

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, D.C. 20005**

**ORDER**

**November 12, 2014**

**FORMAL CASE NO. 1116, IN THE MATTER OF THE APPLICATION FOR  
APPROVAL OF TRIENNIAL UNDERGROUND INFRASTRUCTURE  
IMPROVEMENT PROJECTS PLAN, Order No. 17697**

**Before the Commission:**

Betty Ann Kane, Chairman  
Joanne Doddy Fort, Commissioner  
Willie Lee Phillips, Commissioner

**Appearances:**

Peter E. Meier, Esq., Wendy E. Stark, Esq., Andrea H. Harper, Esq. and Dennis P. Jamouneau, Esq. for Potomac Electric Power Company; Frann G. Francis, Esq., W. Shaun, Pharr, Esq., and Nicola Y. Whiteman, Esq. for Apartment & Office Building Association; Jennifer L. McClellan for Verizon Washington, D.C., Inc.; Brian R. Caldwell, Cheri Hance Staples for DC Office of the Attorney General on behalf of the D.C. Department of Transportation; Leonard E. Lucas, III, Esq. for the United States General Services Administration; Sandra Mattavous-Frye, Esq., Karen R. Sistrunk, Esq., John Michael Adragna, Esq., McCarter & English, Travis R. Smith, Sr. for the Office of the People's Counsel; Justin M. Gundlach for the D.C. Climate Action; Robert I. White, Nancy A. White, Squire Sanders Patton Boggs LLP, Randy E. Hayman, and Gregory Hope for the District of Columbia Water & Sewer Authority; Leslie T. Thorton, Esq., Donald R. Hayes, Director and Cathy Thurston-Seignious, Esq. for Washington Gas Light Company; Jonathan D. Newman, Lucas R. Aubrey for The International Brotherhood of Electrical Workers Local No. 1900; Maria T. Browne for Comcast Cablevision of the District, LLC.

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## **I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) approves the Joint Application of the Potomac Electric Power Company (“Pepco” or “Company”) and the District of Columbia Department of Transportation (“DDOT”) (“Application”) and the Triennial Underground Infrastructure Improvement Projects Plan (the “Triennial Plan”) and authorizes the imposition and periodic true up of the Underground Project Charge as set forth herein.<sup>1</sup> To facilitate compliance and consistency with applicable statutory provisions, this Order adopts the definitions set forth in the “Electric Company Infrastructure Improvement Financing Act” (“ECIIFA” or “the Act”) (except to the extent such terms are otherwise defined herein). This Order also accepts the Joint Stipulation filed by the Office of the People’s Counsel (“OPC”), Pepco and DDOT with respect to certain technical aspects of system design, construction and operation of the Plan and with respect to the D.C. Power Line Undergrounding (“DC PLUG”) Education Plan. Finally, this Order sets out some additional provisions that shall be included in the DC PLUG Education Plan and directs the Joint Applicants to establish an Undergrounding Project Consumer Education Task Force (“UPCE Task Force”) to address on-going consumer education and outreach needs.

## **II. BACKGROUND**

2. Pursuant to Mayor’s Order 2012-130 (August 16, 2012),<sup>2</sup> Mayor Vincent Gray established the Mayor’s Power Line Undergrounding Task Force (“Task Force”), which was given specific directives for analyzing “the technical feasibility, infrastructure options and reliability implications of undergrounding new or existing overhead electrical distribution facilities in the District of Columbia.”<sup>3</sup> The Task Force ultimately decided that the undergrounding of power lines could be a feasible initiative to improve electric system reliability in the District of Columbia. In October 2013 the Task Force issued the Final Report which recommended that the Mayor accept the Task Force’s recommendations and further recommended immediate development of an implementation plan for expedited legislative and regulatory processes that would allow design and construction activities for undergrounding facilities to begin.<sup>4</sup>

3. Legislation governing the public-private partnership between Pepco and DDOT to improve electric service reliability in the District of Columbia D.C. Bill 20-

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<sup>1</sup> *Formal Case No. 1116, In the Matter of the Application for Approval of Triennial Underground Infrastructure Improvement Projects Plan (“Formal Case No. 1116”).*

<sup>2</sup> Mayor’s Order 2012-130 was amended by Mayor’s Order 2012-182 (October 19, 2012).

<sup>3</sup> Mayor’s Power Line Undergrounding Task Force Findings and Recommendations Final Report, at 8 (October 2013) (the “Final Report”).

<sup>4</sup> The Final Report at 9.

387, the “Electric Company Infrastructure Improvement Financing Act of 2013”, was introduced in the Council of the District of Columbia (the “Council”) on July 9, 2013. The legislation was approved by the Council on February 4, 2014 and signed by Mayor Gray on March 3, 2014. The legislation, herein referred to as the Act or ECIIFA, became effective May 3, 2014.<sup>5</sup>

4. The Act provides for DDOT and Pepco to file a joint application for the Commission’s approval of a triennial plan for undergrounding certain electrical facilities identified therein. On April 29, 2014, the Commission issued Order No. 17473, which, *inter alia*, opened *Formal Case No. 1116* to consider applications for approval of the triennial plans.<sup>6</sup>

5. On June 17, 2014, in accordance with Section 307(a) of the Act, Pepco and DDOT (“Joint Applicants”) filed an application with the Commission, seeking the approval of their Triennial Underground Infrastructure Improvement Projects Plan (the “Joint Application” and “Triennial Plan”). In the Joint Application, Pepco and DDOT requested, *inter alia*, (a) authority to implement a three year project (2015-2017) to expand the undergrounding of certain electric distribution feeders (the “Undergrounding Project”) so as to increase the reliability of the electric distribution system in the District of Columbia and (b) approval of the Underground Project Charge (“UPC”) to be charged by Pepco with respect to Electric Company Infrastructure Improvement Costs incurred for the Undergrounding Project. The entire Undergrounding Project is expected to extend for a period of 7-10 years at a total cost of approximately \$1 billion.<sup>7</sup>

6. We granted petitions to intervene filed by the Apartment and Office Building Association of Metropolitan Washington (“AOBA”); the District of Columbia Water and Sewer Authority (“DC Water”); the United States General Services Administration (“GSA”); D.C. Climate Action (“DCCA”); the International Brotherhood of Electrical Workers, Local 1900 (“IBEW”), Washington Gas Light Company (“WGL”), Comcast Cablevision D.C. LLC (“Comcast”) and Verizon Washington, DC (“Verizon”). The ECIIFA gives party of right status to the electric company (Pepco), the Government of the District of Columbia, DDOT, and OPC.<sup>8</sup>

7. Under the discovery schedule approved by the Commission in Order No. 17501, parties were permitted to file protests or objections to the Triennial Plan Application. Any protest that included a request for an evidentiary hearing required the party to include a statement that there were contested issues of material fact and to

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<sup>5</sup> D.C. Law 20-102 (May 3, 2014).

<sup>6</sup> *Formal Case No. 1116*, Order No. 17473, issued April 29, 2014.

<sup>7</sup> *Formal Case No. 1116*, Joint Application of Pepco and DDOT for Approval of the Triennial Underground Infrastructure Improvement Projects Plan, filed June 17, 2014 (“Joint Application”).

<sup>8</sup> D.C. Code §§ 34-1313.03(a)(2) and 34-1313.09(a)(2).

identify those issues with specificity. By Order No. 17627, the Commission granted the request of AOBA and GSA for an evidentiary hearing on whether Pepco's allocation of the cost of the UPC is consistent with the distribution service customer class cost allocations approved by the Commission for Pepco and in effect pursuant to the last base rate case. The hearing was held on September 16, 2014.<sup>9</sup> On September 25, 2014 and September 29, 2014, Pepco and OPC, respectively, filed Motions to correct the September 16, 2014 hearing transcript.<sup>10</sup> On October 6, 2014, Pepco filed its Post-Hearing Brief<sup>11</sup> and Joint Statement in response to Community Comments,<sup>12</sup> AOBA<sup>13</sup> and OPC<sup>14</sup> filed Post-Hearing Briefs, and Verizon filed a Motion for Leave to Reply and Reply.<sup>15</sup> The record in this proceeding closed on October 6, 2014.

### **III. SUMMARY OF ORDER**

8. In this Order, the Commission finds that the initial Triennial Plan meets all applicable requirements of the Act. Accordingly, under the terms of this Order, the Commission: (1) approves the initial Triennial Plan filed by the Joint Applicants and authorizes the proposed DDOT Underground Electric Company Infrastructure Activity and Electric Company Infrastructure Activity in accordance with this Order; (2) approves and authorizes the imposition, charging, and collection of the non-bypassable volumetric UPC authorized by the Act and this Order to be imposed on and collected from all non-Residential Aid Discount ("RAD") Pepco Distribution Customers beginning on January 1, 2015; (3) approves and authorizes an annual true up mechanism for the adjustment of the UPC, in accordance with Section 315 of the Act, to assure collection of amounts sufficient to meet Pepco's annual revenue requirement for Electric Company Infrastructure Improvement Costs (described herein) on a timely basis; (4) finds and determines that the Electric Company Infrastructure Improvement Costs to be recovered

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<sup>9</sup> *Formal Case No. 1116*, Order No. 17627, issued September 9, 2014.

<sup>10</sup> *Formal Case No. 1116*, Potomac Electric Power Company's Motion to Correct the Transcript, filed on September 25, 2014; *Formal Case No. 1116*, Motion to Correct Transcript of the Office of the People's Counsel, filed September 29, 2014.

<sup>11</sup> *Formal Case No. 1116*, Joint Post-Hearing Brief of Potomac Electric Power Company and the District Department of Transportation ("Joint Applicants' Post-Hearing Brief"), filed October 6, 2014.

<sup>12</sup> *Formal Case No. 1116*, Joint Statement of Potomac Electric Power Company and the District Department of Transportation ("Joint Statement"), filed October 6, 2014.

<sup>13</sup> *Formal Case No. 1116*, Response to Post Discovery Pleadings Filed on Behalf of the Apartment and Office Building Association of Metropolitan Washington and Rhode Island & M Associates ("AOBA's Post-Hearing Brief"), filed September 16, 2014.

<sup>14</sup> *Formal Case No. 1116*, Post-Hearing Brief of the Office of the People's Counsel (OPC Post-Hearing Brief"), filed October 6, 2014.

<sup>15</sup> *Formal Case No. 1116*, Verizon's Motion for Leave to Reply to the Joint Response of Pepco and DDOT and Reply ("Verizon's Motion for Leave to Reply and Reply") filed October 6, 2014. The Commission grants Verizon's unopposed motion.



from the UPC are consistent with the Act but under no circumstance shall the total amount of Electric Company Infrastructure Improvement Costs to be recovered from the UPC exceed \$42.472 million for the initial Triennial Underground Infrastructure Improvement Projects Plan; (5) finds and determines that the funding of Electric Company Infrastructure Activity described in this Order with the revenue from the UPC is consistent with the Act; (6) approves and authorizes the form of UPC Rider as amended to be filed under Pepco's tariffs, as provided in this Order, and as amended from time to time, to implement and service the UPC; (7) details additional provisions that shall be included in the DC PLUG Education Plan; and (8) directs the Joint Applicants to create the UPCE Task Force in accordance with the directives provided herein.

#### **IV. STATUTORY OVERVIEW - ECIIFA REQUIREMENTS**

9. The Act authorizes the funding of the undergrounding of certain vulnerable feeders in the District of Columbia and authorizes the establishment of a mechanism by which a portion of the activities to be undertaken by Pepco on the undergrounding projects would be financed through a non-bypassable volumetric surcharge imposed on all non-RAD Pepco customers. Section 34-1313.10(a) of the Act states that “[u]pon making the findings described in subsection (b) of this section, the Commission shall issue an order approving or denying the application and triennial Underground Infrastructure Improvement Projects Plan to authorize the proposed DDOT Underground Electric Company Infrastructure Improvement Activity, Electric Company Infrastructure Activity, and the subsequent imposition of Underground Project Charges.”<sup>16</sup> Section 34-1313.10(b) provides that in order for “the electric company to recover expenses and costs pursuant to subsection (a) [ ] the Commission shall find that: (1) the electric company’s application satisfies the applicable requirements of § 34-1313.08; (2) the Proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located; (3) the intended reliability improvements will accrue to the benefit of the electric company’s customers; (4) the projected costs associated with the proposed Electric Company Underground Infrastructure Improvement Activity are prudent; (5) the projected DDOT Underground Electric Company Infrastructure Improvement Costs funded by DDOT Underground Electric Company Infrastructure Improvement Charges are prudent; (6) the electric company’s proposed UPC will be just and reasonable; and (7) the grant of the authorizations and approvals sought by the electric company and DDOT in their joint application is otherwise in the public interest.”<sup>17</sup>

##### **A. Applicable Requirements of ECIIFA § 34-1313.08 (Feeder Selection)**

10. Section 34-1313.08 sets forth the requirements of both the application and the plan. Broadly, § 34-1313.08(a)(1) – (3) and (c) provides how the ranking of

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<sup>16</sup> D.C. Code § 34-1313.10(a).

<sup>17</sup> D.C. Code § 34-1313.10(b).

reliability performance of individual feeders should be conducted; establishes the primary selection criteria; and delineates additional content that the electric company and DDOT should include in the plan.

*i. Section 34-1313.08(a)(1)(A) and (B)*

11. Section 34-1313.08(a)(1) of the Act states that the ranking of reliability performance of individual feeders be conducted: (a) as a “measure and ranking of the reliability performance of each of the electric company’s overhead and combined overhead-underground mainline primary and lateral feeders in the District over the preceding 3 years, using the primary selection criteria set forth in paragraph (2) of” § 34-1313.08; and (b) “[o]n the basis of the foregoing rankings, an identification of the electric company’s recommended selection of mainline primary and lateral feeders that will utilize DDOT Underground Electric Company Infrastructure Improvements identified in the plan.”<sup>18</sup>

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

12. Section 34-1313.08(a)(2) of the Act states that the application of the primary selection criteria to the selection of individual feeders be conducted “[w]ith respect to all sustained interruptions (inclusive of major service outages and District major event days) occurring on each overhead and combined overhead-underground mainline primary and lateral feeder circuits in the District, the most recent 3 calendar years averaged of the following, weighted equally: (A) Number of outages per feeder; (B) Duration of the outages occurring on the feeder; and (C) customer minutes of interruption on the feeder.”<sup>19</sup>

*iii. Section 34-1313.08(a)(3)(A) – (H)*

13. Section 34-1313.08(a)(3)(A) states that “[i]n addition to the measurements, rankings, and selections required by paragraphs (1) and (2) of this subsection, the Underground Infrastructure Improvements Projects Plan shall include for each mainline primary and lateral feeder recommended by the electric company to be placed underground an identification and description of the feeder number and the feeder location (by street address, ward, and neighborhood).”<sup>20</sup>

14. Section 34-1313.08(a)(3)(B) states that Pepco must include in the Application “[o]verhead electrical cables, fuses, switches, transformers, and ancillary equipment, including poles, to be relocated underground or removed.”<sup>21</sup>

<sup>18</sup> D.C. Code §§ 34-1313.08(a)(1)(A)-(B).

<sup>19</sup> D.C. Code § 34-1313.08(a)(2).

<sup>20</sup> D.C. Code § 34-1313.08(a)(3)(A)

<sup>21</sup> D.C. Code § 34-1313.08(a)(3)(B).

