



## Office of the People's Counsel District of Columbia

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**Sandra Mattavous-Frye, Esq.**  
Acting People's Counsel

July 7, 2011

The Honorable Yvette M. Alexander  
Chairperson  
Committee on Public Services and Consumer Affairs  
Council of the District of Columbia  
The John A. Wilson Building  
1350 Pennsylvania Avenue, N.W., Suite 400  
Washington, D.C. 20004

Dear Council Member Alexander:

Enclosed please find the written testimony of the Office of the People's Counsel to be presented today before the Committee on Public Services and Consumer Affairs regarding Bill 19-9, the "Reliable Electric Service Act of 2011." If you have any questions or are in need of additional information, feel free to contact our office.

Sincerely yours,

Sandra Mattavous-Frye, Esq.  
Acting People's Counsel

Enclosure

**BEFORE THE**  
**COMMITTEE ON**  
**PUBLIC SERVICES AND CONSUMER AFFAIRS**  
*Of the*  
**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**PUBLIC HEARING**  
*On*  
**Bill 19-9, the “Reliable Electric Service Act of 2011”**

**TESTIMONY**  
*Of*  
**SANDRA MATTAVOUS-FRYE, ESQ.**  
**ACTING PEOPLE’S COUNSEL FOR THE DISTRICT OF COLUMBIA**

**July 7, 2011**

Good afternoon Chairperson Alexander and members of the Committee on Public Services and Consumer Affairs. I am Sandra Mattavous-Frye, Esq., Acting People’s Counsel for the District of Columbia.<sup>1</sup> With me today are OPC staff members: Associate People’s Counsels Brian O. Edmonds and Karen Sistrunk; Assistant People’s Counsel Jennifer Weberski; and, Herbert Jones, Manager, Consumer Services Division.

Thank you for inviting the Office of the People’s Counsel (“OPC” or “Office”) to appear before the Committee today to present testimony in support of Bill 19-9, the “Reliable Electric Service Act of 2011.” The Office applauds the

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<sup>1</sup> D.C. Code § 34-804 (2011).

Council of the District of Columbia's ("District Council") consideration of legislation that would require the Public Service Commission of the District of Columbia ("Commission") to establish enforceable service reliability standards applicable to Potomac Electric Power Company ("Pepco" or "the Company").

Electric system reliability in the District has reached a crisis point: Pepco's performance as measured against reliability metrics has plummeted to its lowest level in history. When compared with its peers, Pepco continuously falls in the lower quartile of performance measures. Based on Pepco's Reports during the period covering January 1 through May 31, 2011, Pepco's distribution system has suffered sustained outages affecting more than 100,000 customers, including some affecting District and federal agencies and other unexplained "blue sky" outages.<sup>2</sup> Adding insult to injury, consumers consistently complain of delayed service restoration times and note Pepco's failure to provide accurate information regarding the status of the outages.

Action is required. Measures must be implemented that will encourage Pepco to take meaningful steps to improve system reliability. The proposed legislation is movement in the right direction. In the same vein, OPC notes the inclusion of a rider in Subtitle I of the Fiscal Year 2012 Budget Support Act of

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<sup>2</sup> Most recently, the District experienced an outage in the area of the city north of Union Station near North Capitol Street affecting more than 2,000 customers in residential and commercial areas, as well as many federal and District government office buildings. OPC thanks this Committee for writing the Commission on June 2, 2011 expressing concern about this outage and urging the Commission to immediately investigate the causes of the outage and why service restoration took so long.

2011, the “Public Service Commission Amendment Act of 2011, (“BSA Rider”) which amends D.C. Code § 34-706 by adding a new subsection (e) that grants the Commission authority to subject a public utility to a civil penalty of up to \$100,000 per offense for failure to comply with regulations establishing specific performance standards.<sup>3</sup> The Office is concerned that \$100,000 will not be sufficient to encourage Pepco to make improved reliability. The two initiatives share the same essential objective: to ensure that Pepco meets reasonable performance standards, and is penalized for any failure to do so.

Following years of chronic inattention, some attention is now being paid to the outage problems, however, much more can and should be done to assure ratepayers all actions possible are being taken to identify and resolve the problem. The City’s ratepayers are understandably frustrated and uncertain about whether steps will ever be taken to fully address the problems. Ratepayers and consumers justifiably expect the Commission to direct Pepco to take steps to provide reliable service, especially considering the steady growth in the rates the Commission has allowed Pepco to receive even while the Company provides such poor service.

OPC commends the proactive initiative and efforts of the Council, which will help to empower District consumers and ensure they receive reliable and affordable utility services that Pepco should be providing in return for the generous

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<sup>3</sup> See, Bill 19-203, “Fiscal Year 2012 Budget Support Act of 2011,” Subtitle I. Public Service Commission Amendment.

rates the Company has been permitted to charge. OPC wholeheartedly commits to working with the District Council to improve and refine Bill 19-9, and here offers some preliminary recommendations to improve this important legislation.

My presentation is in two parts. First, in order to understand the long-standing nature of Pepco's service reliability deficiencies, I will briefly detail some of the Company's recent "reliability history" in the District. (I have attached an appendix to my Testimony, which details the procedural history of OPC filings and Commission decisions.) Second, I will offer for this Committee's consideration the Office's suggested modifications to Bill 19-9.

**THE RECORD TO DATE: A SHORT HISTORY OF PEPCO'S SERVICE RELIABILITY ISSUES IN THE DISTRICT OF COLUMBIA.**

Pepco's current state of affairs cannot be fully understood without a brief review of certain significant events over the past twelve years. This history is colored by changes in the law, by the actions of the Commission, and (of course) by Pepco's own conduct.

Twelve years ago, the District Council enacted D.C. Law 13-107, the "Retail Electric Competition and Consumer Protection Act of 1999" ("Retail Competition Act"). Among other things, this legislation required Pepco to be the monopoly

supplier of distribution service in the District.<sup>4</sup> Prior to the enactment of this law, Pepco provided transmission, generation (electric supply) and distribution service as a fully integrated public utility company and on a monopoly basis. The Retail Competition Act permitted Pepco to sell its generation facilities and opened the door for alternative electric providers to provide service.

Operating on a separate but parallel track, the Commission in December 1999 approved a non-unanimous settlement agreement (“Agreement”) that granted Pepco’s request to sell its generation plants and become a “distribution only” company, whereby the Company pledged to focus solely on providing delivery or distribution service to District consumers. Consumers were provided the choice to select generation service from competitive suppliers or obtain Standard Offer Service (“SOS”) from Pepco. A key provision of the Agreement was a cap on distribution rates that Pepco ultimately agreed to extend to 2007. Pursuant to terms of the Agreement, Pepco voluntarily agreed that it could not increase its retail rates for the ensuing seven years.

Notwithstanding Pepco’s new singular focus on distribution service, its performance following the 1999 settlement and divestiture evidenced an unwillingness to invest in the proper maintenance of its distribution system. For years following divestiture, and during the voluntary seven-year rate cap period,

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<sup>4</sup> See, D.C. Code § 34-1506(a) (1).

Pepco failed to make necessary infrastructure investments or commit adequate resources to identify and fix infrastructure problems. As a result, Pepco's performance began to degrade. And, with each service disruption, the Office began to press the Commission to investigate Pepco's performance and to rectify perceived deficiencies.

There is no question that the Commission is empowered to address the Company's failure to provide adequate distribution service. As a regulated public utility company, Pepco is required to furnish safe and adequate service and facilities at just, reasonable and nondiscriminatory rates.<sup>5</sup> Pepco is further required to "maintain the reliability of its distribution system in accordance with applicable orders, tariffs, and regulations."<sup>6</sup> The Commission has the exclusive authority and responsibility to protect the public interest by ensuring that every public utility doing business within the District furnishes service and facilities that are reasonably safe and adequate.<sup>7</sup>

OPC, on numerous occasions and in many filings before the PSC, including the submission of comments on Pepco's annual Consolidated Reports<sup>8</sup>; the Undergrounding Report<sup>9</sup>; and recently, Pepco's Comprehensive Reliability Plan<sup>10</sup>,

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<sup>5</sup> See, D.C. Code § 34-1101(a).

<sup>6</sup> D.C. Code § 34-1506(b).

<sup>7</sup> See, D.C. Code § 1-204.93.

<sup>8</sup> Formal Case No. 766, *Office of the People's Counsel's Comments Addressing Pepco's 2010 Consolidated Report* (April 26, 2010).

<sup>9</sup> Formal Case No 1026, *Office of the People's Counsel's Comments Addressing the Commission's Study of*

has pointed out Pepco's poor management, ineffective communications with customers during weather incidents, poor advance planning and the Company's failure to make targeted system upgrades. The Office has advocated for penalties against Pepco and for reductions in the Company's rate of return based upon its failure to provide reliable service. In each instance, the Commission has rejected OPC's request. This has exacerbated the situation because, absent a Commission directive and meaningful financial penalties, Pepco has no incentive to take corrective action.

Pepco asserts its reliability problems are primarily "incident or weather driven," or due to an inordinately heavy "tree canopy". While these are contributing factors, they are not the sole drivers of Pepco's problem. Rather, a systemic failure to invest in and manage the Company's distribution infrastructure has exacerbated the problem. It is worth noting that according to the Commission Staff Report, thirty-seven percent (37% ) of outages in 2010 were due to equipment failure and nineteen percent (19%) caused by trees.<sup>11</sup>

OPC, through the Commission filings and petitions as well as testimony before the District Council, has consistently raised concerns about service

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*the Feasibility and Reliability of Undergrounding Electric Distribution Lines in the District of Columbia.* (Oct. 29, 2010).

<sup>10</sup> Formal Case No. 766, *Office of the People's Comments Addressing Pepco's Comprehensive Reliability Plan.* (Nov. 22, 2010).

<sup>11</sup> Formal Case No. 766, *Staff Report on the Potomac Electric Power Company's 2011 Consolidated Report: Productivity Improvement Plan, Comprehensive Plan, Manhole Event Report* (June 24, 2011)

reliability. Indeed, there are currently at least five (5) open Commission dockets in which various aspects of Pepco's electric distribution system performance are the subject of an investigation: Formal Case Nos. 766, 982, 991, 1026, and 1062. The Commission denied OPC's request to consolidate these proceedings into one single docket, indicating it "believes a close examination of reliability in the context of the system's various components and in separate proceedings offers insights that a broad overview does not."<sup>12</sup> In addition, the Commission has resisted calls in response to more recent outages to conduct evidentiary hearings, which could help compile an official "record" of the Company's actions and their impacts on customers.

Unfortunately, while the presence of these multiple dockets is a strong indication that Pepco is not doing its job, OPC's requests have not spurred the improvement in reliability that ratepayers and consumers who pay for this service deserve. Notwithstanding the numerous open dockets, legislative roundtables, and working group efforts, District ratepayers and consumers continue to experience a decline in system reliability while the possibility of future increases in electric distribution rates looms. If consumers are to be protected, focused action is needed.

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<sup>12</sup> Formal Case Nos. 766, 982, 981, 1002, 1026, and 1062, Order No. 15567, rel. Jan. 25, 2010.

## **OPC'S RECOMMENDATIONS AND PROPOSED AMENDMENTS TO BILL 19-9**

The primary objective of any measure must be to ensure that Pepco adheres to its statutory mandate to provide safe, just, adequate and reasonable electric service, and that the Commission discharges its statutory mandate to ensure all utilities are required to furnish service and facilities that are reasonably safe, adequate and in all respects just and reasonable.

The Office has specific primary recommendations. They are:

1. Establish a specific financial penalty credited to ratepayers.
2. Use of a five (5) year rolling average for reliability targets which require the utility to exceed the average to meet the new benchmark.
3. Supports comparison of SAIDI and SAFI to other electric companies as reflected in the bill.
4. Include CAIDI as a performance measure.

***OPC supports a specific financial penalty instead of reduction to Pepco's Return on Equity. The penalty would still be credited to the ratepayers. Subsections (b) and (d) (2).***

One way to ensure Pepco invests in improving the distribution system would be to tie performance deficiencies to financial penalties. OPC has raised this proposal repeatedly, but the Commission has, to date, declined to adopt a provision for financial penalties in the EQSS.<sup>13</sup> It has been raised as an issue in the

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<sup>13</sup> See, Formal Case No. 982, *OPC's Analysis of the Potomac Electric Power Company's Distribution System in the District of Columbia* (Sept. 25, 2009) and *OPC Comments on the Commission's Proposed Electric Quality of*

Commission's recent NOPR. OPC has reiterated its position that, Pepco should be made subject to financial penalties if it fails to meet applicable performance standards.

OPC firmly believes the establishment of financial penalties, in whatever form, will require Pepco to make some hard choices. It can invest money to improve system reliability for which it will be allowed recovery if the costs are just and reasonable, or it can continue in the same manner and take the risk of having to pay a penalty for failure to meet fair performance standards.

OPC's proposal includes a penalty provision that would credit customers an amount equal to five basis points of Pepco's then-authorized return on equity ("ROE") for each reliability standard the electric utility fails to meet. Under OPC's proposal, there would not be an actual reduction to Pepco's ROE. Rather, OPC's proposal provides a formulaic approach to determine the amount of the penalty. For example, based on the most recent Commission order in Pepco's rate case (i.e., Formal Case No. 1076), the five (5) basis point has a revenue requirement impact or rate increase impact of \$398,645. This alternative approach would not only provide Pepco with a known and measurable economic incentive to meet the reliability targets, but it would also compensate consumers who suffered as a result of Pepco's failure to meet those standards.

