19 Pandemic

The above discussed AFOR concerns regarding the ability of Pepco's MRP to contain costs without unreasonably shifting risk to consumers are greatly exacerbated as a result of the COVID-19 pandemic. COVID-19 has forced major behavioral changes upon the District of Columbia's population, including telecommuting as the default work mode for corporations, government agencies, and institutions. Moreover, the pandemic has resulted in the permanent closure of many locally owned businesses in DC.⁹³

As a result, electricity usage across the region has declined precipitously. PJM reports that April 2020 weekday peak demands were nearly 10% lower than predicted, and energy use was 8% lower.⁹⁴ As the likely result of load patterns shifting away from a large Commercial Class relative to other jurisdictions, these reductions in usage have been much sharper in the

⁹¹ Direct Testimony of Pepco Witness Clark, Pepco (I) at pg. 34

⁹² DCG (A) at 60, Table 1. Summarizing Pepco's Quarterly Interconnection Reports for 2019 filed in Formal Case No. 1050.

⁹³ DCG (3A) at 7:7-12.

⁹⁴ Andrew Gledhill, Update of COVID-19 Load Impacts, Presentation to PJM Planning Committee, May 12, 2020, available at <https://pjm.com/-/media/committees-groups/committees/pc/2020/20200512/20200512-item-16-covid-19-load-impact-update.ashx>

District of Columbia. Buildings subject to DOEE’s preliminary benchmarking regulations for March and April 2020 show total electricity usage in those buildings to have decreased by 24% in March 2020 compared to March 2019 and by 35% in April 2020 vs April 2019.⁹⁵ Buildings subject to DOEE’s energy benchmark reporting requirements have 50,000 square feet of floor space or more and include most office, hotel, large multifamily apartments and institutions representing over half of all square footage in the District of Columbia.

While these dramatic reductions represent the short-term impacts of the COVID-19 pandemic on energy usage, there is great uncertainty regarding medium and long terms electricity usage. Telecommuting appears to be quickly becoming the new “norm” for many employees of both the public and private sectors, and a slow economic recovery will hinder the ability of many businesses to reopen. These effects may extend far into the future and make the task of forecasting load and investment needs extremely difficult. PJM’s forecasting team references Moody’s Analytics April 2020 forecast, which indicates that recovery may be slow and that a full recovery may not be made until mid-2023.⁹⁶

Importantly, Pepco’s proposed MRP revenue requirements are based on budget forecasts that were developed prior to the COVID-19 pandemic and do not reflect the profoundly altered economic reality and the resulting negative impact on energy usage in the District of Columbia that is likely to persist for years. Pepco’s capital budgets contain nearly \$180 million in load-driven investments for the 2020-2022 period⁹⁷ -- investments which may no longer be needed, or

⁹⁵ DCG (3A) at 8:3-6.. See, *Update of COVID-19 Load Impacts, Presentation to PJM Planning Committee, May 12, 2020*, citing Moody’s forecast: <https://www.inquirer.com/business/recovery-economy-zandi-moodys-virus-covid-19-jobs-prediction-20200423.html>

⁹⁶ DCG (3A) at 6:16-18. See also, *See, Update of COVID-19 Load Impacts, Presentation to PJM Planning Committee, May 12, 2020*.

⁹⁷ Exhibit DCG (3A)-1.

which could be deferred. Pepco has not analyzed how COVID has impacted its load forecasts and revenue requirements forecasts.⁹⁸

Pepco's MRP proposal establishes revenue requirements based on pre-COVID-19 forecasts and allows Pepco to retain a portion of any profits that it makes if its costs are lower. Specifically, Pepco's proposed earnings sharing mechanism would allow Pepco to earn an additional 25 basis points above the allowed ROE, plus 25 percent of any additional underspend. While allowing utilities to retain a portion of cost savings due to efficient management can be an effective means of incentivizing cost efficiencies, it is inappropriate when cost reductions are due to an extraordinary event such as the COVID-19 pandemic, which result in previously anticipated investments to accommodate customer growth and business development to be no longer being needed within the term of the MRP. Indeed, the Pepco's MRP contains a provision to allow it to be re-opened and modified or terminated due to unforeseen circumstances. COVID is a quintessential example of an exogenous event in which one would expect the re-opener provision to be invoked.