15. Section 34-1313.08(a)(3)(C) states that Pepco must include in the Application “[o]verhead primary and lateral feeders that are currently located parallel to the selected primary and lateral feeders that the electric company recommends be placed underground.”<sup>22</sup>

16. Section 34-1313.08(a)(3)(D) states that Pepco must include in the Application “[o]verhead secondary feeder circuits and ancillary facilities, and telecommunications and cable television cables and ancillary aboveground equipment, including poles, that will not be relocated underground or removed.”<sup>23</sup>

17. Section 34-1313.08(a)(3)(E) states the “[p]roposed Electric Company Infrastructure Improvements and DDOT Underground Electric Company Infrastructure Improvements funded by DDOT Underground Electric Company Infrastructure Improvement Charges” be included in the Application.<sup>24</sup>

18. Section 34-1313.08(a)(3)(F) states “[n]ew distribution automation devices and segmentation capability to be obtained thereby” be included in the Application.<sup>25</sup>

19. Section 34-1313.08(a)(3)(G) states that “[i]nterties that will enable the feeder to receive power from multiple directions or sources” be included in the Application.<sup>26</sup>

20. Section 34-1313.08(a)(3)(H) states that “[t]he capability to meet current load and future load projections” be included in the Application.<sup>27</sup>

*iv. Section 34-1313.08(c)(1) – (10) (Project Plans and Costs)*

21. Section 34-1313.08(c)(1) states that Pepco and DDOT include in the Application “[a]n itemized estimate of the project plan’s Electric Company Infrastructure Improvement Costs and the proposed Underground Project Charges for the costs shown.”<sup>28</sup>

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<sup>22</sup> D.C. Code § 34-1313.08(a)(3)(C).

<sup>23</sup> D.C. Code § 34-1313.08(a)(3)(D).

<sup>24</sup> D.C. Code § 34-1313.08(a)(3)(E).

<sup>25</sup> D.C. Code § 34-1313.08(a)(3)(F).

<sup>26</sup> D.C. Code § 34-1313.08(a)(3)(G).

<sup>27</sup> D.C. Code § 34-1313.08(a)(3)(H).

<sup>28</sup> D.C. Code § 34-1313.08(c)(1).

22. Section 34-1313.08(c)(2) requires that the Application include “[a]n itemized estimate of the DDOT Underground Electric Company Infrastructure Improvement Costs.”<sup>29</sup>

23. Section 34-1313.08(c)(3) requires that the Application include “[a]n assessment of potential obstacles to the timely completion of a project, including but not limited to, the need to obtain environmental or other permits or private easements, the existence of historically sensitive sites, required tree removal, and significant traffic disruptions.”<sup>30</sup>

24. Section 34-1313.08(c)(4) requires that the Application include “[a] description of the efforts taken to identify District residents to be employed by the electric company and DDOT contractors during the construction of the DDOT Underground Electric Company Infrastructure Improvements and the Electric Company Infrastructure Improvements contained in the annual Underground Infrastructure Improvement Projects Plan.”<sup>31</sup>

25. Section 34-1313.08(c)(5) requires that the Application include “[a]n explanation of the availability of alternate funding sources, if any, for relocation of the overhead equipment and ancillary facilities that will utilize DDOT Underground Electric Company Infrastructure Improvements, such as contributions in aid of construction, the grant of federal highway or economic development funds, and other sources.”<sup>32</sup>

26. Section 34-1313.08(c)(6)(A) requires that the Application include “[a]n exhibit setting forth the proposed Underground Project Charges, work papers calculating the derivation of these charges, the proposed allocation of billing responsibility among the electric company’s distribution service customer classes for the Underground Project Charges, and a worksheet depicting the: (i) Projected total expenses; (ii) Capital costs; (iii) Depreciation expenses; (iv) Annual revenue requirement, rate of return on equity, as set by the Commission in the most recently decided rate base case; and (v) Allocation of billing responsibility utilized in these calculations.”<sup>33</sup>

27. Section 34-1313.08(c)(6)(B) requires that the exhibit included in the Application pursuant to Section 34-1313.08(c)(6)(A) “include the proposed accounting treatment for the costs to be recovered through these charges, which shall provide that no costs recovered through the Underground Project Charges shall also be afforded rate base or other treatment that would incorporate recovery of Underground Project Charges into

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<sup>29</sup> D.C. Code § 34-1313.08(c)(2).

<sup>30</sup> D.C. Code § 34-1313.08(c)(3).

<sup>31</sup> D.C. Code § 34-1313.08(c)(4).

<sup>32</sup> D.C. Code § 34-1313.08(c)(5).

<sup>33</sup> D.C. Code § 34-1313.08(c)(6)(A).

the design of the electric company's base tariff rates until such time as the electric company shall request the transfer of these costs into rate base and the discontinuance of the costs being recovered in the Underground Project Charge."<sup>34</sup>

28. Section 34-1313.08(c)(7) requires that the application include "[o]ther information the electric company or DDOT considers material to the Commission's consideration of the application."<sup>35</sup>

29. Section 34-1313.08(c)(8) requires that the Application include "[i]dentification and contact information of one or more individuals who may be contacted by the Commission with formal or informal requests for clarification or any material set forth in the application or requests for additional information."<sup>36</sup>

30. Section 34-1313.08(c)(9) requires that the Application include "[a] proposed form of public notice of the application suitable for publication by the Commission."<sup>37</sup>

31. Section 34-1313.08(c)(10) requires that the Application include "[a] protocol to be followed by the electric company and DDOT to provide notice and to coordinate engineering, design, and construction work performed pursuant to this chapter with the gas company, water utility, and other utilities that own or plan to construct, as approved by the Commission where applicable, facilities that may be affected by DDOT Underground electric Company Infrastructure Improvement Activity or Electric Company Infrastructure Improvement Activity."<sup>38</sup>

*v. Remaining requirements of Section 34-1313.10(b) of the Act*

32. As discussed above, Section 34-1313.10(b) of the Act also requires that the Commission make specific findings that:

- a) Underground Infrastructure Improvements Are Appropriately Designed and Located;
- b) Intended Reliability Improvements for Pepco's Customers Will Accrue;
- c) Costs of Pepco's Infrastructure Improvements are Prudent;
- d) Costs of DDOT's Infrastructure Improvements are Prudent;
- e) Underground Project Charges Will Be Just and Reasonable; and

<sup>34</sup> D.C. Code § 34-1313.08(c)(6)(B).

<sup>35</sup> D.C. Code § 34-1313.08(c)(7).

<sup>36</sup> D.C. Code § 34-1313.08(c)(8).

<sup>37</sup> D.C. Code § 34-1313.08(c)(9).

<sup>38</sup> D.C. Code § 34-1313.08(c)(10).

- f) Approval of the Joint Application is Otherwise in the Public Interest.

## V. PARTIES' POSITIONS

33. The Joint Applicants assert that the contents of the Application satisfy the requirements of the Act. Only AOBA, DCCA, GSA, Verizon and OPC filed comments on Pepco/DDOT's application. AOBA asserts that there are several deficiencies in the application that have to be remedied before the Commission approves the Triennial Plan. Both AOBA and GSA oppose Pepco's cost allocation methodology. While DCCA does not oppose the undergrounding initiative, it proffers three (3) recommendations for improving the Triennial Plan. Verizon does not oppose the Triennial Plan but expresses its concerns that, despite best efforts of the Joint Applicants, the plan could result in the mandated relocation of Verizon facilities. Initially, OPC had major reservations about the Triennial Plan; however OPC's concerns have been addressed in a Joint Stipulation entered into between OPC and the Joint Applicants and OPC recommends approval of the Triennial Plan conditioned on our acceptance of the Joint Stipulation. Therefore, for the most part the methodology and recommendations contained in Pepco/DDOT's Triennial Plan are unopposed. Indeed no party requests that the Commission reject the Triennial Plan or opposes the 21 feeders that Pepco selected to underground. Moreover, as discussed below, after reviewing the Application, the Triennial Plan, Pepco's Testimony and Exhibits contained in the Application, the pleadings of the parties, and Data Responses, the Commission finds that the requirements of ECIIFA § 1313.08 have been substantially met and we approve the 21 feeders and 16 parallel feeders selected by Pepco for undergrounding in its Triennial Plan.<sup>39</sup> Accordingly, we first describe the Joint Applicants' contention that its Triennial Plan meets all the requirements of the Act. Thereafter, we address the other parties' contentions or objections to the Triennial Plan that require our resolution.

### A. **Pepco/DDOT**

#### *i. The Application meets the requirements of the Act*<sup>40</sup>

34. In the Joint Application, Pepco and DDOT assert that, in relation to § 34-1313.08(a)(1)(A), the "section entitled 'Feeder Selection' of the Triennial Plan discusses the measure and rank of the required mainline primary and lateral feeders based on three years' worth of data and using the primary selection criteria, as supported by Appendix A to the Triennial Plan."<sup>41</sup> The Joint Applicants further assert that the "Testimony of

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<sup>39</sup> D.C. Code § 34-1313.0810(c)(4).

<sup>40</sup> The Commission notes that throughout the Application, the Joint Applicants reference sections of the ECIIFA which were identified as 308-310, however, subsequent to the submission of the Application the Act was codified in the D.C. Code in Section 34-1313 (*i.e.*, ECIIFA Section 308 became D.C. Code § 34-1313.08).

<sup>41</sup> Joint Application at 5.

Company Witness Gausman and accompanying Exhibits discuss the ranking and prioritization processes in detail, including the ranking process used to select the feeders for the first three years of the Triennial Plan as shown in Appendix B to the Triennial Plan.”<sup>42</sup> In addressing the requirements of § 34-1313.08(a)(1)(B), the Joint Applicants assert that “Appendix C to the Triennial Plan identifies the selected mainline primary and lateral feeders and the section entitled ‘Feeder Selection’ of the Triennial Plan discusses the process used to select the feeders for the first three years of the DC PLUG initiative.” The Joint Applicants further contend that the “Testimonies of Company Witness Gausman and Bacon and accompanying Exhibits also discuss the selection process,” and together “provide all of the information necessary to satisfy the requirements of Section 308(a)(1)(B).”<sup>43</sup>

35. In the Application, the Joint Applicants assert that the “section entitled ‘Feeder Selection’ of the Triennial Plan discusses this analysis,” and the “Testimony of Company Witness Gausman and accompanying Exhibits discuss the weighting based on the criteria required in Section 308(a)(2) of the Act.” In response to the requirements of Section 34-1313.08(a)(3)(A), the Joint Applicants assert that “Appendices D, C, F, G, and H to the Triennial Plan, as set forth in the section entitled ‘Feeder Descriptions’ [ ] identify and describe the feeder number and feeder location, including street address[,] neighborhood, and ward for the selected mainline primary and lateral feeders, as supported by the Testimonies of Company Witness Bacon and DDOT Witness Foxx.”<sup>44</sup>

36. According to the Joint Applicants, the requirement of Section 34-1313.08(a)(3)(B) of the Act is satisfied in the Application and “discussed in ‘Feeder Descriptions’ section of the Triennial Plan and supported by the Testimony of Company Witness Bacon.”<sup>45</sup> The Joint Applicants address Section 34-1313.08(a)(3)(C) in “Appendices C, D, E, and G to the Triennial Plan [which] identify overhead primary and lateral feeders that are currently located parallel to the primary and lateral feeders selected to be placed underground, as discussed in the section of the Triennial Plan entitled ‘Feeder Descriptions’ and supported by the Testimony of Company Witness Bacon.”<sup>46</sup>

37. The Joint Applicants assert that the Application addresses the requirements of Section 34-1313.08(a)(3)(D) in the “section entitled ‘Remaining Overhead Power Lines and Associated Equipment’ of the Triennial Plan which discusses the fact that all overhead secondary feeder circuits and ancillary facilities, and

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<sup>42</sup> Joint Application at 5.

<sup>43</sup> Joint Application at 6.

<sup>44</sup> Joint Application at 7.

<sup>45</sup> Joint Application at 7.

<sup>46</sup> Joint Application at 8.

telecommunications and cable television cables and ancillary aboveground equipment will remain above ground, as supported by the Testimony of Company Witness Bacon.”<sup>47</sup> Further, the Joint Applicants contend that the Application satisfies the requirements of 34-1313.08(a)(3)(E) in that “Appendices D, G, and H of the Triennial Plan [which] identify the proposed Electric Company Infrastructure Improvements to be funded by DDOT Underground Electric Company Infrastructure Improvement Charges, as discussed in the sections of the Triennial Plan entitled ‘Feeder Descriptions’ and ‘Interties, Future Load, and Feeder Conversions’ and supported by the testimonies of Company Witness Bacon and DDOT Witness Foxx.”<sup>48</sup> The Joint Applicants note that “the Electric Company Infrastructure Improvements will be funded by the Underground Project charges, for which approval is sought in this Application.”<sup>49</sup> Furthermore, the Joint Applicants assert that “the DDOT Underground Electric Company Infrastructure Improvements will be funded by the issuance of bonds, repayment of which will be secured by the DDOT Underground Electric Company Infrastructure Improvement Charges” and “[i]n accordance with Sections 301 and 302 of the Act, Pepco and the District will make a separate application for the issuance of a financing order in connection with such bonds.”<sup>50</sup>

38. The Joint Applicants assert that the “section of the Triennial Plan entitled ‘Incorporation of Innovative methods and Advanced Technology’ discusses new distribution automation devices and segmentation capability that may be obtained through the DC PLUG project, as supported by the Testimony of Company Witness Bacon,” which together with the Application “provide all of the information necessary to satisfy the requirements of Section 308(a)(3)(F).”<sup>51</sup> In response to the requirements of Section 34-1313.08(a)(3)(G), the Joint Applicants assert that “the section of the Triennial Plan entitled ‘Integrities, Future Load and Feeder Conversions’ and Appendices C, F, and G of the Triennial Plan identify interties that will enable a feeder to receive power from multiple directions or sources, as supported by the Testimony of Company Witness Bacon.”<sup>52</sup>

39. The Joint Applicants assert that Section 34-1313.08(c)(1) requirements are addressed in “[t]he section of the Triennial Plan entitled ‘Project Costs’ and Appendix I

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<sup>47</sup> Joint Application at 8.

<sup>48</sup> Joint Application at 9.

<sup>49</sup> Joint Application at 9.

<sup>50</sup> Joint Application at 9. Pepco filed its financing application which the Commission is considering in *Formal Case No. 1121, In The Matter of Application of Potomac Electric Power Company for Issuance of a Financing Order Under the Electric Company Infrastructure Improvement Financing Act* (“*Formal Case No. 1121*”).

<sup>51</sup> Joint Application at 9.

<sup>52</sup> Joint Application at 10.



provide the itemized estimate of the Electric Company Infrastructure Improvement Costs, as supported by the Testimony of Company Witness Bacon.” The Joint Applicants further assert that “[t]he section of the Triennial Plan entitled ‘Cost Recovery’ and Appendix L of the Triennial Plan discuss the Proposed Underground Project Charge, as supported by the Testimony and Exhibits of Company Witness Janocha.”<sup>53</sup>

40. The Joint Applicants assert that the requirements of Section 34-1313.08(c)(2) of the Act are addressed in “[t]he section of the Triennial Plan entitled ‘Project Cost’ and Appendix I of the Triennial Plan provide the itemized estimate of the DDOT Underground Electric Company Infrastructure Improvement Costs, as supported by the Testimony of DDOT Witness Foxx.”<sup>54</sup> Further, they assert that the requirements of Section 34-1313.08(c)(3) of the Act are addressed in “[t]he section of the Triennial Plan entitled ‘Obstacles to Timely Completion’ [which] provides an assessment of potential obstacles to timely completion for any of the projects in the DC PLUG initiative, as supported by the testimonies of Company Witness Bacon and DDOT Witness Foxx.”<sup>55</sup>

41. The requirements of Section 34-1313.08(c)(4) of the Act are addressed by the Joint Applicants in “[t]he section of the Triennial Plan entitled ‘Focus on District of Columbia Business and Residents’ [which] provides a description of the efforts taken to identify District of Columbia residents to be employed by Pepco and DDOT contractors during the planned construction of the DDOT Underground Electric Company Infrastructure Improvements and the Electric Company Infrastructure Improvements, as supported by the testimonies of Company Witness Bacon and DDOT Witness Love.”<sup>56</sup> “The section of the Triennial Plan entitled ‘Alternate Funding Sources’ and the testimonies of Company Witness Bacon and DDOT Witness Foxx explain that neither the Company nor DDOT is aware of any alternate sources of funding, satisfying the requirements of Section 308(c)(5) of the Act.”<sup>57</sup>

42. The Joint Applicants assert the exhibits providing information that satisfy the requirements of Section 34-1313.08(c)(6)(A) of the Act “can be found in Appendices J, K, L, and M of the Triennial Plan and further discussion of the contents can be found in the section of the Triennial Plan entitled ‘Cost Recovery.’” The Joint Applicants further assert that “Company Witness Janocha testifies in detail about the contents of the exhibit” and that the “Application and Triennial Plan and the accompanying Testimony provide all the information necessary to satisfy the requirements of Section 308(c)(6)(A) of the

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<sup>53</sup> Joint Application at 11.