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*Service Standards* (Aug. 27, 2007). Formal Case Nos. 766 & 991, *OPC's Comments on Pepco's 2007 Consolidated Report* (May 15, 2007) and *OPC's Comments on Pepco's 2008 Consolidated Report* (Apr 14, 2008).

Finally, any such penalties must be structured so that they are borne solely by the Company--*i.e.*, Pepco's shareholders. Allowing Pepco to pass a financial penalty through to ratepayers in a subsequent rate application takes away the incentive for improvement.

I mentioned earlier the BSA Rider which gives the Commission the discretion to impose a civil penalty of *up to \$100,000* per offense for a public utility's failure to meet a specific performance standard. While the \$100,000 maximum penalty is significantly more than the \$10,000 maximum forfeiture, it is still unclear that the threat of a \$100,000 penalty will provide Pepco any meaningful incentive to improve its reliability. Furthermore, \$100,000 is the *maximum* penalty. It is entirely possible the Commission, in its discretion, may impose a penalty significantly below the maximum or no penalty at all.

Also as discussed in OPC's comments on the EQSS NOPR, any civil penalty assessed against a public utility for failure to meet specific performance standards should be paid to consumers because it is consumers who are harmed by Pepco's poor reliability. The typical costs to residential consumers as a result of an outage include the costs of consumable goods such as spoiled food, flashlights, candles, inconvenience costs, fear and anxiety. Ratepayers should receive some compensation for the harm(s) they have suffered as a result of frequent or extended power outages. The BSA Rider is silent as to whom the civil penalties are paid.

***OPC supports modification of the EQSS to provide a five-year rolling average approach to establishing reliability targets.***

Steps should be taken to direct Pepco to improve its service reliability. The EQSS adopted by the Commission on February 19, 2008 must be modified and strengthened.<sup>14</sup> The EQSS are intended to ensure Pepco meets an adequate level of service quality and reliability.<sup>15</sup> The EQSS establish benchmarks for System Average Interruption Duration Index (“SAIDI”), System Average Interruption Frequency Index (“SAIFI”), and Customer Average Interruption Index (“CAIDI”) reliability indices. Unfortunately, the current EQSS reliability standards are inadequate. They neither ensure nor encourage Pepco to improve its reliability. For example, in 2007 and 2008 Pepco met the benchmarks established under the EQSS rules, yet, as I have noted and as Pepco admits, its performance is still poor. Only SAIDI and SAIFI are included under the current EQSS NOPR.

OPC believes CAIDI is an excellent measure of the duration of outages, and one of the most pressing issues to be addressed in the District is the duration of outages on the Pepco system. CAIDI is also a good tool for evaluating whether the manpower levels maintained by Pepco to respond to outages in general, and the levels mustered in response to major outages in particular, are adequate.

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<sup>14</sup> 55 D.C. Register 1943-1960.

<sup>15</sup> 15 D.C.M.R. § 3600.1 (2010).

Prior to the adoption of the EQSS, Pepco was reporting under Interim Standards adopted by the Commission on April 27, 2005.<sup>16</sup> In adopting the EQSS, there was no change in the way in which the SAIDI, SAIFI and CAIDI benchmarks are calculated. Plainly, measurement of Pepco's performance against these benchmarks -- which have been in place roughly six years -- are neither ensuring nor encouraging Pepco to improve its reliability.

For example, under the existing rules, if Pepco performs poorly in one year--meaning its SAIDI, SAIFI and CAIDI numbers are high--when calculating the benchmarks for these indices for the following year, the high numbers from that one year will increase the benchmarks for the next year. Consequently, in subsequent years Pepco can still meet the benchmarks even if its performance is worse in the next year than it was in a previous year. Simply put, the poorer Pepco performs in Year One, the lower the reliability standards it must meet in Year Two. Performance standards in a subsequent year should not be less stringent than those set for the previous year. Until the reliability standards are modified to encourage improvement, Pepco's achievement of the existing benchmarks does not equate to the provision of sufficient or adequate service.

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<sup>16</sup> Formal Case No. 982, *Report of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Order No. 13565 (April 27, 2005); Formal Case No. 1002, *In the Matter of the Joint Application of Pepco and the New RC, Inc. for Authorization and Approval of Merger Transaction*, Order No. 13565 (April 27, 2005).

*Comparison of Pepco's SAIDI and SAIFI performance to all other electric companies is appropriate.*

Bill 19-9 further requires the Commission to make an annual comparison of Pepco's SAIDI and SAIFI performance with that of all other electric utilities for which SAIDI and SAIFI data are available. The bill sets forth the comparative standards that Pepco should exceed for each year when compared to other electric utilities. If Pepco fails to meet the comparative standard, the Commission is required to reduce Pepco's ROE by an appropriate amount. While the Office recommends a different penalty method, OPC supports comparing Pepco's SAIDI and SAIFI performance to all other electric utility companies.

However, it should be clear that a mandate that Pepco provide better service is not equivalent to a mandate to raise rates. Pepco should be providing high quality service at current rate levels. Given the generous rate allowances that the Commission has provided to Pepco, the Company should not be heard to suggest that the provision of high quality service will require even higher rates.

**Other OPC Recommendations**

1. Make reliability performance a mandatory issue in all rate cases. The quality of service being provided should be an integral consideration in deciding whether the rates for that service are just and reasonable.
2. Any investigation concerning reliability performance, health and safety issues must be in the form of a formal investigation involving an adjudicatory hearing and full contested case procedures.

## CONCLUSION

In conclusion, the chorus of concerns echoed by my clients and your constituents in all eight wards of the City is the same. They want: (1) reliable service, (2) reasonable and affordable rates, (3) effective, open and courteous communication with the utility service providers, and (4) responsive and accountable representatives, regulators and decision makers. The proposed legislation is a strong indication that the District Council remains ready to taken action to ensure that District consumers are provided the utility services they need and deserve. The Office remains committed to representing and advocating on behalf of District consumers. OPC will continue to use its resources in an efficient, effective and efficacious manner.

I am available to answer any questions you and members of the Committee may have.

## **SUMMARY OF OPC'S COMMENTS AND RECOMMENDATIONS**

**OPC supports modification of the Electric Quality of Service Standards to provide a five-year rolling average approach to establishing reliability targets.**

**The reliability standards should also include CAIDI for the reasons set forth in OPC's initial, reply, and supplemental comments to the EQSS Notice of Proposed Rulemaking.**

**OPC supports a penalty instead of reduction to ROE consistent with OPC's recommendations in its initial comments to the EQSS NOPR. The penalty would still be credited to the ratepayers.**

**A comparison of Pepco's SAIDI and SAIFI performance to all other electric companies is appropriate.**

**The proposed reliability standards set a more realistic and achievable goal for Pepco.**

## **APPENDIX I: OPC's ADVOCACY BEFORE THE D.C. PUBLIC SERVICE COMMISSION**

Power outages have been a recurring problem in the District of Columbia since the enactment of D.C. Law 13-107. This is significant because the sole focus of the Potomac Electric Power Company ("Pepco") since 2000 has been on the operation of the District's electric distribution system.

While service reliability issues date back to the ice storms in 1999, since 2004, the Office of the People's Counsel ("OPC" or "Office") has raised concerns before the Public Service Commission of the District of Columbia ("Commission") about Pepco's distribution service reliability (See Attachments A and B). Disappointingly, very little meaningful action has been taken to compel Pepco to perform better as an electric distribution service company.

On September 25, 2009, OPC filed its Analysis of Pepco's Electric Distribution System in the District of Columbia ("Analysis")<sup>1</sup> with the Commission. OPC's Analysis detailed the Office's findings following its independent investigation and analysis of Pepco's distribution system. To date, no Commission action has been taken with regard to OPC's Analysis.

In the last two Pepco rate cases, Formal Cases 1053 and 1076, OPC asked the Commission to determine whether the reliability and quality of Pepco's

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<sup>1</sup> See, Formal Case Nos. 766, 982, 991, 1002, 1026 and 1062, OPC Analysis of the Potomac Electric Power Company's Distribution System in the District of Columbia (Sept. 25, 2009).

distribution service is safe, adequate and in all respects just and reasonable. The Commission declined to consider Pepco's reliability in both cases even though it is statutorily required to insure that Pepco's distribution service is safe, adequate and in all respects just and reasonable.<sup>2</sup> Ironically, the Commission has even determined that Pepco's reliability performance is poor, has been declining since 1998 and, in comparison to other utilities is at or near the bottom.<sup>3</sup> Pepco also concedes its performance is below par, has been static over the past two years as measured by standard industry reliability indices and that the "reliability expectations of customers, the District Council and the Commission are not being met."<sup>4</sup> Yet, the Commission has taken no meaningful steps to direct Pepco to improve its performance and the outages continue.

## **SERVICE OUTAGE AND RESTORATION PERFORMANCE STANDARDS FOR REPORTING TO THE DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION**

On October 22, 2002, the Commission approved Service Outage and Restoration Performance Standards for Reporting to the District of Columbia Public Service Commission ("Reporting Standards").<sup>5</sup> The Office supported the proposed standards with one exception. OPC asked the Commission to set the

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<sup>2</sup> D.C. Code § 1-204.93 (2011).

<sup>3</sup> Formal Case Nos. 766 & 991, Order No. 15152 at ¶ 60, rel. Jan. 6, 2009.

<sup>4</sup> See, Formal Case No. 766, *In the Matter of the Commission's Fuel Adjustment Clause Audit and Review Program*, Potomac Electric Power Company's 2009 Consolidated Report Executive Summary (Feb. 17, 2009).

<sup>5</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption of Electric Energy Service*, Order No. 12574, rel. Oct. 22, 2002.

number of customers included in the definition of a major outage at 5,000 rather than 10,000 as proposed by Pepco. The Commission set the number of customers included in the definition of a major outage at 10,000.

On September 28, 2007, the Commission adopted Chapter 36 of Title 15 of the District of Columbia Municipal Regulations--the Electricity Quality of Service Standards ("EQSS")--which combined previous Commission-approved standards, including those approved in October 2002, with new standards including the new Section 3604 pertaining to billing error notifications and the new Section 3606 pertaining to compliance reporting.<sup>6</sup>

On October 6, 2010, the Commission denied OPC's August 6, 2010 Petition for an Investigation into the Electric Distribution System Reliability of the Potomac Electric Power Company in the District of Columbia and the Office's August 31, 2010 Motion for an Expanded Investigation and Hearings into the System Reliability and System Outage Response of the Potomac Electric Power Company in the District of Columbia.<sup>7</sup> In OPC's Petition and Motion, the Office, requested, among other things, the Commission impose financial penalties for

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<sup>6</sup> See 54 D.C. Register 9376-9392 (September 28, 2007). Subsequently, on February 29, 2008, the Commission modified the EQSS. See 55 D.C. Register 1943-1960 (February 29, 2008). The Commission added Section 3606 to the EQSS on July 25, 2008. See 55 D.C. Register 7985-7986 (July 25, 2008).

<sup>7</sup> Formal Case No. 1082, *In the Matter of the Investigation into the Distribution System Reliability Performance of the Potomac Electric Power Company in the District of Columbia*, Order No. 16002, rel. Oct. 6, 2010.

Pepco's poor reliability performance.<sup>8</sup> In response to OPC's petition, Pepco concluded, "OPC characterizes Pepco's performance as poor, but because PEPCO is meeting current reliability standards, OPC is essentially arguing that it considers the reliability standards unacceptably low."<sup>9</sup> In the order denying OPC's petition and motion, the Commission concluded, "We view the immediate question presented not as whether Pepco is complying with the reliability standards, but whether we should revisit and possibly revise the reliability standards set forth in the EQSS."<sup>10</sup> The Commission directed the Productivity Improvement Working Group ("PIWG") to meet, consider and determine whether to propose new and/or revised reliability standards that can be incorporated into the EQSS in a formal rulemaking.<sup>11</sup> The PIWG held a series of meetings between November 2010 and March 2011 during which proposed amendments to the EQSS reliability standards were discussed. The Office submitted its proposed amendments to the EQSS.

On March 11, 2011, the Commission published a Notice of Proposed Rulemaking ("NOPR") expressing its intent to amend Chapter 36 of Title 15 of the D.C.M.R. by substituting the reliability standards in section 3603. On April 8,

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<sup>8</sup> Formal Case No. 1082, *In the Matter of the Investigation into the Distribution System Reliability Performance of the Potomac Electric Power Company in the District of Columbia*, Petition of the Office of the People's Counsel for an Investigation into the Electric Distribution System Reliability of the Potomac Electric Power Company in the District of Columbia (Aug. 6, 2010).

<sup>9</sup> Formal Case No. 1082, Reply Comments of Potomac Electric Power Company In Response to the Office of the People's Counsel's Petition for an Investigation into the Electric Distribution System Reliability of the Potomac Electric Power Company in the District of Columbia (Aug. 26, 2010).

<sup>10</sup> Formal Case No. 1082, Order No. 16002 at ¶ 8, rel. Oct. 6, 2010.

<sup>11</sup> *Id.* at ¶ 9.