In fact, it would be a particularly egregious shifting of risk to ratepayers to allow Pepco to increase its earnings above their actual costs when its District of Columbia's customers are suffering great financial hardship due to COVID- 19. "As the proponent of a rate increase, Pepco [has] burden of proof to demonstrate that its MRP proposal can be approved and adopted at this time."⁹⁹ At a minimum Pepco must submit updated expenditure and cost forecasts based on a post-COVID test year budget ending at least March 31, 2021. This is foundational information that not in the record and cannot support Pepco's MRP as currently proposed.¹⁰⁰

⁹⁸ DCG (3A) at 9:5-11. *See also*, DCG (3A)-1.

⁹⁹ AFOR Order, at ¶ 98.

¹⁰⁰ DCG (3A) at 10:1-3.

The Commission should reject Pepco's proposed MRP and PIMs and continue with traditional cost of service regulation until such time as Pepco files a new MRP proposal that demonstrates alignment with the principles set forth in the Commission's AFOR Order.

II. ENHANCED MRP

Rather than withdrawing its flawed MRP proposal (hereinafter Original MRP) to cure its deficiencies and better align it with the principles set forth in the Commission's AFOR Order, Pepco filed its so-called "Enhanced MRP" proposal on June 1, 2020 as part of its Surrebuttal Testimony as an option to the Original MRP. The Enhanced MRP purports to be in response to COVID-19 impacts on ratepayers and the economy of the District of Columbia. In so doing, Pepco also attempts to address some of the criticisms from DCG and other parties with respect to certain aspects of the Original MRP proposal. However, as discussed below, many of the deficiencies identified by DCG and other Parties with the Original MRP proposal persist in the Enhanced MRP proposal or have been replaced with other deficiencies. Irrespective of its designation as "enhanced", as discussed below, Pepco's Enhanced MRP should also be rejected.

A. Features of Enhanced MRP

Pepco's Enhanced MRP was purportedly intended to respond to the impacts of the COVID-19 pandemic and the shortcomings in Pepco's Original MRP those impacts revealed. While many of the features of the Original MRP remain, modifications in the Enhanced MRP include: (1) no overall distribution rate increases for customers until January 1, 2022, and a deferral of \$60 million in capital spending until after the Enhanced MRP term runs; (2) a decrease to Pepco's ROE from 10.30% to 9.70%; (3) instead of using Company-specific cost forecasts, Pepco plant additions and O&M expenses are based on actual levels for 12 months

ended June 30, 2019, then escalated at 2.5% annually; (4) withdrawal of the Original MRP's annual reconciliation filing and attendant sharing of over / under earnings to be replaced with the reconciliation process recently approved by the Maryland Public Service Commission (MD PSC) in Pepco's MRP proposal for its MD service territory (Maryland reconciliation process); (5) supplemental energy efficiency rebates and loans for small commercial customers; and (6) converts all PIMs from its Original MRP to tracking metrics and proposes a new GHG reduction tracking metric.¹⁰¹

The Maryland reconciliation process was approved by the MD PSC on Feb. 4, 2020, in Case No. 9618, Order No. 89482. It consists of 3 rounds of filings: (1) an annual information filing, which compares projected cost data to actuals; (2) a "consolidated reconciliation and prudence review" in a subsequent rate case; and (3) a "final reconciliation and prudence review" after the conclusion of the term of the MRP term.¹⁰² The consolidated and final reconciliation and prudence reviews would both be based on updated plant cost projections by project, and updated O&M projections by FERC account for 2021-2022 filed in Feb. 2021. The final consolidation and prudence review would include a proposal for a rider mechanism to adjust for any over or under collections ultimately approved by the MD PSC. The time period for repayment or recovery for any over / under collection would be determined on a case-by-case basis. If Pepco's revenues exceed costs over the term of the MRP, the amount of overcollection would generate carrying costs as it is held in a regulatory asset and returned to customers. If costs exceed revenue over the MRP term, the amount of the under collection would generate no carrying costs as it is held in a regulatory liability to be recovered by Pepco.¹⁰³

¹⁰¹ DCG (4A) at 4:5-18 through 5:1-6.