<sup>54</sup> Joint Application at 11.

<sup>55</sup> Joint Application at 11-12.

<sup>56</sup> Joint Application at 12.

<sup>57</sup> Joint Application at 12-13.

Act.”<sup>58</sup> In response to the requirements of Section 34-1313.08(c)(6)(B), the Joint Applicants assert that “[t]he section of the Triennial Plan entitled ‘Cost Recovery’ provides this information, as supported by the Testimony and Exhibits of Company Witness Janocha.”<sup>59</sup>

43. The Joint Applicants assert that in response to the requirements of Section 34-1313.08(c)(7) of the Act, they both “consider the DC PLUG Education Plan (Education Plan) and accompanying budget to be a material part of the Application and Triennial Plan.” The Joint Applicants further assert that “[t]he Education Plan and accompanying budget are included in the Triennial Plan in Appendix N and discussed in the ‘DC PLUG Education Plan’ section of the Triennial Plan” and that “Company Witness Vrees testifies about the importance of the Education Plan to the DC PLUG project, the origin of the Education Plan, how it comports with the recommendations of the Task Force” and that the budget accompanying the Education Plan, demonstrates the reasonableness of the Education Plan.”<sup>60</sup> The Joint Applicants state that “DDOT Witness Love testifies regarding the importance of the Education Plan to the DC PLUG initiative and some of the District resources available for use in implementing the Education Plan.”<sup>61</sup>

44. The Joint Applicants assert that “[t]he Application at Part II above provides the required identification and contact information, satisfying the requirements of Section 308(c)(8).”<sup>62</sup> The Joint Applicants assert that “[t]he required Form of Notice can be found as an attachment to Pepco’s transmittal letter with respect to this Application, satisfying the requirements of Section 308(c)(9) of the Act.”<sup>63</sup> In response to the requirements of Section 34-1313.08(c)(10) of the Act, the Joint Applicants assert that “[t]he ‘Utility Coordination’ section of the Triennial Plan and Appendix O provide a draft Memorandum of Agreement memorializing a proposed protocol, as supported by the Testimonies of Company Witness Bacon and DDOT Witness Foxx.”

45. In response to the remaining requirements of Section 34-1313.10(b) of the Act, Pepco and DDOT generally assert in the Application that the Commission should find, based on the Application’s contents, that: (1) Underground Infrastructure Improvements Are Appropriately Designed and Located; (2) Intended Reliability Improvements for Pepco’s Customers Will Accrue; (3) Costs of Pepco’s Infrastructure Improvements are Prudent; (4) Costs of DDOT’s Infrastructure Improvements are

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<sup>58</sup> Joint Application at 13.

<sup>59</sup> Joint Application at 14.

<sup>60</sup> Joint Application at 14.

<sup>61</sup> Joint Application at 14.

<sup>62</sup> Joint Application at 15.

<sup>63</sup> Joint Application at 15.

Prudent; (5) Underground Project Charges Will Be Just and Reasonable; and (6) Approval of the Joint Application is Otherwise in the Public Interest.

**B. AOBA's Position**

*i. Deficiencies in the Application*

46. On August 15, 2014, AOBA filed its Protest, Objection, Request for an Evidentiary Hearing and Testimony of Bruce R. Oliver, which is discussed in Order No. 17627, ¶¶ 36-40.<sup>64</sup> In its Protest, AOBA argued that the Joint Applicants' Application contains many deficiencies, including: (1) improper cost allocation (§ 34-1313.10(c)(1)); (2) Pepco's failure to create a separate MMA rate class surcharge (§ 34-1313.10(c)(2)); (3) use of forecasted sales data (§ 34-1313.10(c)(2)); (4) recovery of costs of removal of overhead facilities (§ 34-1313.10(c)(3)); (5) recovery of incremental operation and maintenance costs (§ 34-1313.10(c)(3)); (6) use of cost estimates in calculating Customer Minutes of Interruption per dollars spent ("CMI/\$") (§ 34-1313.08(a)(2)(c)); (7) inappropriate use of Department of Energy ("DOE") value-of-service estimates (§ 34-1313.XX); (8) a defective feeder priority ranking methodology (§ 34-1313.08(a)(2)); (9) inappropriate determination of customer demand by feeder (§ 34-1313.08(a)(2)); and (10) a defective manner of reporting customer interruptions (§ 34-1313.08(a)(2)). AOBA asserts that it fully discusses the Application's alleged deficiencies through the Direct Testimony of its witness Oliver.<sup>65</sup>

*ii. Inappropriate Cost Allocation Methodology*

47. AOBA contests the methodology used by the Joint Applicants to allocate the cost of the UPC amongst customer classes. AOBA argues that Pepco's methodology does not conform to the plain meaning of the Act because it excludes the customer charge and allocates a higher percentage of the cost to commercial class customers than appropriate. AOBA contends that the proper cost allocation methodology to be used is to allocate costs to customers based on the Class Cost of Service Study ("CCOSS") filed by Pepco in its last base rate case – *Formal Case No. 1103*.

48. In its Post-Hearing Brief filed on October 6, 2014, AOBA reiterates its position on the cost-allocation issue and points out, as it did in its Protest and Objection, that if the Commission accepts the Joint Applicants' cost allocation methodology, then, contrary to the Commission's stated policy of moving towards "eliminating negative rates of return and the severe interclass subsidization of residential rates reflected in Pepco's CCOSS, the negative rates of return will be further distorted."<sup>66</sup> On this basis,

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<sup>64</sup> *Formal Case No. 1116*, Protest and Objection to the Application, Testimony and Triennial Plan and Statement requesting Evidentiary Hearings Based on contested Issues of material fact of the Apartment and Office Building Association of Metropolitan Washington, filed August 15, 2014 ("AOBA Protest").

<sup>65</sup> AOBA Protest, Direct Testimony of Bruce Oliver ("Witness Oliver Testimony"), Exhibit AOBA (A) at 4-10.

<sup>66</sup> See generally, AOBA Protest; see also, AOBA's Post-Hearing Brief at 25-26.

AOBA argues, the Commission should reject Pepco's cost allocation method, adding that a recent Edison Electric Institute ("EEI") and National Resource Defense Counsel ("NRDC") joint communique stated that regulators should "recognize and adopt policies regarding grid modernization that embody the principle that 'Customers deserve assurances that costs will not be shifted unreasonably to them from other customers,'"<sup>67</sup> a principle AOBA urges the Commission to consider and apply.

49. AOBA further argues that the legislative history of the ECIIFA does not support Pepco's interpretation of the cost allocation mandated by D.C. Code Section 34-1313.10(c)(1). AOBA contends that there are no persuasive reasons in the evidentiary record that support the Commission going beyond the ordinary meaning of the words in Section 34-1313.10(c)(1) of the ECIIFA and that the legislative history of Section 34-1313.10(c)(1), while irrelevant, in fact refutes Pepco's arguments in favor of AOBA's recommended cost allocation plan.<sup>68</sup> While AOBA recognizes that Pepco proffered Kevin McGowan's testimony at the evidentiary hearing as evidence on the development of Pepco's cost allocation methodology by the Task Force, AOBA asserts that during cross-examination by AOBA, witness McGowan conceded that Pepco's cost allocation model is neither referenced in, nor included in, the Mayor's Task Force Report.<sup>69</sup> Moreover, AOBA asserts that there is no evidence of the modeling or other items referenced in witness McGowan's affidavit or testimony on September 16, 2014, in the Council's Committee report. AOBA indicated that "Mr. McGowan's affidavit and testimony are little more than Pepco's oral history akin to a bedtime story told to children, and not legislative history, designed to support an outcome not reflected in the statutory language" of the Act.<sup>70</sup> AOBA contends that McGowan's *post hoc* statements should carry no weight as to the intent of the Council in enacting Section 34-1313.10(c)(1) of the ECIIFA and "while witness McGowan trumpets the Company's extensive involvement in the Mayor's Task Force and in the drafting of the ECIIFA, the official reports from these proceedings fail to reference any of the testimonial arguments made in this proceeding by witnesses McGowan and Janocha in support of the Joint Applicants' cost allocation proposal."<sup>71</sup>

50. AOBA concludes that the language in Section 34-1313.10(c)(1) of the Act is unambiguous and that based on the Act, the Commission must implement cost allocation in this proceeding based solely upon the cost allocation approved in *Formal Case No. 1103*, Order No. 17424. AOBA argues that the Commission is prohibited by judicial precedents from rewriting the intent of the Council by interpreting the words of

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<sup>67</sup> AOBA's Post-Hearing Brief at 27.

<sup>68</sup> AOBA's Post-Hearing Brief at 28.

<sup>69</sup> AOBA's Post-Hearing Brief at 36.

<sup>70</sup> AOBA's Post-Hearing Brief at 36.

<sup>71</sup> AOBA's Post-Hearing Brief at 3.

Section 34-1313.10(c)(1) of the ECIIFA to achieve a result not reflected in the plain meaning of the words in the statute. Assuming that a reading of the legislative history of the ECIIFA is justified, AOBA further argues that it does not support Pepco's recommendation for the allocation of costs for approved undergrounding projects advocated in the testimony of Pepco witnesses Janocha and McGowan.

51. AOBA respectfully requests that the Commission: (1) deny the cost allocation proposed by the Joint Applicants and (2) approve AOBA's recommended cost allocation which has the added benefit of complying with the Commission's policy to eliminate negative rates of return and the severe interclass subsidization of residential rates reflected in Pepco's CCOSS.<sup>72</sup>

*iii. Computation of Underground Project Charge*

52. AOBA asserts, through its Witness Oliver's Testimony, that "[t]he Commission should question the accuracy and appropriateness of both the overall revenue requirements by year that Pepco claims, and the manner in which the proposed charges for each rate class are calculated."<sup>73</sup>

1. Pepco's failure to create a separate MMA rate class surcharge

53. AOBA argues that the Commission "should require that a separate charge be developed and applied for Master Metered Apartment ('MMA') customers" and that the Application as submitted have "separate Underground Project revenue requirements and Underground Project Charges for every rate class to which costs are allocated in the Company's class cost allocation study in Formal Case No. 1103 except the MMA class."<sup>74</sup> AOBA asserts that Pepco, in response to AOBA Data Request 3-1b, indicated that it "has included all MMA sales (*i.e.*, kWh) in the billing determinants for the Residential (Rate R) class for the purpose of computing its proposed Underground Project Charges in this proceeding." AOBA argues that including MMA sales with the Rate R class "is inappropriate, unnecessary, and inconsistent with [Pepco's] treatment of [its] other customer groups for which separate cost allocations are made in Pepco's CCOSS in Formal Case No. 1103."<sup>75</sup> Furthermore, AOBA asserts that "the MMA class has different cost of service characteristics than the Company's other residential service classifications, and as noted in Commission Order No. 17424 in Formal Case No. 1103, the [MMA] class provides the Company a significantly above average rate of return, while the Residential (R & AE) class was found to have a substantially negative rate of return."<sup>76</sup> AOBA further argues that separating out the MMA class will not be unduly

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<sup>72</sup> AOBA Post-Hearing Brief at 42.

<sup>73</sup> AOBA Protest, AOBA Witness Oliver Testimony at 31.

<sup>74</sup> AOBA Protest, AOBA Witness Oliver Testimony at 31-32.

<sup>75</sup> AOBA Protest, AOBA Witness Oliver Testimony at 32.

<sup>76</sup> AOBA Protest, AOBA Witness Oliver Testimony at 32.

burdensome for Pepco because (1) “the Commission has already differentiated the treatment of MMA customers for rate design purposes in its rate design determinations in Formal Case No. 1103,” and (2) “the Underground Project Charge is applied on a cents per kWh basis which can be easily differentiated for billing purposes for” the MMA class.<sup>77</sup> AOBA argues that by establishing a separate underground project charge for MMA customers, it becomes evident not only that Pepco has greatly distorted the proposed UPC, but also that “Pepco significantly understates the required levels of Underground Project Charges for Residential (R & AE) customers, and overstates the levels of such charges for RTM, GS-LV, GS-HV, GT-LV and TN service.”<sup>78</sup>

## 2. Pepco’s Use of Forecasted Sales Data

54. AOBA argues that Pepco inappropriately uses forecasted sales data by class for each year of the Triennial Plan instead of using actual test year sales data. AOBA asserts that there is no evidence that Pepco’s forecasted kWh by rate class are necessarily more indicative of anticipated kWh use by rate class than the Company’s actual test year sales data from *Formal Case No. 1103*.<sup>79</sup> AOBA argues that “forecasted sales are at best speculative measures of electric usage by rate class” and that if the “Commission believed that use of forecasted sales in the development of charges for future periods represented a superior method for designing rates, [then] it could have directed Pepco to use forecasted sales in the development of compliance rates in any of the number of prior base rate proceedings.”<sup>80</sup> Further, AOBA asserts that using actual test year sales data would not be disadvantageous to Pepco “[s]ince costs and revenues will be reconciled on an annual basis, [the] use of forecasted sales does not change the level of compensation for Undergrounding Project costs that Pepco can expect to receive.”<sup>81</sup> AOBA argues further that while using actual test year sales data does not present any disadvantage to Pepco, there are several advantages to using actual test year sales data, including: (1) customers can rely on the fact that the UPC will be determined on a basis comparable to that used to establish current rates; (2) “actual test year sales data ensures consistency with the cost of service allocation methods required by the Act;” (3) “actual test year kWh by class is higher than the Company’s forecasted kWh for years 2015-2017 for most classes, and that results in lower [UPC] charges when computed in terms of cents per kWh,” which is “particularly true for the Residential class for which

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<sup>77</sup> AOBA Protest, AOBA Witness Oliver Testimony at 33.

<sup>78</sup> AOBA Protest, AOBA Witness Oliver Testimony at 33-34.

<sup>79</sup> AOBA Protest, AOBA Witness Oliver Testimony at 34.

<sup>80</sup> AOBA Protest, AOBA Witness Oliver Testimony at 34.

<sup>81</sup> AOBA Protest, AOBA Witness Oliver Testimony at 34-35.

test year kWh reflect the greatest differential above the Company's forecasted kWh for each year 2015-2017."<sup>82</sup>

*iv. Inappropriate use of U.S. DOE value-of-service estimates*

55. AOBA asserts, through its Witness Oliver's Testimony, that Pepco inappropriately estimated the value-of-service related to the Underground Projects at \$42 million per year, based on "the methodology for estimating value of service reliability presented by the U.S. Department of Energy in their 2009 publication 'Estimated Value of Service Reliability for Electric Utility Customers in the United States.'"<sup>83</sup> Oliver testified that, according to Pepco, "the value-of-service interruptions are considered in [Pepco's] determination of feeder rankings, and that in fact the Company's estimates of the value of service interruptions are included in the detail of its feeder ranking model."<sup>84</sup> Oliver asserts that the data underlying the DOE study estimates were provided from utilities in Western, Midwestern and Southern regions of the U.S., but that "[n]one of the data on which the study was performed provide service in Northeast, Mid-Atlantic, or Great Lakes regions."<sup>85</sup> AOBA asserts that this is significant because value-of-service reliability is not uniform across the U.S. for customers within each customer classification. AOBA argues that "Pepco's use of data from [the DOE] study applies average data from other regions to the District of Columbia without consideration of factors that may dictate greater sensitivity to region differences in service reliability valuations, such as differences in economic conditions, weather, the mix of customers by class and/or differences in customer usage characteristics."<sup>86</sup>

*v. Annual Revenue Requirement*

56. AOBA argues that there were two (2) material errors that it has found in Pepco's overall Underground Project revenue request, both of which result in Pepco's redundant recovery of costs. Those errors are: (1) Duplicative Recovery of Costs of Removal (*i.e.*, Depreciation related removal costs for existing plant); and (2) Use of Inappropriate Measures of Incremental O&M Costs.