2011, the Commission published a second NOPR expressing its intent to amend Chapter 36 of Title 15 of the D.C.M.R. by substituting the reliability standards in section 3603. (See Attachments C-1 and C-2).

On May 9, 2011, the Office filed comments on the NOPR advocating for:

- The retention of the Customer Average Interruption Duration Index (“CAIDI”) as a standard to be met by the electric utility
- A five-year rolling average approach to establish reliability targets
- The use of a Momentary Average Interruption Frequency Index (“MAIFI”)
- The penalties for failure to meet the reliability standards should be clearly identified in the regulations, with the unequivocal consequences of failure to meet those standards unmistakable by Pepco<sup>12</sup>

A copy of OPC’s comments is attached as Attachment D.

## **LEGISLATIVE ROUNDTABLES**

Public roundtable discussions among members of the District Council on the reliability of the electric distribution system maintained by Pepco have been held for nearly three years. On July 14, 2008, this Committee held a public roundtable

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<sup>12</sup> Formal Case Nos. 766, 982, 991, and 1002, Comments of the Office of the People’s Counsel on Chapter 36 Electric Quality of Service Standards (May 9, 2011).

on power outages and the reliability of the District’s electric reliability system following the June 2008 power outage at the 10th Street Substation which caused a major electric service outage occurred in the District of Columbia. That outage affected as many as 12,000 customers, including many federal and District government office buildings, the heart of the downtown business district, traffic signals and the Metro system, thus disrupting critical transportation services during the morning rush hour. Subsequent roundtables on electric power outages and service reliability were held by this Committee on January 23, 2010<sup>13</sup>, July 14, 2010<sup>14</sup>, September 30, 2010<sup>15</sup>, and February 11, 2011.<sup>16</sup> In testimony presented in each of the last three roundtables, OPC recommended the District Council approve legislation requiring the Commission to impose civil financial penalties linked to system performance and consider a public utility’s service quality and reliability when determining the allowed return on equity (“ROE”).

After the hearing nearly three years ago, District ratepayers and consumers witnessed their electric distribution service rates increase as the Commission granted Pepco a \$ 20.3 million dollar increase despite OPC’s unsuccessful attempt

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<sup>13</sup> Committee of Public Services and Consumer Affairs Public Oversight Roundtable on “Utility Reliability in the District of Columbia.”

<sup>14</sup> Committee of Public Services and Consumer Affairs Public Oversight Roundtable on “An Examination of Power Outages in the District of Columbia.”

<sup>15</sup> Committee of Public Services and Consumer Affairs Public Oversight Roundtable on the “Study of the Feasibility and Reliability of Underground Electric Distribution Lines in the District of Columbia” and the “Reliability of the Electric Grid in the District of Columbia.”

<sup>16</sup> Committee of Public Services and Consumer Affairs Public Oversight Roundtable on “An Examination of Power Outages in the District of Columbia.”

to make service reliability an issue in the rate case and advocating for a reduction in Pepco's overall rate of return because of its poor performance. In response to the public hearing testimony received during the 2009 rate case, the Commission indicated, "While the Commission already has several proceedings investigating Pepco's service quality and reliability, given the widespread complaints from the public about the quality of Pepco's service, service quality issues could be ripe for consideration in Pepco's next rate case."<sup>17</sup>

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<sup>17</sup> Formal Case No. 1076, Order No. 15710, rel. Mar. 2, 2010.

Attachment A

Pepco's Electric Distribution Service Reliability

**Office of the People's Counsel  
District of Columbia**

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**MEMORANDUM**

July 6, 2011

TO: Sandra Mattavous-Frye, Acting People's Counsel  
Jennifer L. Weberski, Assistant People's Counsel

FROM: Arthur L. Brown, Assistant People's Counsel

SUBJECT: Pepco's Electric Distribution Service Reliability

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**INTRODUCTION**

This memorandum provides a summary of the Office of the People's Counsel's ("OPC" or "Office") actions before the Public Service Commission of the District of Columbia ("PSC" or "Commission") regarding the Potomac Electric Power Company's ("Pepco" or "Company") electric distribution service reliability since the 2004 Witt Report<sup>1</sup> to the present, including OPC's petitions, motions and recommendations and indicating the PSC's response. In addition, attached as exhibit A to this memorandum is a chart that shows significant events that caused Pepco's electrical distribution service to be disrupted, OPC's action and the PSC's response.

**SUMMARY**

**I. 2004 VEGETATION MANAGEMENT ISSUES**

On October 29, 2004, OPC filed a Complaint on behalf of LeRoy Hall, a D.C. resident, regarding the poor manner in which trees were trimmed in front of his home.<sup>2</sup> OPC requested the PSC create a D.C. Electric Reliability Tree Trimming and Maintenance Task Force charged with vegetation management. In response, the PSC established the Tree Trimming Working Group to address issues of vegetation management involving Pepco, the D.C. Department of Transportation ("DDOT"), and residents, including Hall. The Tree Trimming Working Group, comprised of Pepco, DDOT, OPC and PSC staff, during the course of several months met to

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<sup>1</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Company Regarding Interruption To Electric Energy Service*, James Lee Witt Associates Report, May 2004.

<sup>2</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption To Electric Energy Service*, Complaint of LeRoy Hall, dated October 29, 2004.

address the vegetation management needs of the District from both an aesthetic perspective and the need for safe, reliable, and adequate electric service for District residents.

OPC recommended that:

1. The PSC exercise its regulatory authority to ensure that any plan accounts for and promotes safe and reliable service; and
2. The PSC direct Pepco to include in its educational programs information that will provide consumers with the knowledge they require to understand the necessity of tree trimming and effective vegetation management.

The Vegetation Management Plan for Utility Tree Trimming in the District of Columbia and the Communication & Resident Education Plan (“D.C. Plans”) were filed by the Tree Trimming Working Group on March 17, 2005.<sup>3</sup> OPC supported the Tree Trimming Working Group’s efforts to provide a comprehensive vegetation management for the District. The D.C. Plans provide all District residents with the policies and plans that guide Pepco and DDOT related to vegetation management in the District and serve as a first step for regional vegetation planning that must be taken to insure safe, reliable and adequate electric service for District residents.

**PSC’s response:** Approved the D.C. Plans on December 21, 2005.

## **II. 2005—SUMMER THUNDERSTORMS (JULY 22-23 AND JULY 27, 2005) RESULT IN LOST ELECTRICAL SERVICE DUE TO DOWNED POWER LINES**

On August 2, 2005, OPC filed a motion in F.C. No. 982 to expand the docket to include Pepco’s restoration efforts during the July 2005 storms. OPC asserted:

1. Consumers had difficulty reaching a “live body” at the call center;
2. Consumers experienced frustration at the lack of information or incorrect information received regarding restoration time;
3. Consumers question the continuing issue of downed trees on power lines; and
4. Consumers question the effectiveness of the restoration effort.<sup>4</sup>

**PSC’s response:** Denied OPC’s motion, but required Pepco to provide the Productivity Improvement Working Group<sup>5</sup> (“PIWG”) with: (1) a plan outlining Pepco’s steps to improve its

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<sup>3</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption To Electric Energy Service*, Pepco Vegetation Management Plan for Utility Tree Trimming in the District of Columbia, dated March 17, 2005.

<sup>4</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption To Electric Energy Service*, Motion of the Office of the People’s Counsel To Expand This Case to Include An Investigation Regarding Pepco’s Response and Restoration Efforts Following Outages Caused by the July 2005 Storms, dated August 2, 2005.

poor performance during the July storms; (2) a report showing how performance has improved since July 2005; and (3) the results of Pepco's investigation into the frequency and reason for inaccurate information to consumers. The Order was silent regarding downed power lines.

### **III. FORMAL CASE NO. 1026 – PSC INVESTIGATION ON THE FEASIBILITY AND COST OF UNDERGROUNDING UTILITY LINES**

On December 3, 2003, the Commission issued Order No. 12993, instituting an investigation into the feasibility of removing aboveground utility lines and cables and relocating them underground. The case was docketed as F.C. No. 1026.<sup>6</sup> Order No. 12993 cites to a number of inquiries from community groups and individual members of the public, in addition to government agencies regarding undergrounding of utility lines.

OPC filed Motions to Lodge the Comments of D.C. citizens on November 19, 2003,<sup>7</sup> November 21, 2003<sup>8</sup> and December 19, 2003<sup>9</sup> in F.C. No. 1026. In addition, OPC sought clarification on the intended scope of the proceeding.<sup>10</sup>

**PSC's response:** Granted OPC's Motions to Lodge and clarified the scope of F.C. No. 1026 as a "broad, wide-ranging review of all aspects of converting electric utility lines."<sup>11</sup> The PSC

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<sup>5</sup> Formed in 1992, under Commission directive, the Productivity Improvement Working Group ("PIWG") is comprised of Pepco, OPC and Commission staff. Since 1984, the Commission has transferred a number of issues and directives to the PIWG concerning productivity and reliability.

<sup>6</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Order No. 12993, dated December 3, 2003.

<sup>7</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Motion to Lodge Correspondence of Anne M. Renshaw Concerning the Underground Conversion of Pepco's Overhead Electric Lines and OPC Response, dated November 19, 2003.

<sup>8</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Motion to Lodge Correspondence of Ann Hume Loikow Concerning the Underground Conversion of Pepco's Overhead Electric Lines, dated November 21, 2003.

<sup>9</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Motion to Lodge The Chevy Chase Advisory Neighborhood Commission's 3/4G's Resolution Concerning the Underground Conversion of Pepco's Overhead Electric Lines and OPC Response, dated December 19, 2003.

<sup>10</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Motion of the Office of the People's Counsel for Clarification of Order No. 12993, dated December 11, 2003.

ordered Pepco to file a new underground conversion report updating its 1999 Report addressing the new and comprehensive issues surrounding undergrounding within 90 days of the Order. On September 30, 2004, Pepco filed the updated Report on the Feasibility of Removing Pre-Existing Aboveground Utility Lines and Cables, and Relocating them Underground (“2004 Updated Report”).<sup>12</sup> According to the 2004 Updated Report by Pepco, it would cost approximately \$4 billion and at least 20 years of construction to convert all of the District’s aboveground electric utility lines to underground facilities.

On February 14, 2005, OPC filed its Response to Pepco’s 2004 Updated Report.<sup>13</sup> Based upon Pepco’s estimated costs and the years of construction, OPC recommended:

1. Pepco conduct a feasibility analysis of underground conversion in selected areas of the District of Columbia and the associated costs;
2. Verizon-D.C., Inc., Comcast Cable and all other telecommunications and cable television providers with facilities in the District of Columbia provide a report of impact of the underground conversion on its facilities and customers; and
3. Pepco to continue its efforts to “work with” consumers and otherwise solicit community input in developing a feasible and viable underground conversion program.

**PSC’s response:** On December 6, 2005, the PSC declined to order Pepco “to convert its aboveground utility lines to a comprehensive underground system.”<sup>14</sup> However, the Commission did order Pepco to examine the cost and feasibility of placing select areas of the District, particularly areas known to be prone to electric outages, underground. The Commission ordered that Pepco produce a Report of the cost and feasibility of select undergrounding within 90 days of the issuance of Order No. 13830.<sup>15</sup> On June 5, 2006, Pepco filed its Report in response to

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<sup>11</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Order No. 13209, dated June 2, 2004.

<sup>12</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Pepco Report on the Feasibility of Removing Pre-Existing Aboveground Utility Lines and Cables, and Relocating them Underground, dated September 30, 2004.

<sup>13</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Reply Comments of the Office of the People’s Counsel To The Report on the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables and Relocating Them Underground, dated February 14, 2005.

<sup>14</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Order No. 13830, dated December 6, 2005.

<sup>15</sup> Pepco requested an enlargement of time to file until June 5, 2006. The Commission granted the request.

Order No. 13830 (“2006 Report”).<sup>16</sup> The Report, by Pepco’s own admission, only discusses the cost estimates of converting approximately 87.5 miles of existing overhead feeders and associated customers’ service drops. On page 2 of the 2006 Report Pepco admits the 2006 Report “does not address the reliability impact of undergrounding these overhead facilities nor does it address the advantages and disadvantages when comparing overhead and underground distribution.” The 2006 Report surmises that it would cost approximately \$1.06 billion to convert 87.5 miles of line.

OPC’s September 13, 2006 Reply Response states:

In the Office’s opinion, unless Pepco’s report provides information that critically informs the discussion and determination of costs and on whether “undergrounding” is feasible and would better protect the public’s interest in receiving safe, adequate and reliable electric service in conditions of extreme weather, then the Report is useless for decision making, policy making, and legislating purposes. Stated differently, merely issuing a “*math report*” that shows “undergrounding” will cost D.C. consumers \$1.06 billion misses the issue entirely.

**PSC’s response:** On February 12, 2007, the Commission issued Order No. 14209, which ordered Pepco to produce a report addressing whether converting the lines in neighborhoods susceptible to outages would lead to better, more reliable service.<sup>17</sup> In its Order, the Commission cited several comments from the community supporting undergrounding of utility lines as existing road construction and projects occur. The Order also accepted the 2006 Report as responsive to the Commission’s directive, but held it was premature to address ways to minimize the costs of undergrounding prior to determining the impact of undergrounding on reliability.

