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PRESS RELEASE

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Exelon Prevails in Convincing the PSC to Limit OPC's Funding for Reviewing the Pepco/Exelon Merger Proposal

“In the most important case in decades to impact the energy landscape in the District of Columbia, the DC Public Service Commission has issued a decision dealing a crippling blow to the Office’s ability to finance its advocacy on behalf of District utility consumers,” stated People’s Counsel Sandra Mattavous-Frye. “The Commission’s decision severely limited OPC’s ability to ensure consumers receive tangible benefits and that the public interest is met,” continued the People’s Counsel. The Commission designated Pepco’s previous two merger cases as rate cases.

At issue was whether the Commission would categorize the merger as a rate case. Had the Commission found that the proposed merger’s impact on rates meant the proceeding was a “rate case,” OPC would have more financial resources available to advocate on behalf of consumers and ensure the Commission has a complete record to determine if the merger is in the public interest.

When Exelon filed the merger application, it went to great lengths to stress that, although the merger purportedly will have substantial beneficial impacts on rates, it is not a rate case. Exelon knew full well that a decision in its favor would impede the Office’s ability to fully participate in the proceeding. Over OPC’s strong objection, the Commission’s decision designating this case as an investigation exacerbated the “David and Goliath” scenario that too frequently characterizes the regulatory process: a Goliath utility with unlimited financial resources against the consumer advocate.

“The Commission’s decision, in part, is based on the premise that investigations of this nature *do not require the same level of resources as a rate proceeding.*” “Given the magnitude of this case, I believe DC ratepayers would implore the Commission to reconsider that conclusion. The application, as filed, does not meet the public interest standard. Any merger

must include specific conditions to ensure consumers are protected and receive meaningful benefits. Developing these conditions is complex and may indeed require more resources than even a rate case provides,” said the People’s Counsel.

As a matter of law, the Anti-Deficiency Act mandates that, if the Office depletes its funds prior to end of the year, it can no longer participate in the proceeding. OPC’s forced withdrawal will result in silencing the consumers’ voice at a crucial time in the process. The Office’s inability to participate in any phase of this case, especially its preparation for the evidentiary hearings, would be harmful to consumers.

Stay tuned!