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<sup>82</sup> AOBA Protest, AOBA Witness Oliver Testimony at 36.

<sup>83</sup> AOBA Protest, AOBA Witness Oliver Testimony at 50-51.

<sup>84</sup> AOBA Protest, AOBA Witness Oliver Testimony at 50.

<sup>85</sup> AOBA Protest, AOBA Witness Oliver Testimony at 53-54.

<sup>86</sup> AOBA Protest, AOBA Witness Oliver Testimony at 54.

1. Duplicative Recovery of Costs of Removal (i.e., Depreciation-related removal costs for existing overhead plant)

57. AOBA points out that Pepco's requested underground project revenue requirement in this proceeding includes costs of removal. Specifically, it states that the itemized feeder cost estimates provided in Appendix I to the Company's Application include costs for "Overhead Cable & Equipment Removal" for each of the 21 feeders targeted for Undergrounding as part of Pepco's first Triennial Plan. The totals of Pepco's requested costs of removal by year as derived from the data presented in Appendix I to its Triennial Plan are as follows: Year 1 - \$1,918,154; Year 2 - \$2,427,949; and Year 3 - \$1,830,819. AOBA concludes that Pepco is requesting recovery of more than \$6 million in costs for removal of existing overhead distribution cable and equipment.<sup>87</sup>

58. AOBA argues that allowing for recovery of the \$6 million is duplicative since Pepco has been compensated for anticipated costs of removal for existing overhead distribution cable and equipment through its base rates. AOBA explains that Pepco's base distribution rates include depreciation expenses. When determining Pepco's book depreciation expenses for overhead distribution facilities, an allowance is included for "net salvage," where "net salvage" represents the resale value of equipment removed less the Company's costs of removal. As a result, Pepco's depreciation expense allowances in its base rates are designed to compensate the Company for costs of removal.

59. AOBA argues that, in concept, Pepco should be compensated only for the portion of costs of removal for overhead cable and equipment for which it has not already been, or will not be, compensated through base rates.<sup>88</sup> However, AOBA admits that this is not an easy determination because:

- (1) Pepco will continue to receive depreciation on cable and equipment that is replaced at least until the conclusion of its next base rate case when costs for replaced facilities can be removed from the rate base that the Commission approved for Pepco in *Formal Case No. 1103*;
- (2) Pepco does not compute depreciation (including allowances for costs of removal that are included in its depreciation rates) for individual units of property or by vintage of plant. As a result, Pepco does not maintain records that indicate its recovered costs of removal for the specific elements of plant that are subject to replacement as part of its Undergrounding Initiative; and
- (3) Depreciation rates for categories of plant and the allowances for costs of removal incorporated in those rates have varied over time. AOBA explains that this adds another layer of complexity to the process of estimating past

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<sup>87</sup> AOBA Protest Witness Oliver Testimony at 37 – 38.

<sup>88</sup> AOBA Protest Witness Oliver Testimony at 38.



recoveries of costs of removal for plant that will be replaced as a result of Pepco's undergrounding program.<sup>89</sup>

60. AOBA further argues that Pepco has not provided any analysis that attempts to quantify the extent to which it has already been or is being compensated for costs of removal on overhead distribution facilities through its base rates. AOBA points out that, in AOBA Data Request 2-7d, Pepco was requested to provide for each feeder listed in Appendix I "*the dollar amounts that Pepco has received to date for removal costs through its depreciation rates.*"<sup>90</sup> In its response to that request, Pepco recognizes that its depreciation rates include a component for cost of removal. AOBA points out that, Pepco also states: "*Depreciation expense, including the removal cost component, is neither tracked, nor even recorded, by individual asset or feeder.*"<sup>91</sup>

61. AOBA argues that Pepco has not presented any evidence to support a finding that its requested recovery of costs of removal are not duplicative of costs for which it has been, or is currently being, compensated through base rates. AOBA further argues that the Company's filing, testimony, exhibits and supporting workpapers includes no documentation or explanation of the manner in which Pepco has derived the estimated costs of removal by feeder that are listed for each feeder in the "Itemized Feeder Cost Estimates" shown in Appendix I to its Triennial Plan. Thus, there is insufficient evidence to support the Commission's acceptance of those costs, or any portion of those costs, as part of the Company's Underground Project revenue requirements for this proceeding.<sup>92</sup> In addition, AOBA argues that the Act includes no reference to the Company's recovery of costs of removal for existing overhead distribution cable and equipment that may be removed as part of the Company's filed Underground Project plan.<sup>93</sup>

62. AOBA proposes that the Commission address the removal cost issue, by first, rejecting any inclusion of costs of removal in the Company's Underground Project revenue requirement for its first Triennial Plan. Second, at the time of the Company's next base rate case, the Commission can provide Pepco compensation for any documented unrecovered costs of removal for overhead distribution cable and equipment removed as part of the Company's Undergrounding Plan.<sup>94</sup> AOBA argues that this may be accomplished by:

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<sup>89</sup> AOBA Protest Witness Oliver Testimony at 39.

<sup>90</sup> AOBA Protest Witness Oliver Testimony at 40.

<sup>91</sup> AOBA Protest, Witness Oliver Testimony at 40.

<sup>92</sup> AOBA Protest, Witness Oliver Testimony at 40.

<sup>93</sup> AOBA Protest Witness Oliver Testimony at 41.

<sup>94</sup> AOBA Protest, Witness Oliver Testimony at 41.

- (a) Adjusting Pepco's depreciation rates to reflect any demonstrated under-recovery of costs of removal for overhead distribution cable and equipment removed as part of the Company's Undergrounding Plan;
- (b) Including an adjustment to test year base rate revenue requirement to provide for recovery of any identified under recovery balance for cable and equipment removed;
- (c) Allowing for any documented unrecovered portion of such costs to be reflected as an addition to Pepco's Underground Project revenue requirement as part of a subsequent Underground Project Charge annual reconciliation adjustment; or
- (d) Any other alternative that the Commission finds to be appropriate.

## 2. Use of Inappropriate Measure of Incremental O&M Costs

63. AOBA protests that Pepco's request for recovery of incremental operation and maintenance costs associated with new underground lines to be constructed does not include any consideration of reduction in maintenance costs due to the replacement of distribution lines with high service interruption statistics which by their very nature tend to be facilities that are more costly than average to maintain. Without inclusion of a credit for reduction in O&M costs that are already being recovered through base rates, Pepco will be permitted to recover costs that it no longer incurs, once replacement are completed.<sup>95</sup>

64. AOBA argues that Pepco does not address the impact of the UPC on the Company's continued incurrence of O&M costs for overhead facilities. AOBA further argues that Pepco's new underground system should be expected to lower the Company's cost per unit for operating and maintaining underground distribution facilities. Thus, the planned Underground Project should yield lower overall maintenance cost exposure for the Company that should be reflected in rates. AOBA contends that, at least, until Pepco's base rates are adjusted at the completion of its next base rates, Pepco's UPC should include a credit for reduced O&M costs. However, AOBA concludes that given the absence of explicit consideration of these factors, Pepco's development of its request for incremental distribution operation and maintenance costs fails to provide necessary and appropriate recognition of anticipated costs savings. AOBA states that this creates the potential, if not a likelihood, that the Company's combined base rate and Underground Project costs recoveries will exceed its actual distribution O&M expenditures.<sup>96</sup>

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<sup>95</sup> AOBA Protest, Witness Oliver Testimony at 42.

<sup>96</sup> AOBA Protest, Witness Oliver Testimony at 43.

vi. *Inappropriate use of cost estimates in calculating Customer Minutes of Interruption per dollars spent (“CMI/\$”)*

65. AOBA argues that the estimates of costs for undergrounding primary overhead distribution feeders that Pepco used in its ranking of feeder priorities is unreliable because Pepco included “a measure of Customer Interruption Minutes per dollar of undergrounding investment (i.e., ‘CMI/\$’).” AOBA asserts that, according to Pepco, using CMI/\$ “provides an indication of the amount of service reliability improvement that the proposed undergrounding of individual feeders would generate per dollar of undergrounding investment,” and that the higher values for CMI/\$ “are viewed by Pepco as providing greater reliability improvements per dollar expended” (i.e., gets the greatest “*bang for the buck*”).<sup>97</sup> AOBA contends that, after the feeders were chosen for the first three years of the undergrounding project, “Pepco went back and re-estimated the costs for undergrounding each of the selected feeders using more detailed ‘itemized’ cost methodology,” and that a comparison of the initial modeled estimates with the itemized cost estimates for the 21 feeders “suggest that the ‘model’ Pepco used to produce its initial costs estimates (i.e., the cost estimates upon which Pepco relied to produce its ranking of feeders) were, at best, **highly unreliable**.”<sup>98</sup>

66. AOBA asserts that the itemized cost estimates “upon which Pepco bases its revenue request in this proceeding range from **65% below** the ‘modeled’ cost estimate to **36% above** the ‘modeled’ costs estimate;” with only “four of the 21 feeders for which both ‘modeled’ and ‘itemized’ cost estimates [that] have been provided had differences between the two estimates of +/-10%.”<sup>99</sup> AOBA further asserts that “[m]ore than half of the 21 feeders for which ‘itemized’ undergrounding cost estimates have been produced have differences between their modeled and itemized cost estimates in excess of +/-20%, and nearly a quarter of the 21 feeders the differences in cost estimates were between +/-30% and +/-65%,” and that overall Pepco’s “itemized” cost estimates “lowered the total estimated costs for the 21 feeders Pepco has selected for its first Triennial Plan by more than **\$66 million** when compared to its preliminary ‘modeled’ costs estimates.”<sup>100</sup>

67. AOBA argues that the differing results in Pepco’s preliminary “modeled” cost estimates by feeder and its subsequent “itemized” cost estimates impact feeder rankings by essentially eliminating the usefulness of the CMI/\$ measure. AOBA asserts that the two cost estimates “are simply not comparable, and no meaningful results can be

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<sup>97</sup> AOBA Protest, Witness Oliver Testimony at 48.

<sup>98</sup> AOBA Protest, Witness Oliver Testimony at 48-49.

<sup>99</sup> AOBA Protest, Witness Oliver Testimony at 49.

<sup>100</sup> AOBA Protest, Witness Oliver Testimony at 49.

gained from analyses or rankings that use a mixture of estimates from those two cost estimation approaches.”<sup>101</sup>

vii. *Inappropriate Feeder Ranking and Selection - Subsections 34-1313.08(a)(2) and (d)*

68. AOBA takes issue with Pepco’s feeder ranking and selection model, based primarily upon concerns regarding the accuracy of Pepco’s data. Specifically, AOBA witness Oliver stated that to properly rank feeders based on SAIFI, SAIDI, CMI, and/or CMI/\$ the measures should be premised on SAIFI, SAIDI, and CMI for only the overhead portion of each feeder.<sup>102</sup> He contends that the spreadsheet file provided by Pepco in Appendices A and B to the Plan support its rankings and includes system and overhead measures of SAIFI, SAIDI, and CMI for each feeder and that Pepco explains (and its analyses shows) that the anticipated SAIFI, SAIDI, and CMI after the planned replacements for each feeder will equal the system SAIFI, SAIDI, and CMI less the comparable overhead SAIFI, SAIDI, and CMI.<sup>103</sup> According to AOBA, to properly rank feeders, the ranking measures should be premised only on the overhead portions of each feeder.<sup>104</sup>

viii. *Use of Erroneous Measures of Customer Demand by Feeder*

69. AOBA argues that, with a couple of exceptions, “the average maximum demands for the Large Commercial customers [also identified by Pepco as “Industrial” customer] on Pepco’s 21 selected feeders are generally small relative average demands for customers found in GT-LV and GT31 classes” with the average demand for customers on six of the feeders below 100 kW.<sup>105</sup> AOBA asserts that the “Availability” provisions of Pepco’s tariff for Rate Schedule GT-LV state that “GT-LV rates shall be applicable ‘to customers whose maximum thirty (30) minute demand equals or exceeds on hundred (100) kilowatts during two (2) or more billing months within twelve (12) consecutive billing months.’”<sup>106</sup> Therefore, AOBA argues, “[a]lthough the tariff allows a customer that has once qualified for Rate Schedule GT-LV service to remain on that schedule and may be legitimately billed as Rate Schedule GT-LV customers, it is at best

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<sup>101</sup> AOBA Protest, Witness Oliver Testimony at 49-50.

<sup>102</sup> AOBA Protest, Witness Oliver Testimony at 47.

<sup>103</sup> AOBA Protest, Witness Oliver Testimony at 47.

<sup>104</sup> AOBA Protest, Witness Oliver Testimony at 47.

<sup>105</sup> AOBA Protest, Witness Oliver Testimony at 58.

<sup>106</sup> AOBA Protest, Witness Oliver Testimony at 58, citing Pepco (C)-2, Twelfth Revised Page No. R-8.

a questionable practice to characterize customers with such low maximum demands as ‘Large Commercial’ or ‘Industrial’ service accounts.”<sup>107</sup>

70. AOBA Witness Oliver asserts that, using the data provided in the cost of service and rate design analyses Pepco filed in *Formal Case No. 1103*, he computed the average GT-LV customer had a primary NCAP demand of 347 kW and the average monthly billing demand of 343 kW, “[y]et, only **two (2)** of the 21 feeders Pepco has targeted for undergrounding have average maximum demands per customer over 300kW.” Oliver argues that “[b]y contrast, the average demand for the Large C&I customers included in the previously referenced DOE study [ ] reflects over **800 kW** per customer.” AOBA argues that one feeder - Feeder 14758 - serving an area east of the Anacostia River near Blue Plains, was identified by Pepco as having “eight (8) Large Commercial customers whose Maximum demand is 5,625.3 kW,” which Oliver asserts is “unlikely.”<sup>108</sup> Furthermore, AOBA argues that, in regard to Feeder 14758, the Triennial Plan suggests its “Normal Capacity” is 8.0 MVA and its “Emergency Capacity” rating is 10.0 MVA; however, according to AOBA, “those capacity ratings do not appear to be sufficient to even attempt to handle the loads of eight large customers with average maximum demands in excess of 5,600 kW (i.e., 5.6 MW per customer) plus the loads of over 2,000 small C&I and Residential customers that are reportedly served” by Feeder 14758.<sup>109</sup> Additionally, AOBA asserts that “when the average annual consumption for the referenced eight large customers (i.e., 43,029,061) is considered,” the average loads for those customers would substantially exceed the rated capacity of the feeder. Therefore, AOBA concludes, it is clear that “Pepco has not performed an adequate assessment of the service characteristics of customers served from each of the feeders it plans to underground[ , n]or has the Company performed basic checks to ensure the accuracy and consistency of the data it has provided in this case.”<sup>110</sup>

*ix. Inappropriate Reporting of Number of Customer Interruptions*

71. AOBA contends that Pepco has not properly assessed the numbers of customers and maximum number of customer interruptions by feeder that it uses in its feeder selection model. Specifically, AOBA Witness Oliver asserts that two measures of number of customers are found within Pepco’s Feeder Selection Model, “[o]ne measure referenced by the Company as a Count of customers [and] the other is purportedly a measure of the maximum number of customer interruptions.”<sup>111</sup> Oliver continues, arguing that Pepco “understates the actual average number of customers for the test year in Formal Case No. 1103” by approximately 15,000 and that the “test year in Formal

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<sup>107</sup> AOBA Protest, Witness Oliver Testimony at 58.

<sup>108</sup> AOBA Protest, Witness Oliver Testimony at 59.

<sup>109</sup> AOBA Protest, Witness Oliver Testimony at 59-60.

<sup>110</sup> AOBA Protest, Witness Oliver Testimony at 60.

<sup>111</sup> AOBA Protest, Witness Oliver Testimony at 60.