On April 27, 2007, Pepco filed its Response regarding the reliability of undergrounding existing utility lines (“2007 Report”).<sup>18</sup> The 2007 Report focused on five historically poor performing primarily overhead feeders within the District. It compared the 2006 reliability performance of these feeders to the 2006 performance of five primarily underground feeders that do not have historically poor performance.

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<sup>16</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Pepco Report on the Feasibility of Removing Pre-Existing Aboveground Utility Lines and Cables, and Relocating them Underground, dated June 5, 2006.

<sup>17</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Order No. 14209, dated February 12, 2007.

<sup>18</sup> Formal Case No. 1026, *In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Report of the Potomac Electric Power Company In Response to Commission Order No. 14209, dated April 27, 2007.

On May 29, 2007, OPC filed a Response to the 2007 Report. OPC disputed the validity of the 2007 Report and its “stacked deck.”<sup>19</sup> Based upon Pepco’s Reports through the years that the Commission has been investigating undergrounding, OPC recommended:

1. An order directing Pepco to provide copies of any analyses the Company has made within the past three years to evaluate whether specific feeders or groups of feeders should be placed underground;
2. An order directing Pepco to submit detailed guidelines for considering such conversions along with an explanation of how the guidelines were developed and how they are to be applied; and
3. An independent feasibility study for the purpose of providing the public and the Commission comprehensive data on the feasibility of undergrounding and the impact of undergrounding on the reliability of the District’s electric distribution system.

**PSC’s response:** PSC accepted the 2007 Report by Pepco as adequate to address the issue of reliability of underground conversion in outage prone areas and granted OPC’s three requests.<sup>20</sup>

On February 29, 2008, OPC filed a Motion for Clarification of Order No. 14723. The Motion sought clarification regarding the independent study. OPC contended Order No. 14723 did not specify: (1) who will undertake the task of conducting this study; (2) how will the entity conducting the study be selected; (3) how the study will be financed; (4) the parameters or breadth of the study; and (5) the timetable for completing the study.

**PSC’s response:** On April 18, 2008, the Commission issued Order No. 14791, in which it clarified that a request for proposal had been issued by the Commission on March 14, 2008 for an independent report on the feasibility of undergrounding and the reliability of undergrounding. On November 10, 2008, the Commission issued Order No. 15108 directing Pepco to deposit \$250,000 in its Agency Fund to conduct the study.

#### **IV. 2008 UNPLANNED ELECTRIC SERVICE OUTAGES**

On June 17, 2008, OPC filed a Petition for an Investigation into the 2008 Electric Service Outages four days after the power outage that occurred downtown at the 10th Street Substation that affected thousands of District of Columbia residents, businesses, and government agencies.

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<sup>19</sup> *Formal Case No. 1026, In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Comments of the Office of the People’s Counsel To The Report of the Potomac Electric Power Company on the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables in Selected Areas of the District of Columbia and Relocating Them Underground in Response to Commission Order No. 14209, dated May 29, 2007.

<sup>20</sup> *Formal Case No. 1026, In the Matter of the Investigation of the Feasibility of Removing Pre-existing Aboveground Utility Lines and Cables, and Relocating Them Underground in the District of Columbia*, Order No. 14723, dated February 8, 2008.

**PSC's response:** Denied OPC's request for a separate investigation and merged OPC's request into F.C. No. 982.<sup>21</sup>

On June 18, 2008, OPC filed a Motion to Combine OPC's Petition for an Investigation into the 2008 Electric Service Outage with F.C. No. 1062 for administrative efficiency.

**PSC's response:** Denied OPC's request.<sup>22</sup>

On August 1, 2008, OPC filed a Request for Formal and Community Hearings Regarding Pepco's Electric Distribution System Pertaining to the 2008 Unplanned Outages. OPC sought a formal evidentiary hearing to enable a more in-depth inquiry into Pepco's reliability issues. OPC urged community hearings because consumers have first-hand experience about the effect of power outages on their daily lives.

**PSC's response:** Deferred ruling on OPC's request for a formal hearing. While not holding community hearings in each quadrant, as requested by OPC, the Commission did hold a community hearing at its office in November 2008. Subsequently, the PSC closed the investigation into the 2008 outages on August 19, 2009, finding Pepco's 2008 outage performance has been satisfactory for the most part.<sup>23</sup>

On April 15, 2009, OPC filed Comments addressing Pepco's 2009 Consolidated Report.

**PSC's response:** Staff supported many of OPC's recommendations.<sup>24</sup>

On September 25, 2009, OPC filed a Motion to Consolidate all Reliability Issues into a Single Docket to achieve administrative efficiency and allow interested parties, including the public, to look at reliability of the system as a whole, rather than in separate discrete parts.

**PSC's response:** Denied OPC's motion.<sup>25</sup>

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<sup>21</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Commission Order No. 15804, dated Oct. 9, 2008.

<sup>22</sup> *Id.*

<sup>23</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Commission Order No. 15360, ¶ 5, dated Aug. 19, 2009.

<sup>24</sup> Formal Case Nos. 766 & 991, Staff's Report on Pepco's 2009 Consolidated Report, dated June 17, 2010.

<sup>25</sup> Formal Case Nos. 766, 982, 991, 1002, 1026 and 1062, *In the Matter of the Investigation of the Potomac Electric Power Outage in the District of Columbia on June 13, 2008*, et al, Commission Order No. 15667, dated Jan. 25, 2010.

## V. MANHOLE EVENTS

On September 28, 2009, OPC filed a Petition for an Investigation into Continued Manhole Events. OPC sought additional PSC involvement after the August 24 and September 1 occurrences resulting in injuries requiring hospitalization along with the increase in manhole events compared to the previous year. OPC requested a broad investigation into Pepco's current standards, procedures, practices and specifications related to manholes.

**PSC's response:** Denied OPC's petition based on a PSC ordered independent investigation and report.<sup>26</sup>

On April 26, 2010, OPC filed Comments addressing Pepco's 2010 Consolidated Report.

**PSC's response:** Staff supports many of OPC's recommendations.<sup>27</sup>

## VI. 2010 UNPLANNED ELECTRIC SERVICE OUTAGES

On August 6, 2010, OPC filed a Petition for an Investigation into Pepco Outages from April 1, 2010 to Present.

**PSC's response:** Denied OPC's petition as duplicative of other reliability investigations open in other dockets.<sup>28</sup>

On August 31, 2010, OPC filed a Motion to Expand Investigation into Pepco System Reliability and System Restoration Following the July and August Storm Outages. OPC requested: (1) an expanded investigation into Pepco's system restoration following outages caused by storms in July and August 2010; (2) convene a hearing with Pepco and relevant District agencies to develop strategies for enhancing the response to system outages; (3) convene community hearings to solicit public input, and determine whether the adequacy of the District Response Plan.

**PSC's response:** Opened a new docket, Formal Case No. 1082, and then denied OPC's request for an investigation, but directed the Productivity Improvement Working Group ("PIWG") to consider whether the current electric quality of service standards ("EQSS") needed to be

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<sup>26</sup> Formal Case No. 991, *In the Matter of the Investigation into Explosions Occurring in or Around the Underground Distribution Systems of the Potomac Electric Power Company*, Commission Order No. 15607, dated Nov. 24, 2009.

<sup>27</sup> Formal Case Nos. 766 & 991, Staff's Report on Pepco's 2010 Consolidated Report, dated June 25, 2010.

<sup>28</sup> Formal Case No. 1082, *In the Matter of the Investigation into the Distribution System Reliability Performance of the Potomac Electric Power Company in the District of Columbia, Petition of the Office of the People's Counsel for an Investigation into the Electric Distribution System Reliability of the Potomac Electric Power company in the District of Columbia*, Commission Order No. 16002, dated Oct. 6, 2010.

amended.<sup>29</sup> OPC provided draft proposed language regarding the EQSS, which was filed with PIWG January 26, 2011 minutes.

On November 15, 2010, OPC filed Comments addressing Pepco's Report on Pepco Holding, Inc's Emergency Preparedness Functional Exercise.

**PSC's response:** No action taken.

On November 22, 2010, OPC filed Comments addressing Pepco's Comprehensive Reliability Plan.

**PSC's response:** No action taken.

On December 15, 2010, OPC filed a Motion for the Commission to Conduct a Full-Scale Management and Operation Audit of Pepco. Indeed, the PSC is required to periodically have a full-scale management and operations audit of the company to determine the quality of the performance of management and identify areas for improvement. OPC recommended that the audit include Pepco's construction planning regarding the needs of its customers for reliable service. OPC urged that the scope of the audit OPC is seeking should focus on the management and operation of Pepco, in contrast to Order No. 16087, which focuses on the services the PHI Service Company provides Pepco.

On January 31, 2011, OPC filed a Response to Pepco's Reply in Opposition to OPC's Request for a Management Audit. OPC seeks to ensure the PSC creates a public record regarding system reliability issues.

**PSC's response:** Denied OPC's motion as duplicative of the Order No. 16087 audit and, therefore, is moot.<sup>30</sup>

## V. 2011 ELECTRIC QUALITY OF SERVICE EVENTS

After the January 2001 winter storms, which occurred from January 26-31, 2011, on February 9, 2011, OPC filed an Expedited Petition for an Investigation of Pepco's Reliability for an Investigation of the Provision of Reliable Distribution Service and the Conducting of a Management Audit. OPC petitioned the PSC for: (1) a Pepco management audit to be undertaken consistent with Commission regulations; (2) an evidentiary hearing to assess Pepco's provision of reliable electric distribution services; and (3) the identification of Commission standards, including financial penalties for non-compliance of performance improvements.

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<sup>29</sup> *Id.*

<sup>30</sup> *Formal Case No. 11076, 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; and Formal Case No. 766, In the Matter of the Commission's Fuel Adjustment Clause Audit and Review Program, Order No. 16231, dated March 7, 2011.*

**PSC's response:** Denied OPC's petition requesting an additional investigation into Pepco's service reliability and an additional audit of Pepco's operations because it would be duplicative of several ongoing investigations into Pepco's service reliability.<sup>31</sup>

On April 6, 2011, OPC filed Comments addressing Pepco's Compliance with Commission Order No. 15941 regarding feeder reliability improvement. OPC recommended a broad array of system improvements, including, but not limited to, the consideration of selective undergrounding and installation of animal guards and insulated jumpers, providing detailed outage data, and increased due diligence regarding electrical loading of equipment in the summer months.

**PSC's response:** No action taken to date.

On April 18, 2011, OPC filed Comments addressing the Commission's inquiry into the establishment of rules governing the restoration of electric utility service after a Major Service Outage. OPC recommended that the Commission adopt Major Service Outage restoration benchmarks and establish financial penalties for Pepco's failure to meet those standards.

**PSC's response:** No action taken to date.

On May 2, 2011, OPC filed Reply Comments in support of Major Service Outage benchmarks and non-compliance financial penalties. OPC explained further that the Commission would retain authority to waive its benchmarks and penalty provisions for unforeseen circumstances that would render the proposed benchmarks unreasonable.

**PSC's response:** No action taken to date.

On May 9, 2011, OPC filed Comments addressing Chapter 36 Electric Quality of Service Standards. OPC recommended changes to Pepco's use of certain terms to conform with the terminology used in the Electric Utility Reliability Standards and other industry standards, a five-year rolling average alternative approach to establishing reliability targets, clear penalties should be articulated for failure to meet reliability standards, and that additional reliability indices – widely used in the industry to measure electrical distribution performance.

**PSC's response:** No action taken to date.

On May 23, 2011, OPC filed Reply Comments addressing Chapter 36 Electric Quality of Service Standards. OPC reply comments continue to recommend the use of additional reliability indices to measure electrical distribution performance.

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<sup>31</sup> Formal Case No. 766, *In the Matter of the Commission's Fuel Adjustment Clause Audit and Review Program*; Formal Case No. 982, *In the matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*; Formal Case No. 991, *In the Matter of the Investigation into Explosions Occurring in or Around the Underground Distribution System of Potomac Electric Power Company*, Order No. 16324, dated April 19, 2011.

**PSC's response:** No action taken to date.

On May 24, 2011, OPC filed Comments addressing Pepco's 2011 Consolidated Report. OPC recommended Pepco address its lack of distribution system maintenance projects in light of its outages caused by distribution equipment failures, in addition to various system improvements regarding breaker failures and equipment overloads.

**PSC's response:** No action taken to date.

On June 2, 2011, OPC filed an Expedited Petition for an Investigation into the Electric Service Outages Beginning on May 31, 2011. OPC requested a formal investigation into (1) the causes of the electric services outages occurring between May 31, 2011 and June 1, 2011 within Pepco's service territory, including the New York Avenue and First Street, N.E., an area encompassing more than 1,500 Pepco customers and District and federal agencies; and (2) the unreasonable delay in service restoration. The following day, OPC filed an Amendment to Expedited Petition for an Investigation into the Electric Service Outages Beginning on May 31, 2011. OPC amended its petition requesting a formal investigation into the outages beginning on May 31, 2011 to also petition the Commission to engage an independent consultant to investigate and file a report addressing the causes of the unplanned outages, service restoration, and a second outage that occurred shortly after power was restored (involving the same cables).