¹⁰² Surrebuttal Testimony of Pepco Witness Wolverton, Pepco (6C) at pg. 14.

¹⁰³ *Id.* at pgs 17-18.

B. Pepco's Enhanced MRP Proposal Does Not Cure the Deficiencies Identified in its Original MRP.

Like its Original MRP, Pepco's Enhanced MRP does not comply with certain principles set forth in the Commission's AFOR Order. First, the Enhanced MRP does not contain appropriate incentives to contain costs.¹⁰⁴ The Maryland reconciliation process it adopts to address over / under earnings is flawed. Further, the proposed 2.5% escalation rate to allowed revenues year-over-year during the MRP term is unfounded and arbitrary. Second, the Enhanced MRP does not sufficiently advance or align with the District's public policy goals related to the adoption of DERs, the development of NWAs or grid modernization. Moreover, the proposed tracking metrics do not sufficiently advance District's clean energy goals.¹⁰⁵ Third, the Enhanced MRP fails to protect ratepayers from the COVID-19 impacts due to the uncertainty of future electricity use in District of Columbia. There is limited factual basis to ensure that Pepco's forecasts are just, reasonable or not arbitrary.¹⁰⁶

1. The Enhanced MRP Contains Insufficient Cost Containment Incentives.

As set forth in DCG Witness Lane's Supplemental Testimony, DCG opposes Pepco's proposal to adopt the Maryland reconciliation process because process is a *de facto* Formula Rate Plan.¹⁰⁷ It allows for the reconciliation of Pepco's under-earnings (except for carrying costs). Pepco's proposal no longer provides for annual reconciliation of underearnings, but does allow

¹⁰⁴ AFOR Order, ¶ 94, Item #6.

¹⁰⁵ DCG (4A) at 2: 7-22.

¹⁰⁶ DCG (4A) at 3: 1-5.

¹⁰⁷ DCG (4A) at 6:13-20. *See also*, AFOR Order ¶ 85 ("DCG explains that both MRPs and formula rate plans feature formulas but in 'formula rate plans formulaically ensure that revenues track costs, often measured as deviations in return on equity (ROE) from the utility's target ROE . . . Importantly, in contrast, MRPs do not adjust revenues to equal costs during the plan.' DCG states that 'Because revenues do not increase in lock step with costs, the utility has an incentive to reduce costs to increase its profits for the duration of the rate plan. At the end of the MRP term, these cost reductions can then be passed on to ratepayers when rates are reset in a rate case.' It is on this basis that DCG concludes that 'FRPs or MRPs that essentially resemble FRPs are not in the public interest.'")

for such reconciliation at the end of the MRP term through consolidated and final reconciliations – keeps actual ROE from deviating away from allowed ROE, and shifts risk of overspending to customers.¹⁰⁸ Even the Brattle report, upon which the MD MRP’s key features is based, notes that reconciliations in MRPs are limited in scope and usually only apply to capital expenditures (not operating and maintenance expenditures) and only to a utility’s overearnings, to the extent they are allowed at all.¹⁰⁹

MRPs do not reconcile revenues to equal actual costs, but instead compel utility to operate within its authorized revenue amounts and is rewarded for finding the most cost-effective solutions for serving customers. The Enhanced MRP reconciliation of utility over-spending, except for carrying costs, significantly undermines cost containment incentives. Pepco can recover all costs overruns except for those found to be imprudent.¹¹⁰ There should be no reconciliations of revenues with costs allowed over the course of MRP or even at end of MRP. Rates should be reset with a new test year at the close of the MRP or, they can continue as approved in the original MRP with a revised evaluation for an updated escalation factor for revenues going forward.¹¹¹

Second, Pepco’s annual information filing shifts the burden to the Commission and parties to show imprudence.¹¹² If Pepco is over-earning, the Commission on its own, or Interveners could initiate a review to determine whether rates should be lowered to address over-earnings shown in annual information filing.¹¹³ The MD Order refers to “significant

¹⁰⁸ DCG (4A) at 7:1-10.

¹⁰⁹ DCG (4A) at 7:11-16. See Brattle Group, *Exploring the Use of Alternative Regulatory Mechanisms to Establish New Base Rates*, Joint Utilities’ Joint Initial Comments, Maryland PC51, March 2019.