Case No. 1103 included a total of 232,591 residential customers, but Pepco's Customer Count in the Feeder Model reflects only 219,247 residential customers."<sup>112</sup> Regarding the other measure of customers found in the Feeder Selection Model, which is "intended to represent a measure of the Maximum number of customer interruptions," AOBA asserts that, that number "represents the greater of the customer count or maximum number of customer interruptions at any time between 2010 and 2012" and yields "about 21,300 more customers than the Company actually had on average for the test year in Formal Case No. 1103."<sup>113</sup> Oliver asserts that in his review of the feeder-by-feeder detail Pepco used, he "found large differences between the reported customer counts by feeder from the Company's Outage Management System and the reported numbers of customer interruptions."<sup>114</sup>

72. AOBA states that in response to these discrepancies it requested that Pepco "provide an explanation for ten examples of situations in which individual feeders were found to have Maximum Customer Interruptions substantially in excess of the reported customer counts (i.e., 'System Counts') for the same feeders."<sup>115</sup> AOBA contends that in Pepco's response, "[i]nstead of addressing the specifics of the situation for each feeder identified[,] Pepco offer[ed] two generalized explanations for the observe[d] differences:" (1) "the maximum number of interruptions could be greater than the number of customers where customers experience more than one outage during a year," and (2) some feeders may serve more customers outside of normal operating conditions if system operators open and/or close tie switches to allow customers on one feeder to be served by another feeder."<sup>116</sup> AOBA relates that Pepco's responses did not resolve its concerns related to this issue and that if there is an answer to the discrepancy it "appears to be that during other than normal operating conditions large numbers of customers were shifted from one feeder to another, presumably because they would have lost service if they remained on their native feeder. Then, when they ultimately lost service on the feeder which they were shifted, the outages for those customers were attributed to the feeder to which they were shifted and not their native feeder." AOBA argues that this practice "makes no sense, and it results in a greatly distorted perception of the extent to which customers experienced outages on their native feeders" and "contributes to the Company assessing that it had more customer outages than it had customers."<sup>117</sup>

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<sup>112</sup> AOBA Protest, Witness Oliver Testimony at 60.

<sup>113</sup> AOBA Protest, Witness Oliver Testimony at 61.

<sup>114</sup> AOBA Protest, Witness Oliver Testimony at 61-62; referencing AOBA Data Request 4-2.

<sup>115</sup> AOBA Protest, Witness Oliver Testimony at 62.

<sup>116</sup> AOBA Protest, Witness Oliver Testimony at 62.

<sup>117</sup> AOBA Protest, Witness Oliver Testimony at 63.

### C. GSA's Position

73. GSA agrees with AOBA's interpretation of Section 34-1313.10(c)(1) as it relates to the issue of the allocation of costs for the UPC among customer classes.<sup>118</sup> In support of its position on allocation, GSA references testimony by Dr. Dennis W. Goins and recommends that the Commission reject the allocation methodology proposed by Pepco to calculate the UPC. GSA also asserts that the Commission should adopt AOBA's allocation methods as described by witness Oliver in AOBA's protest which: (1) allocate costs associated with the approved undergrounding plan, and (2) develop class-specific UPCs.<sup>119</sup>

### D. Verizon's Position

74. On October 6, 2104, Verizon indicated that it did not oppose the Pepco/DDOT's Triennial application but expressed its concerns that despite best efforts of Pepco and DDOT to coordinate with the other utilities impacted by the Triennial Plan, the plan could result in the mandated relocation of Verizon facilities. In the event that such mandated relocation of Verizon facilities occurs, Verizon indicated it will pursue any and all available legal remedies to recover the costs of such relocations. To the extent DDOT reimburses Verizon for those costs, Verizon argues they should be considered part of the DDOT Underground Electric Infrastructure Improvements.<sup>120</sup>

### E. DC Climate Action's Position

75. DCCA supports the District's multi-party initiative to bury/"underground" overhead primary distribution feeders and asked the Commission to focus on three (3) specific topics: 1) likely implications of flooding and climate change for the District's undergrounded feeders; 2) consideration of proven new technologies in the planned undergrounding; and 3) using the First Triennial Plan to inform future undergrounding.<sup>121</sup>

#### i. Climate Change

76. DCCA urged the Commission to consider the District's vulnerability to the effects of climate change when evaluating Pepco's application for approval of the First Triennial Plan and the effects of periodic flooding, which will become more

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<sup>118</sup> *Formal Case No. 1116*, United States General Services Administration's Response to Joint Response [Answer] of Potomac Electric Power Company and the District Department of Transportation to the Protests of the Apartment and Office Building Association of Metropolitan Washington and the Office of the People's Counsel ("GSA Post-Discovery Response"), at 2, filed August 28, 2014.

<sup>119</sup> GSA Post-Discovery Response at 2.

<sup>120</sup> Verizon's Motion for Leave to Reply and Reply at 1-3.

<sup>121</sup> *Formal Case No. 1116*, Comments of D.C. Climate Action ("DCCA Comments"), filed September 15, 2014, at 1-2.

problematic in the future due to climate change.<sup>122</sup> According to DCCA, climate change causes a rise in temperature, which in turn increases storm frequencies and intensity; climate change also causes a rise in sea level, which overall leads to an increase in intense weather conditions such as flooding.<sup>123</sup> DCCA noted that according to DDOT, the District is very susceptible to more frequent and severe flooding as a result of climate changes – it ranks as one of the top ten U.S. cities where the National Oceanic and Atmospheric Administration anticipates more frequent “nuisance flooding” in the upcoming years.<sup>124</sup> DCCA notes that such evidence is in support of the position that infrastructure planning must include proactive measures to prepare the District for a future of severe weather and more frequent flooding owing to climate change.<sup>125</sup> Thus, DCCA urges the Commission to consider the District’s increasing flood-proneness due to the effects of climate change in relation to this First Triennial Plan and in subsequent Plans.<sup>126</sup>

77. Further, DCCA claims that Pepco’s responses to DCCA Data Requests indicate that the First Triennial Plan does not make any special provisions for a threat of flooding in the District.<sup>127</sup> DCCA also urges the Commission and Pepco to recognize that although the District does not have a coastline, it is located on a tidal river, making the City not completely removed from the risk of higher tides and the flooding countermeasures in New York and New Jersey post-Sandy plans relevant for consideration.<sup>128</sup> DCCA concludes the discussion of this area by urging the Commission to consider whether Pepco’s plans for undergrounding electric distribution infrastructure in the District adequately anticipates the risks acknowledged by another near-coastal city less than an hour’s drive to the north.<sup>129</sup>

*ii. Consideration for use of proven new technologies and “smart” systems in the planned undergrounding*

78. According to DCCA, utility and public service commissions across the United States have implemented the installation of components that enable a two-way flow of information, electricity and automatic responses to disruptions.<sup>130</sup> DCCA

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<sup>122</sup> DCCA Comments at 2.

<sup>123</sup> DCCA Comments at 3.

<sup>124</sup> DCCA Comments at 4.

<sup>125</sup> DCCA Comments at 4.

<sup>126</sup> DCCA Comments at 4.

<sup>127</sup> DCCA Comments at 5.

<sup>128</sup> DCCA Comments at 6.

<sup>129</sup> DCCA Comments at 7.

<sup>130</sup> DCCA Comments at 7.



believes that the District underground portions of its distribution grid without a plan of burying a 20<sup>th</sup> century grid and meeting 21<sup>st</sup> century energy needs may lead to missed opportunities to improve the processes of undergrounding and of developing a state-of-the-art grid.<sup>131</sup> DCCA also argues that such an approach may risk putting the District in a position behind other cities “with respect to electricity resiliency and reliability, with serious consequences for economic competitiveness, greenhouse gas emissions, and the health and welfare of individuals.”<sup>132</sup>

79. DCCA argues that the lack of distribution automation (“DA”) in Pepco and DDOT’s proposed First Triennial Plan undermines the full realization of reliability benefits from the District’s investment in burying primary feeders. DCCA argues that automated sectionalizers and reclosers (“ASR”) installed across the United States can mitigate the risk of locating and accessing faults when they occur.<sup>133</sup> DCCA attacks Pepco’s proposal in the First Triennial Plan to study the performance of Feeder 15707 when it is undergrounded with its existing DA system, in order to inform subsequent decisions about installing DA on undergrounded feeders, arguing that Pepco’s proposal: (1) is unnecessary because it can learn instead from the experience of other utilities that have already installed state-of-the-art DA technology; (2) will not produce timely results because 15707’s underground and testing completion date in 2017 falls too close to the deadline for the Second Triennial Plan’s release to be of use in that Plan; and (3) will not be very informative technically, because by the time its undergrounding is completed, its technology will be at least five (5) years old and probably antiquated given the rapid pace of technological change.

80. DCCA urges the Commission to: 1) request that the First Triennial Plan include DA on all feeders as they are buried; 2) or, if there are compelling reasons why that is not feasible, ensure that the First Triennial Plan has the design flexibility for Pepco to install DA on undergrounded feeders later at no greater cost than the cost of adding DA at the time of undergrounding;<sup>134</sup> (3) request that the triennial planning process for undergrounding primary feeders include design options in keeping with best practices developing throughout the country for both overhead and underground systems; and (4) take up the OPC proposal that the Commission require Pepco to consider alternate designs in final design stage (such as those proposed by OPC), submit a semi-annual report documenting where and why it used or rejected alternate designs or techniques, and submit quarterly progress reports including lessons learned that can be considered upon submission of the Second Triennial Plan.<sup>135</sup>

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<sup>131</sup> DCCA Comments at 7.

<sup>132</sup> DCCA Comments at 7.

<sup>133</sup> DCCA Comments at 8.

<sup>134</sup> DCCA Comments at 9.

<sup>135</sup> DCCA Comments at 10.

81. DCCA also asks the Commission to: (1) examine potential opportunities for coordination between the Triennial Plan budgets and those of other approved electric distribution reliability projects; (2) apply savings incurred throughout the undergrounding process to installing distributed automation on undergrounded feeders rather than undergrounding additional feeders without DA; and (3) not adopt design shortcuts that might result in larger overall costs in the foreseeable future. Lastly, DCCA requested the Commission to ask Pepco to begin its planning process for the Second and Third Triennial Plans now, by taking into account several of the District's long-term goals, namely making distribution infrastructure smarter, adding distributed generation facilities, and thereby improving reliability while also facilitating energy efficiency.<sup>136</sup>

#### F. OPC's Position

82. In its Protest, OPC identifies two major points of contention with the Application: (1) whether the proposed underground infrastructure improvement projects are appropriately designed and whether the related costs are just and reasonable; and (2) whether the Integrated Communications Strategy is just, reasonable and a prudent expenditure of funds because Pepco and DDOT have failed to demonstrate that it is properly designed to effectively disseminate pertinent, timely and accurate information to those District residents and businesses directly affected by the undergrounding infrastructure improvement projects in the Triennial Plan.<sup>137</sup> OPC also provides a number of recommendations and supporting affidavits for consideration, specifically related to system design, cost, and reliability, cost allocation, and the communications plan.<sup>138</sup> OPC also opposes AOBA's contentions that the Revenue Requirement and Feeder Selection prioritization conducted by the Joint Applicants is inappropriate.<sup>139</sup>

##### i. OPC Recommendations 1-13 and 16-25

83. On September 15, 2014, Pepco filed a "Joint Stipulation of the Office of People's Counsel, Potomac Electric Power Company and the District Department of Transportation Resolving Recommendations 1-13 and 16-25 of the Protest of the Office of the People's Counsel in Formal Case No. 1116" ("Joint Stipulation"). In the Joint Stipulation Pepco asserts that "on September 3, 2014, OPC and the Joint Applicants ("Stipulating Parties") met to review the recommendations and were able to resolve in their entirety Recommendations 1-13 and 16-25 . . . Recommendations 1-13 address technical and other aspects of system design, construction and operation, while Recommendations 16-25 address the *Integrated Communications Strategy: DC Power*

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<sup>136</sup> DCCA Comments at 11.

<sup>137</sup> OPC Protest at 5-6.

<sup>138</sup> OPC Protest at 6-11.

<sup>139</sup> See generally, *Formal Case No. 1116*, 10-Day, Post-Discovery Pleading of the Office of the People's Counsel, filed August 25, 2014 ("OPC 10-Day Pleading").

*Line Undergrounding Education Plan* (“Education Plan”) filed as Appendix N to the Triennial Plan.”<sup>140</sup> While the full content of the Joint Stipulation is discussed in detail in this Order, *infra* #, the Stipulating Parties requested that the Commission: (1) accept the Stipulation without modification and “(2) remove OPC’s Recommendations 1-13 and 16-25 from further consideration.”<sup>141</sup> Therefore, OPC’s objections to the Joint Applicants’ Triennial Plan, in as far as they were laid out in Order No. 17627, ¶¶ 8-22, and are resolved by the Joint Stipulation, which is fully discussed at Part VI, *infra*, are not addressed here.

ii. *OPC’s Position on Cost Allocation Methodology (Recommendations 14 and 15)*

84. On the issue of cost allocation, OPC does not challenge the cost allocations proposed by Pepco and DDOT. In fact, in Recommendations 14-15, OPC asserts that, based on the review of its outside consultant, the methodology used by Pepco to calculate the UPC is consistent with generally accepted ratemaking principles for the utility industry and is consistent with the relevant provisions of the ECIIFA.<sup>142</sup>

85. OPC argues that AOBA’s contention that “Pepco ‘arbitrarily and inappropriately uses distribution revenue instead of the Company’s distribution service customer class cost allocations’ as required by the Act,” to establish the UPC “takes an overly narrow view of the Act and an incorrect view of the class cost allocations approved by the Commission in Formal Case No. 1103.” OPC asserts that “contrary to AOBA’s position, the *Formal Case No. 1103* cost-allocation process was not a rote application of the Company’s class cost-allocation study,” but that instead, the “Commission approved the Pepco class cost-of-service study and used it as a starting point to be combined with the Commission’s consideration of multiple factors, and the exercise of the Commission’s judgment, to develop the final class cost allocations approved in Order No. 17424.”<sup>143</sup> OPC contends that the adoption of AOBA’s interpretation of the Act “would lead to the irrational result of essentially the same cost allocations that the Commission rejected in *Formal Case No. 1103*,” which would be contrary to the direction of the Act.<sup>144</sup>

86. OPC reiterated its support of Pepco’s cost allocation methodology in its Post Hearing Brief filed on October 6, 2014. In its Post-Hearing Brief, OPC argues that the “evidence of record following the evidentiary hearing in this proceeding overwhelmingly demonstrates that the UPC, as calculated by Pepco and proposed in the

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<sup>140</sup> Joint Stipulation at 1-2.

<sup>141</sup> Joint Stipulation at 11.

<sup>142</sup> OPC Protest at 9, 26.

<sup>143</sup> OPC 10-Day Pleading, at 4.

<sup>144</sup> OPC 10-Day Pleading, at 5.

Triennial Plan, is consistent with the intent of the drafters of section 310(c)(1) of the Act.”<sup>145</sup> OPC dismisses AOBA’s argument that the Commission should apply the “plain meaning” of the Act, by acknowledging that the Commission in Order No. 17627, already determined that the language in question was ambiguous. Therefore, OPC discusses its view of the proper allocation method as well as the legislative intent related to the UPC; agreeing with Pepco’s cost-allocation methodology and arguing that it both complies with the legislative intent of the Act and achieves the stated objective of the Act as it relates to the actual bill impact on residential customers.

87. OPC asserts that the “record also unequivocally establishes that the bill impacts produced by [Pepco’s] models were included in the Task Force Report, guided the drafting of the Act . . .” and that “the models used by the Task Force were designed to accomplish the Task Force’s stated goal of having the UPC allocate costs of investment in a manner similar to the way costs are allocated in a typical utility rate case.”<sup>146</sup> OPC further argues that “the Mayor’s Power Line Undergrounding Task Force [ ], the Mayor, the District Council, and District residents” relied upon the representations made by Task Force members regarding “the likely monthly bill impacts of the approximately \$900 million power-line undergrounding project” and that those representations should be honored.<sup>147</sup> OPC asserts that all parties, including itself, “relied on the Task Force Report’s bill impacts to inform District residents of the expected monthly impacts on typical ratepayers, and the Task Force Report was included in the legislative history of the Act.” OPC further asserts that the model used to produce the numbers relied upon by the Task Force was consistently employed by Pepco during the entire process, “was the only cost-allocation model used during the Task Force process,” and “always excluded customer-charge revenues.”<sup>148</sup> Additionally, “OPC’s cost-allocation expert, Mr. Robert Smith, independently confirmed that the allocations proposed by Pepco would produce bill impacts consistent with the findings of the Task Force.”<sup>149</sup> Furthermore, OPC asserts, the numbers produced by the model during the Task Force process are “remarkably similar” to the UPC proposed bill impacts in the Triennial Plan. OPC concludes that the \$.04 deviation from the year one \$1.50 projected bill impact to the year one proposed \$1.54 bill impact was due to the model being updated from *Formal Case No. 1087* to *Formal Case No. 1103*.<sup>150</sup>

88. OPC argues that AOBA’s proposed method of calculating the UPC using the CCOSS “would increase by almost 400% the monthly bill impact presented in the

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<sup>145</sup> OPC Post-Hearing Brief at 9.