**PSC's response:** The PSC has taken no action to date on OPC's amended petition. Nonetheless, the PSC issued a June 3, 2011 press release indicating that the PSC will require Pepco to provide additional and more detailed information regarding the May 31, 2011 outage. The data request requires Pepco to respond to questions regarding the cause of the outage, including specific equipment affected and the age and maintenance history of that equipment. The data request further requires a detailed description of Pepco's restoration efforts, including a timeline and manpower schedule and an explanation for Pepco's delay in restoring service to all affected customers.<sup>32</sup>

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<sup>32</sup> Public Service Commission of the District of Columbia Press Release, "District Utility Regulator Questions Pepco About Recent Power Outages," dated June 3, 2011.

Attachment B

Electric Reliability Events and Action Matrix

From 2004 – Present

## ATTACHMENT B

### ELECTRIC RELIABILITY EVENTS AND ACTIONS FROM 2004-PRESENT

EVENT	OPC'S ACTION	PSC'S RESPONSE
<p>2003 Formal Case No. 1026 – PSC Investigation on the Feasibility and Cost of Undergrounding Utility Lines</p>	<p>OPC filed Motions to Lodge the Comments of D.C. citizens on 11/19/2003, 11/21/2003, and 12/19, 2003. In addition, OPC sought clarification on the intended scope of the proceeding</p> <p>2/14/2005 – OPC filed Response and Recommendations to Pepco's 2004 Updated Report</p> <p>9/13/2006 – OPC filed Reply Response and Recommendations to Pepco's 2006 Report</p> <p>5/29/2007 – OPC filed Response and Recommendations to Pepco's 2007 Report</p> <p>2/29/2008 – OPC filed a Motion for Clarification of Order No. 14723 regarding how an independent study related to underground conversion would be conducted</p>	<p>PSC granted OPC's Motions to Lodge and clarified the scope of F.C. No. 1026</p> <p>PSC declined to order Pepco to convert its aboveground utility lines to a comprehensive underground system. The PSC, however, ordered Pepco to examine the costs and feasibility of converting select areas to a underground system</p> <p>PSC accepted Pepco's 2006 report as responsive to the PSC's directive and ordered Pepco to produce a report addressing whether converting the lines in neighborhoods susceptible to outages would lead to better, more reliable service</p> <p>PSC accepted Pepco's 2007 Report as adequate to address the issue of reliability of underground conversion in outage prone areas and granted OPC's recommendations</p> <p>PSC issued Order No. 14791, which clarified how the independent study would be conducted</p>
<p>2004 Vegetation Management Issues</p>	<p>10/29/2004 – OPC filed a Complaint on behalf of LeRoy Hill</p>	<p>PSC Approved Vegetation Management Plan for Utility Tree Trimming in the District of Columbia and the Communication &amp; Resident Education Plan</p>

**ELECTRIC RELIABILITY EVENTS AND ACTIONS FROM 2004-PRESENT**

2005 Summer Thunderstorms (July 22-23 and July 27, 2005)	8/2/2005 – OPC filed a Motion in F.C. No. 982 to expand the docket to include Pepco’s restoration efforts during the July Storms	PSC denied OPC’s Motion, but required Pepco to provide the Productivity Improvement Working Group with a plan to improve poor performance
2008 Unplanned Electric Service Outages	6/17/2008 – OPC Petition for an Investigation into the 2008 Electric Service Outages	PSC denied OPC’s request for a separate investigation and merged OPC’s request into F.C. No. 982
	6/18/2008 – OPC Motion to Combine OPC’s Petition for an Investigation into the 2008 Electric Service Outage with F.C. No. 1062	PSC denied OPC’s request
	8/1/2008 – OPC Request for Formal and Community Hearings Regarding Pepco’s Electric Distribution System Pertaining to the 2008 Unplanned Outages	PSC deferred ruling on OPC’s request for a formal hearing. While not holding community hearings in each quadrant, as requested by OPC, the PSC did hold a community hearing. The PSC subsequently closed the investigation into the 2008 outages
	4/15/2009 – OPC Comments addressing Pepco’s 2009 Consolidated Recommendations	PSC Staff supported many of OPC’s recommendations
	9/25/2009 – OPC Motion to Consolidate all Reliability Issues into a Single Docket	PSC denied OPC’s motion
Manhole Events	8/28/2009 OPC Petition for an Investigation into Continued Manhole Events	PSC denied OPC’s petition
2010 Unplanned Electric Service Outages	8/6/2010 OPC Petition for an Investigation into Pepco’s Unplanned Outages from April 1, 2010 to Present	PSC denied OPC’s petition
	8/31/2010 OPC Motion to Expand Investigation into Pepco System Reliability and System Restoration Following July and August Storm Outages	PSC opened a new docket and then denied OPC’s request for an investigation, but directed the Productivity Improvement Working Group to consider

**ELECTRIC RELIABILITY EVENTS AND ACTIONS FROM 2004-PRESENT**

	<p>11/15/2010 OPC Comments addressing Pepco's Report on Pepco Holding, Inc.'s Emergency Preparedness Functional Exercise</p> <p>11/22/2010 OPC Comments addressing Pepco's Comprehensive Reliability Plan</p> <p>12/15/2010 – OPC Motion for the Commission to Conduct a Full-Scale Management and Operation Audit of Pepco</p>	<p>whether the current electrical quality service standards needed to be amended</p> <p>No action taken</p> <p>No action taken</p> <p>PSC denied OPC's motion</p>
<p>2011 Electric Quality of Service Events</p>	<p>2/9/2011 OPC filed an Expedited Petition for an Investigation of the Provision of Reliable Distribution Service by Pepco and the Conducting of a Management Audit</p> <p>4/6/2011 OPC Comments addressing Pepco's Compliance with Commission Order No. 15941 regarding feeder reliability improvement</p> <p>4/18/2011 OPC Comments addressing the Commission's inquiry into the establishment of rules governing the restoration of electric utility service after a Major Service Outage</p> <p>5/2/2011 OPC Reply Comments in Support of Major Service Outage benchmarks and non-compliance financial penalties</p> <p>5/9/2011 OPC Comments addressing Chapter 36 Electric Quality of Service Standards</p> <p>5/23/2011 OPC Reply Comments</p>	<p>PSC denied OPC's petition requesting an additional investigation into Pepco's service reliability and an additional audit of Pepco's operations</p> <p>No action taken to date</p>

**ELECTRIC RELIABILITY EVENTS AND ACTIONS FROM 2004-PRESENT**

	<p>addressing Chapter 36 Electric Quality of Service Standards</p> <p>5/24/2011 OPC Comments addressing Pepco's 2011 Consolidated Report</p>	<p>No action taken to date</p>
<p>Unplanned Electric Service Outages Between May 31, 2011 and June 1, 2011 Affecting New York Avenue and First Street, N.E. Area</p>	<p>6/2/2011 OPC Expedited Petition for an Investigation into the Electric Service Outages Beginning on May 31, 2011</p> <p>6/3/2011 OPC Amendment to Expedited Petition for an Investigation into the Electric Service Outages Beginning on May 31, 2011</p>	<p>No action taken to date</p> <p>PSC issued a 6/3/2011 Press Release indicating that the PSC will require Pepco to provide additional and more detailed information regarding the May 31, 2011 outages</p>

Attachment C-1 and C-2  
Notices of Proposed Rulemaking

## ATTACHMENT C-1

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 766, IN THE MATTER OF THE COMMISSION'S FUEL ADJUSTMENT CLAUSE AUDIT AND REVIEW PROGRAM;

FORMAL CASE NO. 982, IN THE MATTER OF AN INVESTIGATION INTO POTOMAC ELECTRIC POWER COMPANY REGARDING INTERRUPTION TO ELECTRIC ENERGY SERVICE;

FORMAL CASE NO. 991, IN THE MATTER OF AN INVESTIGATION INTO EXPLOSIONS OCCURRING IN OR AROUND THE UNDERGROUND DISTRIBUTION SYSTEMS OF THE POTOMAC ELECTRIC POWER COMPANY; AND

FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF PEPCO AND THE NEW RC, INC. FOR AUTHORIZATION AND APPROVAL OF MERGER TRANSACTION

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to section 34-902 of the District of Columbia Official Code and in accordance with section 2-505 of the District of Columbia Official Code<sup>1</sup> of its intent to amend chapter 36 of title 15 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (Notice or NOPR) in the *D.C. Register*. This chapter establishes electric utility reliability standards.

2. The proposed rule amends section 3603, "Reliability Standards," deleting subsections 3603.10 through 3603.17 in their entirety and replacing it with the following:

**3603.10** The utility shall not exceed the benchmark levels established for the following indices: System Average Interruption Frequency Index (SAIFI), and System Average Interruption Duration Index (SAIDI) (stated in hours).

**3603.11** The benchmark levels for SAIDI and SAIFI are established as follows:

- (a) For 2013, SAIDI shall be 2.68 and SAIFI shall be 1.13;
- (b) For 2014, SAIDI shall be 2.43 and SAIFI shall be 1.09;
- (c) For 2015, SAIDI shall be 2.21 and SAIFI shall be 1.05;
- (d) For 2016, SAIDI shall be 2.00 and SAIFI shall be 1.02;

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<sup>1</sup> D.C. Official Code § 2-505 (2001); D.C. Official Code § 34-902 (2001).

- (e) For 2017, SAIDI shall be 1.81 and SAIFI shall be 0.98;
- (f) For 2018, SAIDI shall be 1.65 and SAIFI shall be 0.95;
- (g) For 2019, SAIDI shall be 1.49 and SAIFI shall be 0.92;
- (h) For 2020, and thereafter, SAIDI shall be 1.35 and SAIFI shall be 0.89.
- (i) The calculations of the indices shall exclude OMS data for Major Service Outages.

- 3603.12** If the utility fails to comply with subsection 3603.10, it may be subject to forfeiture in accordance with D.C. Official Code § 34-706. The utility shall also be required to develop a corrective action plan, which it shall file for the Commission's information within thirty (30) days of filing the Consolidated Report.
- 3603.13** The corrective action plan shall clearly describe the cause(s) of the utility's failure to comply with subsection 3603.10, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and provide a target for completion of the corrective measure(s).
- 3603.14** The utility shall report on the progress of the corrective action plan in the following year's Consolidated Report submitted to the Commission.
- 3603.15** The utility shall also, per the orders of the Commission, continue current requirements of reporting annual reliability indices of SAIFI, SAIDI and CAIDI (with and without Major Service Outages) in the annual Consolidated Report of the following year.

3. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments and reply comments not later than thirty (30) and forty-five (45) days, respectively, after publication of this notice in the *D.C. Register* with Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, D.C. 20005. Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpsc.org](http://www.dcpsc.org) or at cost, by contacting the Commission Secretary at the above address.

## ATTACHMENT C-2

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## SECOND NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 766, IN THE MATTER OF THE COMMISSION'S FUEL ADJUSTMENT CLAUSE AUDIT AND REVIEW PROGRAM;**

**FORMAL CASE NO. 982, IN THE MATTER OF AN INVESTIGATION INTO POTOMAC ELECTRIC POWER COMPANY REGARDING INTERRUPTION TO ELECTRIC ENERGY SERVICE;**

**FORMAL CASE NO. 991, IN THE MATTER OF AN INVESTIGATION INTO EXPLOSIONS OCCURRING IN OR AROUND THE UNDERGROUND DISTRIBUTION SYSTEMS OF THE POTOMAC ELECTRIC POWER COMPANY; AND**

**FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF PEPSCO AND THE NEW RC, INC. FOR AUTHORIZATION AND APPROVAL OF MERGER TRANSACTION**

1. The Commission hereby gives notice, pursuant to sections 2-505 and 34-802 of the District of Columbia Code<sup>1</sup> of its intent to amend chapter 36 of title 15 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (Notice or NOPR) in the *D.C. Register*. This chapter establishes electric utility reliability standards.

2. On March 11, 2011, the Public Service Commission of the District of Columbia (Commission) caused to be published in the *D.C. Register* a Notice of Proposed Rulemaking in the above-captioned proceedings.<sup>2</sup> This Second Notice of Proposed Rulemaking supersedes that Notice of Proposed Rulemaking.

3. The proposed rule amends section 3603 (Reliability Standards) of chapter 36 of title 15 of the DCMR by deleting subsections 3603.10 through 3603.17 in their entirety and substituting the following:

3603.10 The utility shall not exceed the benchmark levels established for the following indices, calculated using District of Columbia data: System Average Interruption Frequency Index (SAIFI) and System Average Interruption Duration Index (SAIDI) (stated in hours).

3603.11 The benchmark levels for SAIDI and SAIFI are established as follows:

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<sup>1</sup> D.C. Official Code §§ 2-505 and 34-802 (2001).

<sup>2</sup> See 58 DCR 2240 (March 11, 2011).