¹¹⁰ DCG (4A) at 8:1-5.

¹¹¹ DCG (4A) at 9:19-20 through 10:1-4.

¹¹² DCG (4A) at 9:1-6.

¹¹³ Surrebuttal Testimony of Pepco Witness Wolverton, (6C) at pg. 15.

disparity.”¹¹⁴ After each annual informational filing, parties have 60 days to conduct discovery and provide written comments.¹¹⁵ If a party can demonstrate a significant disparity between revenues and expenses to the detriment ratepayers, the Commission may order a hearing to determine whether a rate adjustment is appropriate.¹¹⁶ This feature of the Maryland reconciliation process creates doubt as to (1) permitted amount of over-earnings, and (2) level of ratepayer protection.

Third, the proposed annual cost escalation rate of 2.5% for both plant additions and O&M expenses for the 12 months ended June 20, 2019 is not derived from any external index and is unsupported.¹¹⁷ This feature of the Enhanced MRP would allow the Company to build rate base by (a) overstating its costs / revenue requirement to be allowed in the rate case through an arbitrary escalation rate, and (b) overspend the costs that are allowed in the rate case. Both negative outcomes are enabled by this flawed aspect of the Enhanced MRP.¹¹⁸

An escalation rate should ideally be based on a solid justification that includes use of an independently published index.¹¹⁹ Pepco should be required to adopt an escalation rate that is based upon a known independent published external index that is not arbitrarily chosen to accommodate its desired growth in budget and revenue requirement. The key purpose of using an external index is to allow rate changes to be independent of actual cost changes to give Pepco the incentive to control costs over the course of the MRP.¹²⁰ It is not to enable the Company to escalate costs in a manner that equals its desired revenue requirements. The use of an external

¹¹⁴ MD PSC Case No 9618, Order No. 89482 at ¶ 79.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ DCG (4A) at 11:1-3.

¹¹⁸ DCG (4A) at 11:10-13.

¹¹⁹ DCG (4A) at 12:6-8.

¹²⁰ DCG (4A) at 16:19 through 17:1-2

index is to provide some assurance that the trajectory of revenue requirements provided to the utility between rate cases is reasonable.¹²¹

2. The Enhanced MRP Does Not Sufficiently Advance the District's Policy Goals.

The Enhanced MRP's addition of a GHG tracking metric, and supplemental energy efficiency rebates and loans for small commercial customers will not adequately advance the District's public policy goals, such as grid modernization, adoption of DER, and development of NWAs. The Enhanced MRP identifies no proposed actions or investments to further these goals beyond what Pepco is already required to do under Commission regulations or ongoing proceedings.¹²²

Even the GHG tracking metric does not provide any benefit beyond the business as usual reporting process. Pepco only has a combined GHG emissions commitment for MD & DC that it is tracking as part of its established Key Performance Indicators and as included in its objectives in the IO 14001 Environmental Management System.¹²³ A GHG emissions reduction goal should be specific to the District. Despite this metric being tracking only (no associated financial reward or penalty), development is still important for determining the baseline for any future PIM related GHG emissions reductions.¹²⁴

Despite proposing energy efficiency rebates and loans to incentivize energy efficiency for small commercial customers in the Enhanced MRP, Pepco claims that District's clean energy and grid modernization goals are the subject of ongoing proceedings, and that it will be able to develop and implement more projects and programs that advance the District's public policy and

¹²¹ DCG (4A) at 17:4-5. *See also*, DCG (3A) at 28:3-7.

¹²² DCG (4A) at 17:10-14.

¹²³ DCG (4A) at 18:10-18 through 19:1-5. *See also*, DCG (4A)-2.