<sup>146</sup> OPC Post-Hearing Brief at 9, 13.

<sup>147</sup> OPC Post-Hearing Brief at 2.

<sup>148</sup> OPC Post-Hearing Brief at 2-3.

<sup>149</sup> OPC Post-Hearing Brief at 12.

<sup>150</sup> OPC Post-Hearing Brief at 12.

Task Force Report for the typical Pepco residential customer,” a result not contemplated or intended by the Council. Further, OPC points out, AOBA’s bill impacts, which constitute a “radical departure” from those presented by Pepco and relied upon by the Task Force and Council, “were never presented to the Task Force, are not included in the Task Force Report, and have not before the filing of AOBA’s testimony in this case ever been publicly disclosed.”<sup>151</sup> OPC goes on to assert that. “[i]t is simply not credible to argue that in passing the Act the District Council intended to require the Commission to use of [sic] a cost-allocation model that was never used during the extensive legislative process from which the Act was developed and that produces projected monthly bill impacts that are approximately 80% higher than the monthly bill impacts the District Council was told in the committee reports would result from passage of the Act.”<sup>152</sup>

89. OPC asserts that not only is it “clear that the Task Force wanted to avoid getting into the complicated and potentially controversial process associated with Class Cost of Service Studies and instead chose to align the allocation of the UPC with the allocations from the Company’s most recent base-rate case,” but also, as argued by Pepco, “the record evidence demonstrates that AOBA had previously reviewed and fully understood what the legislation would mean when it was being considered by the D.C. Council.”<sup>153</sup> Furthermore, Pepco Witness McGowan, “who personally participated in the drafting of the legislation in general and of the cost allocation language of section 310(c)(1) in particular, testified that “[o]n this particular point [cost allocation], there was no disagreement.”<sup>154</sup> A point that OPC argues is supported by the fact that the legislation was “forwarded to the District Council without dissent from any Task Force member(s).”<sup>155</sup>

*iii. Revenue Requirement and Feeder Selection Issues*

90. According to OPC, Pepco argues that, pursuant to the attached affidavit of Mr. Kevin J. Mara (“Mara”), the issues raised by AOBA witness Oliver “do not rise to a level that warrants additional scrutiny through an evidentiary hearing in this proceeding.”<sup>156</sup> OPC asserts that Pepco raises two arguments in its response. First, OPC argues that AOBA witness Oliver’s criticisms of the proposed revenue requirement are immaterial and can best be addressed in Pepco’s next base-rate case.<sup>157</sup> Pepco has

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<sup>151</sup> OPC Post-Hearing Brief at 3.

<sup>152</sup> OPC Post-Hearing Brief at 4.

<sup>153</sup> OPC Post-Hearing Brief at 13, 15.

<sup>154</sup> OPC Post-Hearing Brief at 18.

<sup>155</sup> OPC Post-Hearing Brief at 18.

<sup>156</sup> OPC 10-Day Pleading at 13.

<sup>157</sup> OPC 10-Day Pleading at 13.

included approximately \$6 million in the proposed revenue requirement for the removal of the existing overhead primary system and equipment.<sup>158</sup> OPC counters AOBA witness Oliver's point of the cost representing a cost double recovery by pointing out that the Act expressly provides for Pepco to recover in the UPC – Electric Company Infrastructure Improvement Costs.<sup>159</sup> OPC witness Mr. Kevin J. Mara argues that the \$6 million figure for removal costs is probably a reasonable estimation for the cost to dismantle the overhead equipment included in the Triennial Plan and does not expect the equipment to have substantial salvage value.<sup>160</sup> Mara refers to a recent management audit of Pepco conducted by Siemens Industry, Inc., which found that 70% of the 40,000 poles in the District are more than 35 years old and 35% are greater than 55 years old, and concluded that Pepco's overhead system is "generally relatively old and nearly or fully depreciated."<sup>161</sup> Further, Mara concludes that "any necessary adjustments relating to the removal costs and depreciation expense can be trued-up during a subsequent Pepco rate case."<sup>162</sup> Since the \$6 million in removal costs represent less than 2% of the total costs included in the Triennial Plan, Mara recommends that the removal costs "should be included at this time, and adjusted, if necessary, in the next Pepco base-rate case."<sup>163</sup>

91. Second, OPC argues that AOBA witness Oliver's argument that Pepco failed to consider "reductions in maintenance costs due to the replacement of distribution lines with high service interruption statics which, by their very nature to be facilities that are more costly than average to maintain,"<sup>164</sup> is likely immaterial because:

the secondary and service conductors will remain overhead, there is still a need to conduct tree-trimming activities. The severity of trimming will be reduced compared to a primary line, but inspection and maintenance of the right-of-way will need to continue. In addition, because there are secondary lines on nearly every pole in the District, most poles will remain in service. Based on these facts, I believe the cost of Pepco's pole inspection program will not be reduced. Pepco's Overhead Feeder Inspection program also will not be significantly reduced because the remaining poles must be inspected with repairs performed as needed.

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<sup>158</sup> OPC 10-Day Pleading at 13.

<sup>159</sup> OPC 10-Day Pleading at 13-14.

<sup>160</sup> OPC 10-Day Pleading at 14; Exhibit OPC 2(A) at ¶ 8.

<sup>161</sup> OPC 10-Day Pleading at 14.

<sup>162</sup> OPC 10-Day Pleading at 14.

<sup>163</sup> OPC 10-Day Pleading at 14.

<sup>164</sup> OPC 10-Day Pleading; Exhibit AOBA (A) at 42.

Further, the new underground system will require additional O&M in terms of underground cable locates as required by Miss Utilities. Another additional cost is the inspection of new manholes, submersible transformers, and transformer vaults, which are generally more expensive than the inspection of comparable overhead facilities.<sup>165</sup>

Mara concludes that while there may be some difference in O&M costs between overhead and underground facilities, they are immaterial and are best addressed in Pepco's next base-rate case using actual history test year data to capture the actual differences.<sup>166</sup>

*iv. OPC's Response to AOBA's Concerns regarding Feeder Prioritization and the Timing for Undergrounding Feeders*

92. OPC argues that AOBA witness Oliver's arguments regarding the priorities Pepco has used to select feeders for undergrounding in the Triennial Plan would only affect the order in which the feeders are undergrounded.<sup>167</sup> Further, OPC points out that the prioritization process that AOBA witness Oliver criticizes was developed by the Mayor's Task Force and represents a series of inputs and compromises amongst the stakeholders that made up the Task Force.<sup>168</sup> AOBA witness Oliver criticizes Pepco's reliance on a 2008 DOE meta-study used to estimate outage costs ("VOS") for U.S. electricity consumers.<sup>169</sup> Mara counter-argues by stating that "it is common sense that the value of avoiding an outage for residential customers is less than the value for C&I customers."<sup>170</sup> Since the VOS criterion rank feeders for underground based upon the highest VOS value, with all else being equal, it follows that feeders serving more C&I customers will have a higher priority than feeders serving primarily residential customers.<sup>171</sup> Mara concludes that AOBA witness Oliver's concerns with the VOS criterion are immaterial because the VOS value is only one of several criteria used to determine the priority of feeders to be undergrounded.<sup>172</sup>

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<sup>165</sup> OPC 10-Day Pleading; Exhibit OPC 2(A) at ¶ 9.

<sup>166</sup> OPC 10-Day Pleading at 15.

<sup>167</sup> OPC 10-Day Pleading at 16.

<sup>168</sup> OPC 10-Day Pleading at 16.

<sup>169</sup> OPC 10-Day Pleading at 16.

<sup>170</sup> OPC 10-Day Pleading at 16-17.

<sup>171</sup> OPC 10-Day Pleading at 17.

<sup>172</sup> OPC 10-Day Pleading at 17.

93. Lastly, OPC argues that AOBA witness Oliver's concern regarding Pepco's assessment of the "service characteristics of customers served from each of the feeders it plans to underground,"<sup>173</sup> is unfounded because Mara's independent review of the circuit diagrams of the existing feeders reveals that Pepco's proposed underground designs use the same size transformers in all of its designs, confirming no variation in the connected transformers. Mara also concludes that the capacity of the underground cable to be installed is equivalent to the existing overhead conductors.<sup>174</sup>

### G. Community Comments

94. The Commission convened eight (8) community hearings seeking input from the public on the Joint Application. The hearings were held between July 21, 2014, and September 9, 2014, at various times and locations throughout the District of Columbia.<sup>175</sup> During the course of the eight (8) community hearings, 26 residents and small businesses submitted written testimony and a total of 42 residents and small businesses submitted oral testimony. The community comments expressed a wide range of concerns related to the way in which the implementation of the Triennial Plan will affect the everyday lives of District residents, the environmental impact of construction, as well as the sufficiency of the "Integrated Communications Strategy: DC Power Line Undergrounding Education Plan" – which was submitted as Appendix N to the Application. Specifically, one commenter, Dorothy A. Brizill of DCWatch, expressed concern that:

[a]s the single largest capital improvement project by the DC Department of Transportation in the District over the next ten years, the undergrounding project will have a dramatic impact on residents, businesses, and visitors to our neighborhoods as a result of excavation, the loss of street parking, occasional street detours, the need for construction staging areas, attendant construction noise, and the increased presence of dirt, dust, and vermin activity.<sup>176</sup>

95. Ms. Brizill further comments that, before the Commission approves the Education Plan proposed by the Joint Applicants, additional clarity is needed and "the public must be informed about" how certain matters will be handled, including, but not limited to: "(1) How will the project be managed and decisions made, both overall and on-site during construction; (2) How will conflicts, controversies, and disputes be

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<sup>173</sup> OPC 10-Day Pleading; Exhibit AOBA (A) at 60.

<sup>174</sup> OPC 10-Day Pleading at 17.

<sup>175</sup> See *Formal Case No. 1116*, Notice of Community Hearings, issued July 8, 2014; see also, 61 *D.C. Reg.* 8191 (2014).

<sup>176</sup> *Formal Case Nos. 1116 and 1121*, Testimony of Dorothy A. Brizill, Executive Director, DCWatch, at 1, filed September 15, 2014 ("Brizill Testimony").



resolved, both between the partners and between the public and the partners; (3) To whom should residents, citizens, and business owners go when issues and problems arise regarding, for example:” loss of street parking, damage to trees, and damage to personal property and adverse impact on a business’ activity; and “(4) Will the project be subject to the District’s freedom of information laws and regulations . . .”<sup>177</sup>

96. The concerns of Ms. Brizill were echoed and expounded upon by many of the other community commenters. Among other things, commenters want the Commission and the Joint Applicants as well as other coordinating agencies to: (1) give a minimum of 30-days’ advanced notice prior to a community hearing; (2) provide timely communications to citizens, especially those with disabilities, and collect feedback regarding the plan;<sup>178</sup> (3) use door-to-door delivery communications, libraries, recreation centers, and District Government buildings for posting information;<sup>179</sup> (4) send regular mailings to ANCs regarding the project; (5) train and hire D.C. residents and small contractors for substantial jobs on the project;<sup>180</sup> (6) do not allow contractors to work on holidays; (7) save the trees, sidewalks, and lawn areas in front of buildings, and replace or re-sod affected areas upon completion of construction;<sup>181</sup> (8) consider flood, traffic flow, and public parking impact;<sup>182</sup> (9) use radio commercials, bus, Metro, and Cable TV to advertise information related to the project; (10) ensure there are no cost overruns, and implement monthly or quarterly reports showing how funds were expended, the number of D.C. residents on the project, and the names of contractors; (11) hold annual meetings to provide updates to citizens on the progress of the project; and (12) consider creating a Task Force similar to the Advanced Metering Infrastructure (“AMI”) Customer Education Task Force to monitor progress and make recommendations on ways to improve implementation throughout the project.

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<sup>177</sup> Brizill Testimony at 1-2.

<sup>178</sup> *Formal Case No. 1116*, Testimony of Albrette “Gigi” Ransom, filed September 9, 2014; *Formal Case No. 1116*, Testimony of Georges Aguehounde Msis, MBA, filed September 9, 2014.

<sup>179</sup> *Formal Case No. 1116*, Testimony of Myron Morgan, filed September 9, 2014.

<sup>180</sup> *Formal Case No. 1116*, Testimony of Edward M. Johnson, filed September 9, 2014; *Formal Case No. 1116*, Testimony of Joslyn N. Williams, President of the Metropolitan Washington Council ALF-CIO, filed September 9, 2014.

<sup>181</sup> *Formal Case No. 1116*, Testimony of Delores Bushong, filed July 28, 2014; *Formal Case No. 1116*, Testimony of Maisie Hughes, Director of Advocacy Casey Trees, filed July 29, 2014.

<sup>182</sup> *Formal Case No. 1116*, Testimony of Lori Lui, filed September 9, 2014; *Formal Case No. 1116*, Testimony of Gerri Adams Simmons of the D.C. Federation of Civic Associations, filed September 9, 2014; *Formal Case No. 1116*, Testimony of Jocelyn Coleman, filed September 9, 2014; *Formal Case No. 1116*, Testimony of Taalib-Din Abdul Uqdah, Executive Director of 14<sup>th</sup> St. Upton Business Association, filed July 23, 2014.

## H. The Joint Applicants' Response to Parties Comments on the Application

### i. Joint Applicants' Response to AOBA's & GSA's Arguments on Cost Allocation Methodology

97. The Joint Applicants assert, in response to AOBA's contentions that the methodology relied on by the Joint Applicants to allocate costs amongst customer classes does not comply with the Act, that its method "allocates the total revenue requirement to each rate class on the basis of the rate class specific levels of non-customer-related distribution revenue," which is in-line with the cost allocation approved in *Formal Case No. 1103*.<sup>183</sup> The Joint Applicants assert that "AOBA, on the other hand, disagrees with this approach and proposes to allocate costs to customer classes based on the Class Cost of Service Study ('CCOSS') filed by Pepco in *Formal Case No. 1103*." However, Pepco argues that the "statutory language is unambiguous" and in order to adhere to the statute's "clear direction," Pepco "first must determine the cost of the initiative and then allocate the cost in the same manner it allocates its current rates or costs," which is "based on the revenue required from each rate class to recover the costs as approved by the Commission" in Order No. 17424. Pepco points to the Direct Testimony of its witness Joseph Janocha ("Janocha") who states that Pepco's allocation method "is intended to align the revenue derived from the Underground Project Charge with the level of base distribution revenue from each class," and that "customer charge revenues were excluded from the allocation on the basis that the DC PLUG initiative does not include infrastructure such as meters and services that would normally be recovered through a customer charge."<sup>184</sup> Moreover, Pepco asserts, "the customer charge is a fixed charge rather than a volumetric charge" and since "the Act dictates that the UPC be allocated on a per kwh basis (*i.e.*, on a volumetric basis), it is appropriate to use the volumetric allocation of rates determined in *Formal Case No. 1103* with respect to the UPC and to exclude the customer charge component."<sup>185</sup>

98. Pepco points out that not only does AOBA's method of using the CCOSS inaccurately include "many costs that comprise customer costs, such as meters," but also it "would cause a significant shift in costs away from the commercial classes to the residential rate classes" making it "clear that AOBA's proposal strays far from the plain meaning of the Act, which was intended to increase rates as a result of the UPC on the same relative basis as the rates approved in *Formal Case No. 1103*." Therefore, Pepco asserts, "AOBA's proposal, in effect, would undo the careful balance that the

<sup>183</sup> Joint Applicants' Post-Hearing Brief at 9.