- 
- (a) For 2013, SAIDI shall be two and sixty-eight hundredths (2.68) and SAIFI shall be one and thirteen hundredths (1.13);
- (b) For 2014, SAIDI shall be two and forty-three hundredths (2.43) and SAIFI shall be one and nine hundredths (1.09);
- (c) For 2015, SAIDI shall be two and twenty-one hundredths (2.21) and SAIFI shall be one and five hundredths (1.05);
- (d) For 2016, SAIDI shall be two (2.00) and SAIFI shall be one and two hundredths (1.02);
- (e) For 2017, SAIDI shall be one and eighty-one hundredths (1.81) and SAIFI shall be ninety-eight hundredths (0.98);
- (f) For 2018, SAIDI shall be one and sixty-five hundredths (1.65) and SAIFI shall be ninety-five hundredths (0.95);
- (g) For 2019, SAIDI shall be one and forty-nine hundredths (1.49) and SAIFI shall be ninety-two hundredths (0.92); and
- (h) For 2020, and thereafter, SAIDI shall be one and thirty-five hundredths (1.35) and SAIFI shall be eighty-nine hundredths (0.89).
- 3603.12 The calculations of the indices in subsection 3603.11 shall be based on District of Columbia-specific data and shall exclude OMS data for Major Service Outages.
- 3603.13 If the utility fails to comply with subsection 3603.10, it may be subject to forfeiture in accordance with D.C. Official Code §§ 34-706 and 34-1508 (2001). The utility shall also be required to develop a corrective action plan, which it shall file for the Commission's information within thirty (30) days of filing the Consolidated Report.
- 3603.14 The corrective action plan shall clearly describe the cause(s) of the utility's failure to comply with subsection 3603.10 and describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future. The plan shall provide targets for completion of the corrective measure(s) and for meeting or exceeding the standards.
- 3603.15 The utility shall report on the progress of the corrective action plan in the following year's Consolidated Report submitted to the Commission.
- 3603.16 The utility shall report annual reliability indices of SAIFI, SAIDI and CAIDI (with and without Major Service Outages and using District of Columbia-specific data) in the annual Consolidated Report of the following year.

4. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments and reply comments no later than thirty (30) and forty-five (45) days, respectively, after publication of this Second Notice of Proposed Rulemaking in the *D.C. Register* with Dorothy Wideman, Commission Secretary, Public Service

Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, D.C. 20005. Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpsc.org](http://www.dcpsc.org) or at cost, by contacting the Commission Secretary at the above address.

Attachment D

OPC's Comments on Chapter 36

Electric Quality of Service Standards



Office of the People's Counsel  
District of Columbia

RECEIVED 2011 MAY 9 10:22 AM (E)

1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710  
202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876



ATTACHMENT D

Sandra Mattavous-Frye, Esq.  
Acting People's Counsel

May 9, 2011

VIA ELECTRONIC FILING

Ms. Dorothy Wideman  
Commission Secretary  
Public Service Commission of the  
District of Columbia  
1333 H Street, N.W., 7<sup>th</sup> Floor East  
Washington, D.C. 20005

Re: Formal Case Nos. 766, 982, 991 & 1002

Dear Ms. Wideman:

Enclosed for filing are an original and three (3) copies of "Comments of the Office of the People's Counsel on Chapter 36 Electric Quality of Service Standards" in the above referenced proceedings.

If there are any questions regarding this matter, please contact me at (202) 727-3071.

Sincerely,

Jennifer L. Weberski  
Assistant People's Counsel

Enclosure

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

In the Matter of	)	
The Commission's Fuel Adjustment	)	Formal Case No. 766
Clause Audit and Review Program	)	
	)	
In the Matter of	)	
An Investigation into Potomac Electric	)	Formal Case No. 982
Power Company Regarding Interruption	)	
To Electric Energy Service	)	
	)	
In the Matter of	)	
An Investigation into Explosions	)	Formal Case No. 991
Occurring in or Around the Underground	)	
Distribution Systems of the Potomac	)	
Electric Power Company	)	
	)	
In the Matter of	)	
The Joint Application of Pepco and	)	Formal Case No. 1002
The New RC, Inc. for Authorization	)	
And Approval of Merger Transaction	)	

**COMMENTS OF THE OFFICE OF THE PEOPLE'S COUNSEL ON  
CHAPTER 36 ELECTRIC QUALITY OF SERVICE STANDARDS**

**I. INTRODUCTION**

The Office of the People's Counsel of the District of Columbia ("Office" or "OPC"), the statutory representative of utility customers and ratepayers in the District of Columbia ("District"),<sup>1</sup> submits the following Comments in response to the Second Notice of Proposed Rulemaking concerning proposed District of Columbia Electric Quality of Service Standards

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<sup>1</sup> D.C. Code § 34-804 (2010).

("EQSS"), Chapter 36 of Title 15, issued by the District of Columbia Public Service Commission ("PSC" or "Commission") on April 8, 2011.<sup>2</sup>

## **II. SUMMARY OF OPC'S COMMENTS**

Pursuant to the PSC's directive, OPC participated along with the Commission Staff and Potomac Electric Power Company ("Pepco") in the Productivity Improvement Working Group ("PIWG") seeking, *inter alia*, to develop revised Electric Utility Reliability Standards. In the PIWG process, the parties advanced numerous proposals and changes to those standards were discussed. OPC applauds the Commission's decision to synthesize from those proposals and discussions the changes to the reliability standards proposed in the instant NOPR and to invite public comment. The Commission's decision will serve to expedite the process and, hopefully, facilitate the early adoption of revised EQSS rules that will motivate Pepco to employ its resources to ensure compliance and, ultimately, will result in more reliable electric service in the District of Columbia.

The Office provides its Comments on the Commission's proposals below. The Office believes, however, that certain additional modifications, as discussed herein, are necessary to improve electric reliability in the District.<sup>3</sup> In appropriate circumstances, the Office also proposes alternative provisions for the consideration of the Commission. Succinctly, the Office advocates for:

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<sup>2</sup> See, Second Notice of Proposed Rulemaking 58 D.C. Reg. 3002 (April 8, 2011) ("NOPR"). The Second NOPR supersedes the original NOPR issued in the above-captioned proceedings. See 58 D.C. Reg. 2240 (March 11, 2011). The NOPR proposes changes to Part 3603, the Electric Utility Reliability Standards.

<sup>3</sup> Although not a reliability issue and, therefore, not addressed in these Comments, OPC urges the Commission expeditiously to adopt a customer service standard requiring the electric utility to establish a record keeping system identifying all customers relying on Life Sustaining Equipment receiving critical electric service from the utility's distribution system in the District. The Office would be pleased to work with Pepco and Commission Staff in the development of such a system.

- The retention of the Customer Average Interruption Duration Index (“CAIDI”) as a standard to be met by the electric utility
- A five-year rolling average approach to establish reliability targets
- The use of a Momentary Average Interruption Frequency Index (“MAIFI”)
- The penalties for failure to meet the reliability standards should be clearly identified in the regulations, with the unequivocal consequences of failure to meet those standards unmistakable by Pepco

### III. DISCUSSION

#### A. ELECTRIC UTILITY RELIABILITY STANDARDS NOPR

As a preliminary matter, OPC suggests for clarity and consistency, the Commission make the following global changes to certain terms used in the Electric Utility Reliability Standards.

- Replace the term “utility” with the term “electric utility.”
- Replace the phrase “benchmark levels” with the phrase “reliability targets.”<sup>4</sup>
- Replace the phrase “Consolidated Report” with the phrase “consolidated report” or, alternatively, insert a definition of “Consolidated Report.”
- Simplify the references to numbers by spelling out numbers and deleting the repetitive numeral. For example, “two (2)” should be replaced with “two.”

In order to highlight OPC’s proposed substantive changes, OPC has not redlined these proposed non-substantive global changes in its Comments below. The Electric Utility Reliability Standards, as proposed in the NOPR, are set forth in **bold** text below. OPC’s proposals are set forth in *italic* text below; the language OPC proposes to add is underlined; and the language OPC proposes to delete is marked by ~~strikethrough~~.

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<sup>4</sup> The term “benchmark” often connotes a point of comparison. The standards proposed by the Commission in subsection 3603.11 are in the nature of targets which, if not met, will result in consequences for the electric utility.

**3603.10 The utility shall not exceed the benchmark levels established for the following indices, calculated using District of Columbia data: System Average Interruption Frequency Index (SAIFI), and System Average Interruption Duration Index (SAIDI) (stated in hours).**

*OPC Comment*

The current reliability standard 3603.10 includes the Customer Average Interruption Duration Index (CAIDI), but the Commission does not propose to include that index in its revised subsection. The Office urges the Commission to reconsider and to retain CAIDI as a standard to be met by the electric utility. CAIDI is an excellent measure of duration of outages, and one of the most pressing issues to be addressed in the District is the duration of outages on the Pepco system. CAIDI is also a good tool for evaluating whether the manpower levels maintained by Pepco to respond to outages in general, and the levels mustered in response to major outages in particular, are adequate.<sup>5</sup> There have been repeated questions raised in recent years about the adequacy of Pepco outage response manpower and establishing objective CAIDI targets to be maintained by Pepco is a targeted way of addressing these questions and related outage concerns.

OPC is aware CAIDI can readily be calculated from SAIDI and SAIFI values. OPC believes there needs to be CAIDI reliability targets in order to provide Pepco adequate incentive to address the aforementioned concerns. The Commission's current standards include CAIDI and OPC's believes an independent CAIDI standard will provide a separate reliability target for which Pepco may be held accountable that is of particular relevance to District consumers weary

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<sup>5</sup> For example, typically before electric service is restored after a service outage, particularly a storm outage, utility personnel are required to visually confirm that there are no downed distribution lines or foreign objects such as trees interfering with the distribution line before it can be re-energized. This visual inspection takes time and manpower; however, the duration of outages can be reduced by increasing the number of utility individuals available to inspect the affected lines.

of protracted outages. OPC urges the Commission to retain CAIDI as one of the reliability targets in subsection 3603.10. OPC, therefore, proposes the following changes to 3603.10:

**3603.10**      *The utility shall not exceed the benchmark levels established for the following indices, calculated using District of Columbia data: System Average Interruption Frequency Index (SAIFI), ~~and~~ System Average Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI) (stated in hours).*

**3603.11**      **The benchmark levels for SAIDI and SAIFI are established as follows:**

- (a)      **For 2013, SAIDI shall be two and sixty-eight hundredths (2.68) and SAIFI shall be one and thirteen hundredths (1.13);**
- (b)      **For 2014, SAIDI shall be two and forty-three hundredths (2.43) and SAIFI shall be one and nine hundredths (1.09);**
- (c)      **For 2015, SAIDI shall be two and twenty-one hundredths (2.21) and SAIFI shall be one and five hundredths (1.05);**
- (d)      **For 2016, SAIDI shall be two (2.00) and SAIFI shall be one and two hundredths (1.02);**
- (e)      **For 2017, SAIDI shall be one and eighty-one hundredths (1.81) and SAIFI shall be ninety-eight hundredths (0.98);**
- (f)      **For 2018, SAIDI shall be one and sixty-five hundredths (1.65) and SAIFI shall be ninety-five hundredths (0.95);**
- (g)      **For 2019, SAIDI shall be one and forty-nine hundredths (1.49) and SAIFI shall be ninety-two hundredths (0.92);**
- (h)      **For 2020, and thereafter, SAIDI shall be one and thirty-five hundredths (1.35) and SAIFI shall be eighty-nine hundredths (0.89).**

***OPC Comment***

Although the Office believes its alternative five-year rolling average alternative approach to establishing reliability targets is superior for the reason discussed below (*see*, OPC Alternative Proposal), the SAIDI and SAIFI targets proposed by the Commission are not unreasonable. OPC does believe, as discussed in OPC’s Comments to proposed subsection 3603.10, that the indices should also include CAIDI. If the Commission chooses to use stated benchmarks, OPC proposes the following changes to 3603.11:

- 3603.11** *The benchmark levels for SAIDI, ~~and~~ SAIFI and CAIDI are established as follows:*
- (a) *For 2013, SAIDI shall be two and sixty-eight hundredths (2.68), ~~and~~ SAIFI shall be one and thirteen hundredths (1.13) and CAIDI shall be two and thirty-seven hundredths (2.37);*
  - (b) *For 2014, SAIDI shall be two and forty-three hundredths (2.43), ~~and~~ SAIFI shall be one and nine hundredths (1.09) and CAIDI shall be two and twenty-three hundredths (2.23);*
  - (c) *For 2015, SAIDI shall be two and twenty-one hundredths (2.21), ~~and~~ SAIFI shall be one and five hundredths (1.05) and CAIDI shall be two and ten hundredths (2.10);*
  - (d) *For 2016, SAIDI shall be two (2.00), ~~and~~ SAIFI shall be one and two hundredths (1.02) and CAIDI shall be one and ninety-six hundredths (1.96);*
  - (e) *For 2017, SAIDI shall be one and eighty-one hundredths (1.81), ~~and~~ SAIFI shall be ninety-eight hundredths (0.98) and CAIDI shall be one and eighty-five hundredths (1.85);*
  - (f) *For 2018, SAIDI shall be one and sixty-five hundredths (1.65), and SAIFI shall be ninety-five hundredths (0.95) and CAIDI shall be one and seventy-four hundredths (1.74);*
  - (g) *For 2019, SAIDI shall be one and forty-nine hundredths (1.49), ~~and~~ SAIFI shall be ninety-two hundredths (0.92) and CAIDI shall be one and sixty-two hundredths (1.62);*
  - (h) *For 2020, and thereafter, SAIDI shall be one and thirty-five hundredths (1.35), ~~and~~ SAIFI shall be eighty-nine hundredths (0.89) and CAIDI shall be one and fifty-two hundredths (1.52).*

### ***OPC Alternative Proposal***

OPC believes the use of a five-year rolling average, calculated on an annual basis, would provide better reliability targets for each of the indices. The use of the five-year rolling average, as proposed by OPC, would establish a continual but gradual increase in reliability targets for the electric utility based on its past performance. OPC's proposal eliminates outliers by excluding the highest and lowest number for each index and, therefore, avoids introducing skewed reliability targets. As a result, the use of the five-year rolling average establishes realistic and attainable reliability targets while providing incentive for continual improvement of service

reliability and quality in a manner that the stated benchmark levels proposed in the NOPR do not.<sup>6</sup> Stated indices standards are, by definition, not as tailored to the specific circumstances and performance of an individual utility as a standard based upon that utility's own historical performance.