¹²⁴ DCG (4A) at 19:7-12.

clean energy goals once clear and definitive directives from the Commission are in place.¹²⁵

However, as indicated in Pepco Witness McGowan's Surrebuttal Testimony, the Company could propose additional investments to advance other District clean energy goals despite the existence of ongoing proceedings, in order to "accelerate the availability of these incentives."¹²⁶

DCG suggests such investments and actions include (1) increasing DER hosting capacity through use of advanced inverters (2) reducing line losses through deployment of conservation voltage reduction, and volt/VAR optimization (3) Screening proposed capital investments related to load growth for NWAs, and (4) creation of a holistic grid mod plan specifying investment schedule related to distributed resource management, field automation, substation automation, operational communication infrastructure and sensing and measurement equipment.¹²⁷ Pepco could request the Commission establish limited cost riders or trackers for specific types of investments that advance grid modification.¹²⁸ Alternatively, limited reconciliations may be appropriate for large, unusual investments as part of a grid modernization plan. In such a case, a one-way downward reconciliation at the end of the MRP may be appropriate.¹²⁹

3. The Enhanced MRP fails to protect ratepayers from the economic impacts of COVID-19 impacts due to the uncertainty of future electricity use in District of Columbia.

Pepco acknowledges that it could take up to 2 years following the end of the pandemic for the District's economy to recover.¹³⁰ Pepco anticipates an overall 2020 drop in electricity sales of 3.7% based on 5 months (Jan. 2020 – May 2020) of actual data as a result of to a drop in

¹²⁵ DCG (4A) at 20:1-9. *See also*, DCG-5.

¹²⁶ Pepco (5B) at pg. 30.

¹²⁷ DCG (4A) at 19:17-19 through 20:1-7. *See also*, (3A) at 17:12-18 through 18:1-4.

¹²⁸ DCG (4A) at 18:3-5.

¹²⁹ DCG (4A) at 9:5-13.

¹³⁰ DCG (4A) at 21:13-16. *See also* DCG (4A)-4.

commercial sales.¹³¹ However, only 2 of these 5 months of actuals took place during pandemic. OPC Witness Dismukes projects decreases in electricity usage of 5 to 15 percent.¹³² Pepco also acknowledges that construction spending on new commercial and residential customer connections has decreased due to COVID -19 in 2020.¹³³

Despite these declining electricity sales, Pepco has not modified its budget or adjusted its capital construction plans to account for the need for fewer new capacity-driven projects in its Enhanced MRP as a result of the COVID-19 pandemic.¹³⁴ Pepco has not performed an analysis to determine COVID-19 impact on load forecasts and revenue requirement forecast.¹³⁵ No information has been provided with respect to the \$60 million in deferred capital contained in the Original MRP, such as identification of the specific capital projects that Enhanced MRP would defer.¹³⁶

Pepco's ability to reconcile all costs (except for carrying costs) in the Enhanced MRP undermines its claim that the MRP allows Pepco flexibility by allowing for adjustments to reflect changes in the business environment (rather than changes in the utility's actual revenue and costs). Further amplifies concerns that the 2.5% escalation rate is justified given potential need for less revenue for investments.¹³⁷

III. CONCLUSIONS REGARDING ORIGINAL AND ENHANCED MRPs

For the reasons stated herein, the Commission should direct Pepco to:

¹³¹ DCG (4A) at 21:17-19. *See also* DCG(4A)-5 (Pepco's CONFIDENTIAL response to PSC DR 19-5).

¹³² OPC (3A) at 22

¹³³ *See* DCG (4A)- 6 and DCG (4A)-7, respectively.

¹³⁴ *See* DCG (4A)-8.

¹³⁵ *See* DCG (4A)-9 and DCG (4A)-10. *See also*, DCG (4A) at 24:12-15, and DCG (4A)-11.

¹³⁶ *See* DCG (4A) at 23:7-15, and DCG (4A)-8.

¹³⁷ DCG (4A) at 24:1-3.

(1) Develop and implement an integrated distribution plan and a comprehensive grid modernization plan including a system needs assessment, technology investment roadmap, timeline, and benefit-cost analysis;

(2) Reject Pepco's Original MRP and Enhanced MRP proposals, and all associated proposed PIMs;

(3) Continue filing any rate change applications based on traditional cost of service regulation;

(4) Not file another MRP proposal unless the proposal remedies the deficiencies in the Original and Enhanced MRP proposals identified herein that: (a) exhibit strong cost-containment incentives; (b) prevent unreasonable shifting of risk to customers; (c) align with or advance the District's public policy goals and commitments, (d) provide benefits that are measurable, quantitative, and qualitative to customers, and (e) otherwise comply with the Commission AFOR Order in this proceeding.

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