<sup>184</sup> *Formal Case No. 1116*, Joint Response of Potomac Electric Power Company and the District Department of Transportation to the Post-Discovery Pleadings of the Office of People's Counsel and the Apartment and Office Building Association of Metropolitan Washington ("Pepco & DDOT Joint Response to Post-Discovery Pleadings"), at 26, filed August 28, 2014; *citing* Direct Testimony of Joseph F. Janocha, Pepco Exhibit (C), Joint Application ("Janocha Testimony"), at 4.

<sup>185</sup> Pepco & DDOT Joint Response to to Post-Discovery Pleadings at 26.

Commission must strike when it gradually moves residential customer rates closer to a 1.0 unitized rate of return while at the same time avoiding rate shock.”

99. Pepco goes into additional detail about its rationale for excluding customer charge revenues from the allocation, explaining that as Witness Janocha testified,

customer charge revenue was excluded because the purpose of the UPC is to recover the “cost associated with the undergrounding project in a manner that’s as close as possible to how comparable assets are recovered in base distribution rates.” Additionally, the UPC as proposed, ensures that all street light customers receive a proportional allocation of the UPC but avoids double counting by including the revenues derived from Schedule SL – under which all street light customers receive service, whether or not they own their street lights – but not also including revenues derived from a subset of that class – under Schedule SSL-OH (Servicing Street Lights Served from Overhead Lines) and Schedule SSL-UG (Servicing Street Lights Served from Underground Lines) – that consists of only those street light customers who do not own their streetlights.<sup>186</sup>

100. Furthermore, Pepco argues that because the goal of the UPC is to recover costs associated with the undergrounding project in the manner closest to how comparable assets were recovered in *Formal Case No. 1103*, “it is appropriate to use the revenue allocation authorized in Order No. 17424 on which the rates in Formal Case No. 1103 were actually set to determine the UPC.”<sup>187</sup> Pepco also points out that Section 310(c)(1) and (b)(6) of the Act should be “read in harmony,” which requires that the Commission find that the UPC is “just and reasonable.” Pepco asserts that its cost allocation method to determine the UPC was conducted in the same manner as what was approved in *Formal Case No. 1103*, which the Commission found to be just and reasonable. Therefore, the Commission should similarly find the method presently used to be just and reasonable.<sup>188</sup>

101. Pepco also discusses the Mayor’s Task Force Report, arguing that in relevant part, it states that “[c]urrent expectations are that the cost will be allocated in the same manner approved in the last Pepco base rate case. These allocations have historically assigned more of the cost recovery to commercial customers . . .” – a point that Pepco later argues AOBA’s allocation method ignores by significantly shifting

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<sup>186</sup> Joint Applicants’ Post-Hearing Brief at 6; *citing* Tr. at 63:9-65:20 (Janocha Cross).

<sup>187</sup> Joint Applicants’ Post-Hearing Brief at 16.

<sup>188</sup> Joint Applicants’ Post-Hearing Brief at 16.

“costs away from commercial classes and to the residential rate classes . . .”<sup>189</sup> Pepco asserts that “[a]t the DC Council’s joint hearing on the Act, AOBA confirmed this purpose, testifying that ‘[t]he proposed undergrounding plan will result in all District ratepayers bearing \$87 million annually in additional costs . . . If passed, commercial, multifamily and institutional properties will have to pass on over \$70 million annually in increased electric costs to their tenants, customers, students, and patients.’”<sup>190</sup> Pepco also asserts that the policy objective behind the cost allocation method, as discussed in the Mayor’s Task Force Report, “explained that ‘[a]chieving manageable bill impact for all customers should remain as a primary financial consideration’” and that the Task Force determined “that such a manageable bill impact for the infrastructure recovery charge would be an average monthly increase of 3.22% (\$3.25) for residential customers in year seven and between 1% and 9.22% for commercial customers, based on average usage and a recognition that for commercial customers the individual financial impact would vary between customers.”<sup>191</sup> Pepco adds that the “rate impact reflects a financing structure that the Mayor’s Task Force Report found ‘provides the greatest public benefits at the lowest costs to utility customers.’”<sup>192</sup> Pepco argues that its cost allocation method achieves the Mayor’s Task Force’s policy objective, while “AOBA’s approach would start at over \$8.00 for the UPC alone, a level markedly different from that noted in the Mayor’s Task Force or the Council Committee Reports regarding the Act.”<sup>193</sup>

102. Pepco asserts that the Model used to arrive at the 3.22% (\$3.25) monthly increase in year seven for residential customers in the Mayor’s Task Force Report was simply updated with numbers based on the outcome of *Formal Case No. 1103*. Specifically, Pepco states that “[t]he distribution service customer class cost allocations that Company Witness Janocha prepared for the Mayor’s Task Force, under Company Witness McGowan’s direction, are the same distribution service customer class cost allocations, with updated inputs, that Company Witness Janocha filed with his testimony as part of the Triennial Plan – Exhibit PEPCO (C)-1 – as well as Appendices J and K of the Triennial Plan.”<sup>194</sup> Pepco’s overarching point being that, because the models used to determine the class allocation for both the Mayor’s Task Force and the proposed allocation for the UPC in this proceeding are the same – its method is consistent with both the language and intent of the Act.<sup>195</sup>

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<sup>189</sup> Joint Applicants’ Post-Hearing Brief at 17.

<sup>190</sup> Joint Applicants’ Post-Hearing Brief at 10.

<sup>191</sup> Joint Applicants’ Post-Hearing Brief at 10-11, 18.

<sup>192</sup> Joint Applicants’ Post-Hearing Brief at 11.

<sup>193</sup> Joint Applicants’ Post-Hearing Brief at 11.

<sup>194</sup> Joint Applicants’ Post-Hearing Brief at 11-12.

<sup>195</sup> Joint Applicants’ Post-Hearing Brief at 12-13.

103. Pepco also points out that AOBA's assertion that the Commission should look at the plain language of the Act to determine the proper allocation methodology was undermined by AOBA witness Oliver's own testimony wherein he admitted that "AOBA's position is not based on the 'plain language'" of the Act but, rather, is Mr. Oliver's 'application to the plain language of the Act' and he "believes it is an observable fact that the words 'distribution service customer class cost allocations' are the same thing as the allocation factors in the CCOSS."<sup>196</sup> However, Pepco argues that "AOBA has not adhered to the plain language or the plain meaning" of the Act because "the words 'class cost of service study' or CCOSS are not used anywhere in the Act or in the Mayor's Task Force Report nor has any evidence been adduced of the use of the words elsewhere in the legislative history."<sup>197</sup>

Pepco argues that AOBA's Council Testimony "in Commission Exhibit No. 16 provides evidence contemporaneous with the consideration of the Act by the DC Council's Committee on Government Operations and the Committee on Finance and Revenue that contradicts AOBA's position before the Commission,"<sup>198</sup> because not only did the relevant language of the Act read "distribution service customer class cost allocations," but also in its testimony, AOBA's Counsel recognized that "over 82% of the costs of the proposed undergrounding program will be borne by commercial and master metered apartment building consumers – primarily business and apartment residents who are your constituents."<sup>199</sup> Pepco asserts that AOBA's Counsel's testimony signifies that not only was AOBA aware of the meaning of "cost" in the Act, but also that AOBA "understood how the words 'distribution service customer class cost allocations' operated in the cost allocation model." If, however, AOBA understood the meaning of "distribution service customer class cost allocations" to signify "CCOSS, then Pepco asserts, the calculations it presented in the AOBA testimony before the Council would have been dramatically different."<sup>200</sup> In sum, Pepco asserts, "AOBA was fully aware of the operative language of the Act prior to the Act's passage, understood Pepco's application of the language of the Act and testified in opposition to the Act on that basis."<sup>201</sup>

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<sup>196</sup> Joint Applicants' Post-Hearing Brief at 14.

<sup>197</sup> Joint Applicants' Post-Hearing Brief at 15.

<sup>198</sup> Joint Applicants' Post-Hearing Brief at 17-18.

<sup>199</sup> Joint Applicants' Post-Hearing Brief at 18.

<sup>200</sup> Joint Applicants' Post-Hearing Brief at 18-19.

<sup>201</sup> Joint Applicants' Post-Hearing Brief at 19.

ii. *Joint Applicants' Response to AOBA's Claim that the Underground Project Charge was Inappropriately Computed*

1. A Separate MMA Class should have been used in the calculation of the UPC

104. In response to AOBA's assertion that the Joint Applicants should have used a separate allocation for the MMA class, the Joint Applicants assert that "[a]lthough Pepco proposed the creation of a new rate schedule and rate design for Master-Metered apartment ('MMA') in Formal Case No. 1103, the Commission rejected Pepco's proposal for reasons described in Order No. 17424;" therefore, "[c]onsistent with the Commission's decision in Formal Case No. 1103 and consistent with the Act, the Joint Applicants included MMA customers in the residential rate class for purposes of computing the proposed UPC."<sup>202</sup>

2. Use of Forecasted Sales Data

105. In response to AOBA's argument that the Joint Applicants inappropriately use forecasted sales data instead of actual test year sales data, the Joint Applicants assert that forecasted sales data is appropriate and more closely represents the time period during which customers will be charged.<sup>203</sup> The Joint Applicants assert that "Section 310(c)(2) of the Act states that the Commission's order approving the surcharge should include '[a]uthorization for the electric company to bill the Underground Project Charges to customers as a volumetric surcharge[.]'"<sup>204</sup> In adhering to Section 310(c)(2), the Joint Applicants assert that "Pepco has proposed to assess a volumetric charge and proposes that it be developed based on a per kilowatt-hour basis by dividing the rate-class-specific revenue requirement by the forecasted rate class-specific level of sales for the next 12-month period," a method which the Joint Applicants argue "more closely resemble[s] the time period for which customers will be assessed the UPC."<sup>205</sup> On the other hand, the Joint Applicants assert, AOBA's proposed use of 2012 test-year data "is stale data and, therefore, does not as closely align with the sales data for the years in which customers will be charged for the specific DC PLUG projects."<sup>206</sup> Furthermore, the Joint Applicants assert, "since the UPC is subject to a true up for actual costs, the level of sales used in the development of the rates has no impact on the level of revenue recovered to

<sup>202</sup> Joint Applicants' Post-Hearing Brief at 6-7.

<sup>203</sup> *Formal Case No. 1116*, Joint Response of Potomac Electric Power Company and the District Department of Transportation to the Protests of the Apartment and Office Building Association of Metropolitan Washington and the Office of the People's Counsel ("Joint Response to AOBA and OPC Protest") at 30, filed August 25, 2014.

<sup>204</sup> Joint Response to AOBA and OPC Protest at 30-31.

<sup>205</sup> Joint Response to AOBA and OPC Protest at 31.

<sup>206</sup> Joint Response to AOBA and OPC Protest at 31.

the revenue requirement, limiting the level of the true up to actual costs.”<sup>207</sup> Therefore, the Joint Applicants argue, the Commission should approve Pepco’s approach.

*iii. Joint Applicants’ Response to AOBA’s Argument that the use of DOE Value of Service Estimate was Inappropriate*

106. The Joint Applicants argue that AOBA’s assertion that they inappropriately used the U.S. Department of Energy (“DOE”) sponsored estimates of the value-of-service interruptions by customer class without the reasonable and necessary assessment of the applicability of such data to Pepco’s customers in the District of Columbia is misguided because “the value-of-service metric in the Feeder Ranking model is solely illustrative.”<sup>208</sup> The Joint Applicants assert that “Pepco included the value-of-service metric in the Feeder Ranking Model to show the gross estimated benefit to customers of placing certain feeders underground,” but the “Feeder Ranking Model does not rely on the value-of-service calculation as a primary selection criteria under Section 308(a)” of the Act.<sup>209</sup> The Joint Applicants assert that the value-of-service is only an element “to be considered in determining the construction start date and projected end date” and that the DOE study, employed by Pepco for a limited purpose, “represents the best available data.”<sup>210</sup> While the Joint Applicants recognize that regionally specific data “may be desirable,” they argue that the “additional data reflecting ‘the unique population density and economic intensity’ of the northeast/mid-Atlantic region, would, if anything, further bolster the conclusions of Pepco’s value-of-service calculation by producing higher benefits of placing power lines underground.”<sup>211</sup>

*iv. Joint Applicants’ Response to AOBA’s Revenue Requirement Disputes*

1. Duplicative Recovery of Costs of Removal

107. The Joint Applicants address AOBA’s contentions that Pepco will receive duplicative recovery of the costs of removal in their August 25 Response. The Joint Applicants responded to each of AOBA’s complaints as follows:

- (a) With respect to AOBA’s complaint that the Act does not include a reference to the Company’s recovery of costs of removal for existing overhead distribution cable and equipment that may be removed, Pepco points out that Section 101(20) of the Act

<sup>207</sup> Joint Response to AOBA and OPC Protest at 31.

<sup>208</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>209</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>210</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>211</sup> Joint Response to AOBA and OPC Protest at 36.

specifically includes the “the removal of overhead distribution service facilities,” in the definition of “Electric Company Infrastructure Improvement Activity.” Pepco also argues that Section 101(2) of the Act provides that “Electric Company Infrastructure Improvement Costs include “any costs incurred by the electric company ... in undertaking Electric Company Infrastructure Improvement Activity, and the unrecovered value of the electric company property that is retired, together with any demolition cost or similar cost that exceeds the salvage value of the property.” Thus, Pepco argues it is permitted to include the cost of removal in the UPC.<sup>212</sup>

- (b) With respect to AOBA’s Complaint that Pepco has not provided any documentation or explanation of the manner in which Pepco has derived the estimated costs of removal by feeder, Pepco argues that AOBA’s complaint is in error. Pepco points out that in response to OPC Data Request No. 2-7, Pepco explained how it estimated the overhead cable and equipment removal costs and attached supporting reports from its “Work Management Information System” or “WMIS.”<sup>213</sup>

108. Nevertheless, Pepco states that it recognizes that there is a mechanism to recover the cost of removal through the operation of the depreciation reserve in the normal course of business without the complexity of demonstrating that there will be no double recovery through base rates and the UPC.<sup>214</sup> Therefore, Pepco proposes:

- (a) to remove the amount for cost of removal for overhead facilities from the UPC as set forth in the Application;
- (b) to charge removal costs to the depreciation reserve account; and
- (c) to recover such amounts in base rates pursuant to depreciation rates, as in effect from time to time. To the extent that certain removal costs may not be charged to the depreciation reserve account, either because they do not qualify or are not allowed, then the removal costs not charged to the depreciation reserve account will be included in the UPC.

109. Pepco asserts that, at a future date, the Company may conduct a depreciation study to reflect overhead facilities removal, to the extent appropriate, either

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<sup>212</sup> Joint Response to AOBA and OPC Protest at 32.

<sup>213</sup> Joint Response to AOBA and OPC Protest at 32.

<sup>214</sup> Joint Response to AOBA and OPC Protest at 32.



upon the motion of Pepco or at the direction of the Commission. Pepco also explains that, the approximately six (6) million dollars originally contemplated for overhead facilities removal costs under the Application that will be charged toward the depreciation reserve account will not be counted toward the Company's \$500 million Electric Company Infrastructure Improvement Costs limit and consequently will be available for other undergrounding project costs that are part of the DC PLUG initiative.<sup>215</sup>

## 2. Use of Inappropriate Measures of Incremental O&M Costs

110. Pepco disagrees with AOBA regarding the Company's proposed recovery of incremental operation and maintenance ("O&M") costs associated with placing lines underground in the DC PLUG Initiative. Pepco restates AOBA claims that these costs are inappropriate because they do not recognize a reduction in maintenance costs associated with the replaced overhead lines, which AOBA claims are "by their very nature . . . more costly than average to maintain." Pepco contends that AOBA's proposal is without merit and mischaracterizes both the types of O&M costs included in the Application and Triennial Plan and the magnitude of O&M costs required by overhead and underground facilities. Pepco explains that Exhibit Pepco (C)(1), page 5, of Pepco Witness Janocha's testimony provides five categories of incremental O&M costs for which Pepco seeks recovery in this proceeding.<sup>216</sup> These categories are as follows:

- (1) Customer Communication (Education Plan);
- (2) O&M Office Lease Estimate—Northwest DC;
- (3) Compliance Contractor Costs;
- (4) PSC Costs; and
- (5) OPC Costs.