OPC's proposal further requires open and transparent communication by requiring the electric utility to file with the Commission or report to the Commission on the record changes to its data tracking, measurement or reporting protocols and any missing data or other events that may affect the quality of data recorded.

OPC proposes to replace 3603.11 in its entirety with the following:

**3603.11** The yearly reliability targets for SAIFI, SAIDI and CAIDI shall be calculated as follows:

(a) A rolling five full years of outage management system (OMS) data shall be used in calculating the reliability targets. After excluding the highest and lowest numbers for each index, the numbers will be averaged to produce each reliability target. However, no reliability target shall be less stringent from one year to the next; for example, from 1.07 to 1.10. If the use of a rolling five full years of OMS data causes a reliability target to become less stringent from the previous year, the reliability target shall not change from the previous year. If the electric utility meets or exceeds a reliability target, regardless of the reliability target calculation, the reliability target shall require a minimum improvement of 1%. The electric utility shall round to the nearest second decimal place (hundredth).

(b) The calculations shall exclude OMS data from Major Event Days (MED). A MED shall be calculated using District data only, not system-wide data. No MED shall be excluded from the reliability

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<sup>6</sup> OPC's proposal requires that a reliability target can never be reduced below the previous year's standard and that, as long as a standard is being met by PEPSCO, the next year's standard must, at a minimum, be at least a 1% increase in the reliability target from the previous year. If PEPSCO's reliability were to approach a superior quality as measured against appropriate industry benchmarks, there may come a point at which the cost to consumers of obtaining that additional 1% annual improvement in reliability may exceed the actual benefit to consumers. For example, if PEPSCO's reliability in the future were in the top 90<sup>th</sup> percentile in the industry, the cost of moving its reliability to the 91<sup>st</sup> percentile may outstrip the actual benefit to consumers. At that time, it may be appropriate for the Commission to consider modifying that aspect of OPC's proposal, however, that time seems likely to be well off in the future.

calculations without first receiving written permission from the Commission.

(c) The electric utility shall file with the Commission any change to the electric utility's data tracking, measurement, or reporting protocols. No changes will be implemented before receiving approval from the Commission.

(d) The electric utility has an affirmative duty to report to the Commission on the record missing data or other events that could reasonably affect the quality of the data at the time the electric utility becomes aware of such events.

**3603.12 The calculations of the indices in subsection 3603.11 shall be based on District of Columbia-specific data and shall exclude OMS data for Major Service Outages.**

*OPC Comment*

OPC believes the calculation of each of the indices should exclude Outage Management System (OMS) data for Major Event Days (MED), as the term is defined by the Institute of Electrical and Electronic Engineers (IEEE).<sup>7</sup> After review and full consideration of the facts, OPC has concluded that, in order to provide an accurate benchmark by which to compare Pepco's performance to the performance of other electric utilities on a region-wide and nation-wide basis, it is essential that the data employed in calculating the relevant indices be consistent across the subject utility systems. This in turn argues for the use of a standardized definition recognized across the industry (Major Event Day) rather than a definition unique to the District of Columbia (Major Service Outages).<sup>8</sup>

OPC agrees with the Commission's proposal that the indices calculations should be based on Pepco District data only and not Pepco system-wide data. The Commission's statutory

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<sup>7</sup> OPC believes a Major Event Day (MED), which is not currently defined in the EQSS, should be defined as such term is defined by IEEE. OPC also notes that Outage Management System (OMS) is not currently defined in the EQSS and believes OMS should be defined by PEPCO, the owner and operator of the OMS.

<sup>8</sup> OPC is not advocating deletion of the Major Service Outage term, as it has relevance to other provisions of the EQSS such as the those provisions for which the Commission by Order No. 16262 is seeking comments.

obligation is to ensure the electric utility in the District provides safe and reliable service. The Commission needs a clear picture of the reliability situation in the District and use of District-specific Pepco data will provide the clearest picture.

**3603.13 If the utility fails to comply with subsection 3603.10, it may be subject to forfeiture in accordance with D.C. Official Code §§ 34-706 and 34-1508 (2010). The utility shall also be required to develop a corrective action plan, which it shall file for the Commission's information within thirty (30) days of filing the Consolidated Report.**

*OPC Comment*

The Commission proposes to impose forfeiture in accordance with D.C. Code §§ 34-706<sup>9</sup> and 34-1508 (2010) for the electric utility's failure to comply with subsection 3603.10.<sup>10</sup> OPC believes the mere threat of such forfeiture is wholly inadequate to encourage Pepco to comply with the benchmark levels established by the NOPR. OPC believes penalties for failure to meet the reliability standards should be clearly spelled out in and readily ascertainable from the plain language of the regulations so that Pepco is on notice as to the unequivocal consequences of failure to meet those standards *before* the failure occurs. OPC also believes any such forfeiture or penalty should be paid to the consumers and not the District of Columbia because it is the consumers who are harmed by Pepco's poor reliability.

Preliminarily, it is unclear from the NOPR precisely the magnitude of the possible sanction to which Pepco may be subject under Sections 34-706 and 34-1508. Subsection

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<sup>9</sup> The Commission issued a notice of proposed rulemaking in Formal Case No. 712 to implement D.C. Code § 34-706. See 58 D.C. Reg. 2504 (Mar. 18, 2011). OPC filed comments in that rulemaking proceeding on April 18, 2011.

<sup>10</sup> Since the proposed subsection 3603.13 makes reference to the "2010 D.C. Official Code Sections 34-706 and 34-1508," it is unclear whether the Commission intends the amount of the forfeitures to remain fixed at the level established by the 2010 Code or change as the section may be amended from time to time. At a minimum, the Commission should clarify that the electric utility may be subject to forfeiture in accordance with D.C. Official Code §§ 34-706 and 34-1508 (2010), as amended.

3603.13 specifically states the utility may be subject to “forfeiture” in accordance with D.C. Code Sections 34-706 and 34-1508 for failure to comply with the standards of subsection 3603.10. Forfeiture is addressed solely in Section 34-706(a) (and not at all in Section 34-1508) and limits the Commission’s authority to order forfeiture to \$5,000 per violation. In light of the proposed language of 3603.13, therefore, it is unclear whether the Commission may: (1) impose “civil penalties” under Section 34-706(c) or Section 34-1508; (2) order refunds or credits to consumers under Section 34-1508(a); (3) order forfeitures in excess of \$10,000 per year (\$5,000 for violation of each of the two indices proposed by the Commission) under Section 34-706(a) or per violation under Section 34-1508(b); or (4) order any combination thereof. If the Commission retains the reference to D.C. Code §§ 34-706 and 34-1508 in its final rule, the Commission should clarify whether the Commission may impose civil penalties pursuant to Section 34-706(c) and Section 34-1508 and order refunds or credits to consumers in addition to the forfeiture under Section 34-706(a).

It is obvious that the threat of forfeiture of up to \$10,000 per year for each year Pepco exceeds the benchmark levels for SAIFI and SAIDI under Section 34-706(a) (or per violation under Section 34-1508(b)) is financially inconsequential and would provide Pepco with no meaningful incentive to improve its reliability. It would no doubt be much less expensive for Pepco to exceed the benchmark levels each year than it would be to implement the necessary upgrades to its system to improve reliability. Pepco has previously acknowledged in a different but related context that a loss in revenue of even \$100,000 as a result of outages in the District is insignificant in the context of Pepco’s annual base revenue.<sup>11</sup> The threat of a \$10,000 annual

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<sup>11</sup> See, Formal Case No. 1053, Phase II, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electricity Distribution Service*, Rebuttal Testimony of Mark E. Browning, filed March 30, 2009, p. 6, l. 7 – p. 7, l. 15.

penalty is simply inadequate to compel Pepco to make the necessary improvements to its electric distribution system to improve reliability in the District.

The applicability and effectiveness of Section 34-706(c) is also problematic. Under Section 34-706(c), the Commission has the authority to adjudicate the occurrence of a violation and impose sanctions. The Commission, in determining or agreeing in compromise on the amount of the “civil penalty” shall consider “the appropriateness of such penalty to the size of the business . . . the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. . . .” D.C. Code § 34-706(c). First, as previously noted, the language of proposed subsection 3063.13 could be read to authorize the Commission only to order forfeiture under subsection (a) of Section 34-706 and not penalties under subsection (c). Second, it is unclear whether the Commission’s “civil penalty” authority under subsection (c) is in addition to or in lieu of any forfeiture under paragraph (a).

Likewise, under Section 34-1508(b)(2), the Commission shall consider certain factors before imposing a penalty of up to \$10,000 per violation. The factors the Commission shall consider include: (1) the number of previous violations by the utility; (2) the gravity and duration of the violation; and (3) the good faith effort of the utility to achieve compliance after notification of the violation. D.C. Code § 34-1508(b)(2). Further, the imposition of any civil penalties (or refunds or credits to consumers) may only be ordered after notice and hearing. D.C. Code § 34-1508(a).

As discussed below, in the context of OPC’s proposed alternative to the Commission’s subsection 3603.13, the Office believes, without clear penalties for failure to attain the reliability targets that are known or ascertainable in advance, Pepco will have materially less incentive to take the steps necessary to comply with subsection 3603.10. If the questions of whether to

impose a penalty and the size of the penalty are wholly within the Commission's discretion, as would be the case under D.C. Code Sections 34-706 and 34-1508, Pepco would have no way of predicting what the consequences would be from failure to attain the reliability targets. Similarly, under those provisions, Pepco may dispute whether any penalty imposed by the Commission under Sections 34-706(c) or 34-1508(b) is consistent with the statutes. Again, this eliminates the certainty of consequences for failure. If Pepco is deciding how to budget its resources, it is much more likely to allocate the appropriate resources to ensure reliability if management knows in advance precisely what the consequences of failure to do so will be.

Reliance upon D.C. Code Section 34-706 is also inappropriate because, under that section, Pepco would be required to pay any sums due to the District of Columbia.<sup>12</sup> This does nothing to compensate ratepayers for the expenses they have incurred as a result of frequent or extended power outages. Typical costs to residential consumers as a result of an outage include the costs of consumable goods such as spoiled food, flashlights, candles, and inconvenience costs (*i.e.*, fear and anxiety).<sup>13</sup> Pepco's March BSA report showed that the lost revenue from the January 2011 power outage was \$53,462, including \$20,530 (38%) from the residential customers. The outages started at 5:00 pm January 26th and did not end until 11:28 am, January 31st. The total number of customers who lost power in the District was 56,221, including 52,358 residential customers, and the average duration of the power loss was 11.4 hours. The disruption of the normal life of District residents and businesses, therefore, is vastly disproportionate to Pepco's lost revenues, and District residents and businesses should receive some compensation

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<sup>12</sup> Section 34-1508 is unclear to whom the civil penalty is paid in the event that a civil penalty is imposed but no refund or credit to customers is ordered.

for such disruption. Any fines or penalties for Pepco's failure to meet the subsection 3603.10 standards should be returned to ratepayers in the form of a credit.

### ***OPC Alternative Proposal***

OPC believes that in order to effect a change in Pepco's attitude towards reliability, there must be swift, known, measurable, and significant consequences for its failure to improve its electric distribution system's reliability in the District. As an alternative to the Commission's proposed penalty provision, OPC proposes a penalty provision that would credit customers an amount equal to five basis points of Pepco's then-authorized return on equity ("ROE") for each reliability target (benchmark level) the electric utility fails to meet. Under this proposal there would **not** be an actual reduction to Pepco's ROE; instead, the proposal provides a formulaic approach to determine the amount of the penalty. For example, based on the most recent Commission order in Pepco's rate case (*i.e.*, Formal Case No. 1076) the 5 basis point has a revenue requirement impact or rate increase impact of \$398,645. This alternative approach would not only provide a known and measurable economic incentive to Pepco to meet the reliability targets, but it would also compensate consumers who suffered as a result of Pepco's failure to meet those benchmarks. However, the Commission chooses to calculate the amount of the penalty, it is imperative that the penalty be clear and known beforehand and significant enough to provide real incentive for Pepco to invest the time and resources in advance necessary to ensure service reliability.

Under OPC's proposed alternative, 3603.13 would be replaced in its entirety with the following:

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<sup>13</sup> 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*, Direct Testimony of Kevin Mara, filed September 17, 2009, p. 14, ll. 6-9.

3603.13 If the electric utility fails to meet a reliability target, it shall be required to develop a corrective action plan:

(a) For each reliability target not met, the electric utility will credit customers the amount equal to five basis points of the return on equity (ROE). For each reliability target not met for two consecutive years, the electric utility will credit customers the amount equal to ten basis points of the ROE. For each reliability target not met for three consecutive years, the electric utility will credit customers the amount equal to fifteen basis points of the ROE. The electric utility will file the calculation and the credit amount for Commission approval prior to applying the credit. The Commission will take action within sixty days of the electric utility's filing. The credit will appear on the customers' bills the month following the Commission's approval.

The Office also believes the Commission should, by rule, require the implementation of at least two of the recommendations of the Witt Report, which the Commission in 2004 ordered Pepco to implement. In October 2003, PEPCO Holdings, Inc. hired James Lee Witt Associates, L.L.C. "to review Pepco's response to Hurricane Isabel and to determine how the Company can better respond to customer needs during critical times."<sup>14</sup> On January 12, 2004, Pepco Holdings, Inc. filed a draft of the James Lee Witt Associates, L.L.C. Report (the "Witt Report") with the Commission. The Commission ordered Pepco to implement all the recommendations contained in the Witt Report.<sup>15</sup> The Witt Report recommendations include the following (p. 103):

Link executive pay and bonuses to performance of the companies in disasters and in disaster drills, thereby institutionalizing disaster performance as a PHI priority.

Assign emergency management oversight responsibilities high in the organizational hierarchy to assure emergency planning has a high priority, and an enterprise-wide visibility and resource commitment. Clearly designate someone to oversee the design of a process that is robust for a variety of emergencies and PHI organization structures. Develop criteria for the process, set goals, and manage to achieve a quality certification rating pre-determined by PHI.

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<sup>14</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company*, Order No. 13381, issued September 15, 2004 at ¶ 6.

<sup>15</sup> *Id.*, at ¶ 90.

Although Pepco appears to have assigned to Mr. Michael Maxwell, now Vice President of Asset Management, oversight responsibility for Pepco's emergency response planning, Pepco's reliability in the District has continued to decline significantly in the last six and a half years and its major outage restoration efforts have been poor. OPC is unaware of any effort by Pepco to link Pepco executive pay and bonuses to its emergency response performance, even though that is one of the simplest of the Witt Report recommendations to implement. This single change would significantly increase accountability within the company for reliability. Moreover, it cannot seriously be questioned that such a linkage of executive pay and bonuses to emergency response performance would alter the Pepco corporate culture and focus with respect to major outage response in particular and reliability in general, which is no doubt the reason why the recommendation was made in the Witt Report and ordered to be implemented by the Commission. Each of these two changes should be formalized in the Commission's regulations to, among other things, reinforce the lasting importance of reliability to the District.

**3603.14**        **The corrective action plan shall clearly describe the cause(s) of the utility's failure to comply with subsection 3603.10 and describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future. The plan shall provide targets for completion of the corrective measure(s) and for meeting or exceeding the standards.**

***OPC Comment***

OPC generally agrees with the Commission's proposed subsection 3603.14. OPC would simply clarify that the corrective action plan should include details regarding the electric utility's failure to comply with subsection 3603.10. OPC proposes the following additional language to 3603.13:

**3603.13**        *The corrective action plan shall clearly describe and include details regarding the cause(s) of the utility's failure to comply with subsection 3603.10 and describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future.*

*The plan shall provide targets for completion of the corrective measure(s) and for meeting or exceeding the standards.*

**3603.15      The utility shall report on the progress of the corrective action plan in the following year's Consolidated Report submitted to the Commission.**

*OPC Comment*

OPC believes the proposed subsection 3603.15 is satisfactory and has no additional comment.

**3603.16      The utility shall report annual reliability indices of SAIFI, SAIDI and CAIDI (with and without Major Service Outages and using District of Columbia-specific data) in the annual Consolidated Report of the following year.**

*OPC Comment*

OPC believes in addition to annually reporting the SAIFI, SAIDI and CAIDI indices, the electric utility should be required to report Customers Experiencing Multiple Interruptions (CEMI) in the annual consolidated report. CEMI is one of the indices commonly used in the industry (including by IEEE) and presents a geographic representation of reliability "hot spots". In other words, CEMI is a useful tool in defining the specific locations on the distribution system that repeatedly suffer from service interruptions. OPC believes the data available from Pepco's OMS should facilitate calculation of CEMI.

OPC also believes Momentary Average Interruption Frequency Index (MAIFI) can be an extremely useful index and tool where the data is available. OPC recognizes MAIFI is a difficult index to compile because of the difficulty in obtaining outage and service interruption information at the individual consumer level. OPC understands, however, the information necessary to compile MAIFI should be available with the advent of widespread use of smart meters. Pepco is in the process of installing advanced metering infrastructure meters ("smart meters") in the District and has indicated installation will be complete by the end of 2012. The

ability to provide the Commission and OPC with MAIFI data about the Pepco distribution system would be a concrete example of customer benefit from the increased functionality of smart meters. OPC urges the Commission to revisit whether to require the electric utility to include MAIFI in the annual consolidated report at that time within one year of the date of full deployment of Pepco smart meters in the District.

OPC proposes the following additional language to 3603.16:

**3603.16** *The utility shall report annual reliability targets and actual electric utility performance indices of SAIFI, SAIDI, and CAIDI (with and without Major Event Days Service Outages and using District of Columbia-specific data) as well as CEMI in the annual Consolidated Report of the following year.*

The addition of OPC's proposed changes to subsection 3603.16 will require the addition of the following definition of CEMI and the following definitions of MAIFI and "momentary interruption event" if the Commission requires Pepco to include MAIFI in its annual consolidated report after the installation of smart meters in the District is complete:

*Customers Experiencing Multiple Interruptions (CEMI) – a performance index that measures the percent of overall customers that have experienced more than a specific number of interruptions. The measure is calculated by dividing the total number of customers that have had more than three sustained interruptions during the year (or prorated period thereof) by the total number of customers served.*

*Momentary Average Interruption Frequency Index (MAIFI) – a performance index that measures the average number of momentary interruption events per customer and is calculated by dividing the total number of momentary customer interruption events reported by the total number of customers served.*

OPC recommends that the Commission adopt the IEEE definition of "momentary interruption event":<sup>16</sup>

*An interruption of duration limited to the period required to restore service by an interrupting device. NOTE—Such switching operations must be completed within*

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<sup>16</sup> IEEE Standard 1366-2003 § 3.15.

a specified time of 5 min or less. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or circuit breaker operates two, three, or four times and then holds (within 5 min of the first operation), those momentary interruptions shall be considered one momentary interruption event.

## **B. ADDITIONAL CHANGES TO ELECTRIC UTILITY RELIABILITY STANDARDS**

In its NOPR, the Commission has only proposed changes to subsections 3603.10 through 3603.16 of the Electric Utility Reliability Standards. The subsections addressed in the NOPR are part of an integrated whole and, as all parts of the reliability standards must operate together, OPC proposes the following changes to the remaining subsections of Part 3603.

**3603.1** Each year ~~the~~ electric utility shall implement a corrective action plan to improve the performance of the ~~worst threetwo (2) percent~~ least performing feeders such that no feeder in the ~~three two (2) percent~~ least performing group shall repeat as a member of the ~~threetwo (2) percent~~ least performing feeders following the implementation of the plan. The electric utility will not exclude the worst performing three percent feeders from the prior year when preparing the subsequent year's list.

### ***OPC Comment***

OPC seeks to clarify that repeat worst performing feeders shall not be excluded from the lists of worst performing feeders from year to year. If a feeder on the worst performing list remains on the worst performing list despite Pepco's implementation of a corrective action plan to improve that feeder's performance, it is critical that Pepco, the Commission, OPC, and other interested parties are aware of this shortcoming. Once these shortcomings are fully vetted, Pepco can then devise an alternative corrective action plan. Further, OPC believes requiring Pepco to implement a corrective action plan to improve the worst three percent performing feeders (rather than the worst two percent) will improve electric distribution reliability in the District by: (1) casting a wider net to implement corrective actions for the worst performing feeders; and (2)

implementing corrective actions for some feeders before their deterioration reaches critical levels.

**3603.2** *Individual feeder performance shall be determined using according to the feeder's SAIDI, SAIFI and CAIDI indices utility's composite performance index. Each index will be converted to a unitized value using the following denominators: 1.4 for SAIFI, 150 minutes for SAIDI, and 110 minutes for CAIDI. Each index shall account for one-third of the feeder's performance ranking.*

***OPC Comment***

OPC believes the use of the SAIDI, SAIFI and CAIDI indices to measure individual feeder performance will provide a consistent measure of performance. OPC further believes each index should be given equal weight in determining the individual feeder's performance. To equally weight the three factors, it is necessary to convert each index to a unitized value. The denominator selected is the estimated industry standard median value from the IEEE survey. Thus a feeder with a performance ranking of 1.0 meets this standard median value. Feeders with a performance ranking over 1.0 would be classified as less than average.

**3603.3** *If the utility fails to comply with Section 3603.1 and any feeder repeats, it shall be required to develop and immediately submit to the Commission and to OPC an alternative corrective action plan that proposes to correct the failures within twelve months.*

***OPC Comment***

As OPC discussed in its Comments to subsection 3603.1, it is imperative that PEPCO, the Commission, and OPC are aware of any worst performing feeder repeats so that an alternative corrective action plan may be developed. A corrective action plan that fails to cure repeat worst performing feeders fails its essential purpose. Pepco should waste no time developing a new corrective action plan to rectify the old plan's shortcomings.

3603.5 *The utility shall report on the progress of the corrective action plan to the Commission on a quarterly basis as well as in the Annual Consolidated Report submitted to the Commission.*

**OPC Comment**

In order to monitor and correct potential deficiencies in the corrective action plan, OPC believes Pepco should be required to report on the progress of its corrective action plan on a more frequent basis. Not only will more frequent reporting increase transparency, but it will also assist Pepco in the early detection of deficiencies in its corrective action plan. Rather than waiting until year end to assess the successes and failures of the corrective action plan, Pepco can evaluate the successes and failures on a quarterly basis and, if necessary, make corrections on a quarterly basis.

3603.6 *The utility shall continue the current reporting of the worst performing (lowest two ~~(2)~~three percent) feeders (utility methodology) and corresponding corrective action plans, with the action taken in year 1 and the subsequent performance in year 2 in the annual Consolidated Report.*

**OPC Comment**

Consistent with OPC's recommendations to modify subsection 3603.1, subsection 3603.6 should be modified to reflect the worst performing feeders include the worst *three* percent performing feeders.

3603.xx *For each MED experienced in the District, the electric utility shall file a report within thirty days with the Commission detailing the event, indentifying the problems faced, the actions taken, any recommended corrective actions or procedural changes and why the Commission should approve its exclusion from the reliability performance calculations.*

**OPC Comment**

OPC believes a new section should be introduced immediately following subsection 3603.11, the rolling five-year reliability target. This new section should impose specific

reporting obligations on Pepco for each MED experienced in the District. Not only will this increase transparency, but it will aid Pepco, the Commission and OPC in discerning recognizable patterns associated with MEDs. Recognizing these patterns may be useful in preventing the reoccurrence of such a MED.

**3603.xx** The electric utility shall establish an additional reporting mechanism for the Customers Experiencing Multiple Interruptions Index (CEMI) on a trial basis. After three years, CEMI will be established as a Reliability Performance Index in accordance with subsection 3603.10.

**3603.xx** The electric utility shall establish a reporting mechanism for the Momentary Average Interruption Frequency Index (MAIFI) on a trial basis. The electric utility shall not exclude complaints resolved by the initial response of a trouble crew. After three years, MAIFI will be established as a Reliability Performance Index in accordance with subsection 3603.10.

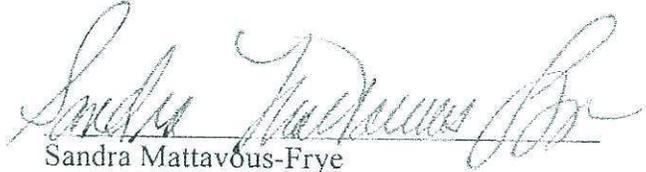
***OPC Comment***

OPC believes a new subsection should be introduced at the end of the reliability standards to establish a reporting mechanism for CEMI on a trial basis. Assuming the Commission requires the use of MAIFI after the installation of smart meters in the District is complete, OPC believes a new subsection should be introduced at the end of the reliability standards to establish a reporting mechanism for MAIFI on a trial basis. As OPC discussed in its Comments on subsection 3603.16, CEMI and MAIFI are additional reliability indices widely used in the industry.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the Office of the People's Counsel recommends the Commission adopt OPC's recommendations contained herein.

Respectfully submitted,



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Dated: May 9, 2011

**CERTIFICATE OF SERVICE**

**Formal Case No. 766, In the Matter of the Commission's Fuel Adjustment Clause Audit and Review Program;**  
**Formal Case No. 982, In the Matter of an Investigation into Potomac Electric Power Company Regarding Interruption to Electric Service;**  
**Formal Case No. 991, In the Matter of the Investigation into Explosions Occurring in or Around the Underground Distribution Systems of the Potomac Electric Power Company; and**  
**Formal Case No. 1002, In the Matter of the Joint Application of PEPCO and the New RC, Inc. for Authorization and Approval of Merger Transactions**

I hereby certify that on this 9th day of May, 2011, a copy of the "Comments of the Office of the People's Counsel on Chapter 36 Electric Quality of Service Standards" was served on the following parties of record by hand delivery; first class mail, postage prepaid; or, electronic mail:

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