111. Pepco argues that these costs are entirely incremental in nature in that they would not be incurred but for the DC PLUG initiative. Pepco asserts that AOBA glosses over the enumerated list of incremental O&M expenses contained in the Application and Triennial Plan, seizing instead on a belief (unsupported in the record) that the removal of some overhead facilities will lessen overall O&M costs because, as AOBA characterizes it, overhead facilities are by their very nature more costly than average to maintain.<sup>217</sup> Pepco argues that AOBA further claims that Pepco will over recover O&M costs because it will be permitted to recover costs that it no longer incurs once replacements are complete. Pepco contends that AOBA is incorrect. Pepco argues that, while it is true

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<sup>215</sup> Joint Response to AOBA and OPC Protest at 33.

<sup>216</sup> Joint Response to AOBA and OPC Protest at 33.

<sup>217</sup> Joint Response to AOBA and OPC Protest at 33.

that, overtime, some overhead facilities will be removed; it is similarly true that those same facilities will be replaced by new underground lines and equipment.<sup>218</sup>

112. Pepco explains that its approach to this situation is simple. The Application and Triennial Plan do not request recovery of any incremental O&M costs associated with the new underground lines or overhead lines. The only incremental O&M costs are those identified by Pepco Witness Janocha in Exhibit Pepco (C)(1). Pepco argues that, rather than undertake a single-issue ratemaking adjustment without any data, as proposed by AOBA, any change in O&M costs associated with both the overhead and underground distribution systems should be considered in Pepco's next base rate case.<sup>219</sup>

v. *Joint Applicants' Response to AOBA's Claim that an Inappropriate use of cost estimates was used in Calculating Customer Minutes of Interruption per dollars spent ("CMI/\$")*

113. In response to AOBA's contention that Pepco's estimates for the cost used to compute CMI/\$ are unreliable, Pepco asserts that AOBA Witness Oliver's opposition is unsupported and that "Mr. Oliver does little more than point out the unsurprising fact that Pepco's updated cost estimates for the twenty-one feeders selected to be placed underground in the Triennial Plan [ ] differ from those feeders' original cost estimates (as reflected in the Feeder Ranking Model."<sup>220</sup> While the Joint Applicants acknowledge that Witness Oliver "correctly points out that the original cost estimates for these feeders were developed using Pepco's design assumptions," they assert that "[i]t is reasonable to expect cost estimates to change once Pepco undertakes a more detailed level of design[; h]owever, since all of the cost estimates in the Feeder Ranking Model are based on the same design assumptions, the relative comparison of costs between feeders is accurate."<sup>221</sup> The Joint Applicants also acknowledge that "[i]t would be inappropriate [ ] to substitute in just 21 feeders' cost estimates that result from a more-detailed design process unless updated costs estimates for all 170 feeders could be included," but due to the amount of work that would be required to perform a more detailed analysis, a requirement to conduct such an analysis "for every feeder would be unreasonable."<sup>222</sup> Despite this distinction, the Joint Applicants argue that "the CMI/\$ metric is useful input for ranking feeders for placement underground" and "the Mayor's Undergrounding Task

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<sup>218</sup> Joint Response to AOBA and OPC Protest at 34.

<sup>219</sup> Joint Response to AOBA and OPC Protest at 34.

<sup>220</sup> Joint Response to AOBA and OPC Protest at 35.

<sup>221</sup> Joint Response to AOBA and OPC Protest at 35.

<sup>222</sup> Joint Response to AOBA and OPC Protest at 35.

Force [ ] concluded that CMI/\$, equally weighted with SAIFI and SAIDI, is the most effective option for ranking feeders to be placed underground.”<sup>223</sup>

*vi. Joint Applicants’ Response to AOBA’s Claim that the Feeder-Ranking-Selection Criteria used are Deficient*

114. According to Pepco, the selection methodology used in the Triennial Plan is the methodology conceived by the members of the Technical Committee of the Mayor’s Undergrounding Task Force and is the same as was recommended in the Task Force’s Final Report.<sup>224</sup> Specifically, its feeder selection process ranks each of its overhead (and combined overhead/underground) feeders according to SAIDI, SAIFI, and CMI/\$ (Customer Minutes of Interruption per dollar cost to place feeders underground), computed using 2010-2012 reliability performance data.<sup>225</sup> To allow sufficient time to complete its planning and preliminary engineering and design work, Pepco began this feeder ranking process in 2013.<sup>226</sup>

115. Pepco indicates that the Mayor’s Undergrounding Task Force recommended that Pepco and DDOT rank feeders according to an equal weighting of SAIFI, SAIDI and CMI/\$. In contrast, the Act requires Pepco and DDOT to present a ranking according to an equal weighting of SAIFI, SAIDI and CMI (without consideration of estimated dollars to place the feeders underground).<sup>227</sup> Pepco’s Triennial Plan presents two Feeder Rankings, in accordance with both the Act and the Final Report for the Commission’s review: (1) a ranking of Pepco’s overhead (and partial overhead) feeders according to an equal weighting of SAIFI, SAIDI and CMI over a three-year period is presented in Appendix A; and (2) a ranking of Pepco’s overhead (and partial overhead) feeders according to an equal weighting of SAIFI, SAIDI and CMI/\$ over a three-year period is presented in Appendix B.

116. Pepco recognizes, however, that its third selection criteria (CMI/\$) differs from the ECIFA selection method (which uses CMI), and proposes to substitute CMI/\$ into its feeder selection methodology.<sup>228</sup> Pepco explains that the purpose of using CMI/\$<sup>229</sup> is to identify the feeders whose placement underground will yield the most

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<sup>223</sup> Joint Response to AOBA and OPC Protest at 35.

<sup>224</sup> Triennial Plan at 5.

<sup>225</sup> These reliability performance indices are SAIDI – System Average Interruption Duration Index, SAIFI - System Average Interruption Frequency Index, and CMI/\$ - Customer Minutes of Interruption per dollar to place feeders underground. Joint Application at 5.

<sup>226</sup> Triennial Plan at 6.

<sup>227</sup> Triennial Plan at 6.

<sup>228</sup> Testimony of Pepco Witness Gausman at 12-13.

<sup>229</sup> Triennial Plan at 5.

cost-effective reliability benefit to District customers, and achieve the highest overall reliability improvement and the greatest reduction in the minutes of interruption for every dollar spent on undergrounding (*e.g.*, a cost-effective reliability benefit to customers).<sup>230</sup>

*vii. Joint Applicants' Response to AOBA's Argument that an Erroneous Measure of Customer Demand by Feeder was Used*

117. The Joint Applicants argue that AOBA's assertion that Pepco uses data regarding large customer demands that are inconsistent with the capacity of the feeders that serve those customers should be rejected by the Commission. The Joint Applicants argue that "Pepco has extensive experience designing feeders to properly account for customer demand" and "[s]uch planning and design is an integral part of normal operations at the utility and is utilized every time Pepco plans and constructs a new feeder."<sup>231</sup> The Joint Applicants argue that AOBA Witness Oliver's criticisms, based on Pepco's response to AOBA Data Request No. 3-4, are unfounded for two reasons: (1) Mr. Oliver's erroneously applies the 100 kW demand during two more billing cycles to GT-LV customers "averaged" over twelve months, when the tariff does not require an average and simply indicates "within twelve (12) consecutive billing months,"<sup>232</sup> and (2) "the average maximum demand per customer on [Feeder 14758] is skewed by a high-voltage customer and, thus, is not indicative of the maximum demand of each customer on the feeder;" therefore "AOBA's attempt to discredit Pepco's planning for customer demand should be rejected."<sup>233</sup>

*viii. Joint Applicants' Response to AOBA's Claim of an Inappropriate Reporting of Number of Customer Interruptions*

118. In response to AOBA's contention that Pepco inaccurately counts the number of customers on each feeder for the purposes of the Feeder Ranking Model, the Joint Applicants assert that "Mr. Oliver's criticism stems from a misunderstanding of proper reliability performance index calculation."<sup>234</sup> More specifically, the Joint Applicants explain that within the Feeder Ranking Model are three tabs: "Customers," "System Counts," and "MaxCI;" and "Mr. Oliver's argument is premised on the fact that for certain feeders the MaxCI is greater than the System Count, resulting in an inappropriate impact on Pepco's ranking and prioritization of feeders to be placed underground."<sup>235</sup> The Joint Applicants argue, however, that outages are tracked through

<sup>230</sup> Testimony of Pepco's Witness Gausman at 12.

<sup>231</sup> Joint Response to AOBA and OPC Protest at 37.

<sup>232</sup> Joint Response to AOBA and OPC Protest at 38.

<sup>233</sup> Joint Response to AOBA and OPC Protest at 38-39.

<sup>234</sup> Joint Response to AOBA and OPC Protest at 39.

<sup>235</sup> Joint Response to AOBA and OPC Protest at 39.

Pepco's Outage Management System ("OMS"), which, as explained in Pepco's response to AOBA's Data Request 42, "provides a more accurate and complete representation of the impact of an outage than if Pepco were to limit the number of customer interruptions ('CI') on a feeder to only those natively served by that feeder." While this approach is more accurate, the Joint Applicants acknowledge that "Max CI will exceed System Count in many cases," for example: "the number of customer interruptions that occurred during a given time period can be greater than the number of customers served by that feeder" or "some feeders may serve more customers outside of normal conditions than it does during normal operating conditions."<sup>236</sup> Nevertheless, the Joint Applicants maintain that "Pepco's Feeder Ranking Model is appropriate."<sup>237</sup>

*ix. Joint Applicants' Response to Verizon's Comments*

119. The Joint Applicants argue in their Response to Verizon's Comments filed on September 29, 2014, that "Verizon's principal argument, namely that DDOT should pay for any relocation costs Verizon might incur, is contrary to the Act and should be rejected," because "costs resulting from Verizon's relocation of its [ ] equipment and facilities, if necessary, cannot qualify as DDOT Underground Electric Company Infrastructure Improvement Activity" under the Act.<sup>238</sup> The Joint Applicants argue that Verizon's claims that the costs it incurs should it have to relocate its infrastructure in order to make room for DC PLUG civil infrastructure qualify as DDOT Underground Electric Company Improvement Activities and Costs; therefore, "those costs should be the responsibility of DDOT, not Verizon, and charged to the ratepayers through the DDOT surcharge."<sup>239</sup> Pepco argues that this position is contrary to the plain meaning of the Act, which defines "DDOT Underground Electric Company Infrastructure Improvements" as facilities "designed by the electric company, constructed or to be constructed by DDOT, and transferred to, owned, and maintained by the electric company after certain inspections and approvals . . . for exclusive use of the electric company in the distribution of electricity within the District."<sup>240</sup> Furthermore, the Joint Applicants contend that the Act makes it clear that DDOT Underground Electric Company Infrastructure Improvement Costs are those "incurred by DDOT;" therefore,

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<sup>236</sup> Joint Response to AOBA and OPC Protest at 41.

<sup>237</sup> Joint Response to AOBA and OPC Protest at 41.

<sup>238</sup> *Formal Case No. 1116*, Joint Response of Potomac Electric Power Company and the District Department of Transportation to the Late-filed Comments of Verizon Washington, D.C. Inc. and D.C. Climate Action ("Joint Applicants' Response to Verizon and DCCA Comments"), at 3-4, filed September 29, 2014.

<sup>239</sup> Joint Applicants' Response to Verizon and DCCA Comments at 3-4.

<sup>240</sup> Joint Applicants' Response to Verizon and DCCA Comments at 4 (citing definitions found at Section 101(11) and 101(14) of the Act).

Verizon could not recover costs under that provision of the Act either.<sup>241</sup> The Joint Applicants assert that “it is not uncommon for utilities such as Verizon to be required to relocate their facilities at the direction of DDOT,” and requests that “the Commission express to Verizon its expectation that utilities will act with expedition to comply with the obligation to relocate facilities and that no party will unduly delay the work required by the Act.”<sup>242</sup>

x. *Joint Applicants’ Response to D.C. Climate Action’s (“DCCA”) Comments*

120. On September 29, 2014, the Joint Applicants filed a response to the Comments of DCCA. In the response, the Joint Applicants assert: (1) “flooding does not pose a demonstrated risk to the electrical distribution equipment that Pepco will install as part of the DC PLUG initiative;” (2) “the Triennial Plan will enhance the ability of Pepco and its customers to take advantage of advanced technologies such as distributed generation (“DG”) and DA;” (3) the “preliminary electrical designs for the feeders to be placed underground in the Triennial Plan facilitate [ ] technologies and enhance the efficiency of the distribution grid in the District of Columbia;” and (4) “the Joint Applicants plan to take advantage of potential coordination with other electric distribution reliability projects as well as DDOT projects.”<sup>243</sup>

121. The Joint Applicants assert that a comparison of the locations of Pepco’s current overhead and underground electric power distribution system in the District is overlaid on the Federal Emergency Management Agency’s 100-year flood plain shows that “none of the feeders selected to be placed underground as part of the DC PLUG initiative exist within the 100-year floodplain, contrary to DCCA’s contention that four of the selected feeders are in ‘flood-prone areas.’”<sup>244</sup> In response to DCCA’s assertion that Pepco should use New York and New Jersey as a model for flood prevention and infrastructure, the Joint Applicants assert “Pepco’s current standards – with which all equipment planned to be placed underground in the DC PLUG initiative will comply [-] already align with the major enhancements contained in the Consolidated Edison’s Post-Sandy Enhancement Plan. Therefore, “Pepco’s preliminary electrical designs and current standards already account for the risks that DCCA discusses.”<sup>245</sup>

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<sup>241</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 5 (citing the Act, Section 101(14)).

<sup>242</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 6.

<sup>243</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 7-13.

<sup>244</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 7 (referencing Attachment A and Appendix E to the Triennial Plan).

<sup>245</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 8.

122. In response to DCCA's Comments regarding Pepco's failure to use advanced DA technologies, the Joint Applicants argue that not only will the Triennial Plan take advantage of advanced technologies like DA and DG, but also Pepco's preliminary electric designs, the Triennial Plan, and Pepco's current feeder conversion program all contribute to the development of a state-of-the-art grid and the optimization of the process by which Pepco and DDOT place feeders underground." In response to DCCA's contention that "Pepco's study of feeder 15707 'will not be very informative technically, because by the time its undergrounding is completed, its technology will be at least five years old,'" the Joint Applicants assert that they recognize the fast pace at which technology changes, but "it would be imprudent to include un-tested DA technologies on each of the feeders selected to be placed underground in the DC PLUG initiative, as DCCA recommends." Furthermore, the Joint Applicants point out that, "[a]s part of [their] ongoing efforts to continuously improve the automation of the entire underground system, in September 2014 Pepco issued a Request for Proposal ('RFP') to investigate possible automation and remote monitoring solutions for Pepco's current and future underground distribution system," and Pepco will evaluate the response and "determine which of the potential equipment/technologies best satisfy the requirements for an underground installation."<sup>246</sup>

123. In response to DCCA's recommendation that the Commission condition approval of the Triennial Plan on Pepco considering alternative designs in the final design stage and submitting a semi-annual report, the Joint Applicants note that in the Joint Stipulation they formed with OPC, they agree to consider design and construction alternatives that may reduce costs and minimize disruption to the extent reasonably possible. They also agreed to hold semi-annual meetings and file reports including information about certain design and construction alternatives. Therefore, the Joint Applicants believe DCCA's recommendations are addressed and "that these meetings and reports will provide interested parties ample opportunity [to] understand the design alternatives considered."<sup>247</sup> Finally, the Joint Applicants indicate that they will continue to meet the goals and requirements of the Act including coordinating and collaborating with other utilities in an effort to minimize disruption to traffic and obtain cost savings where possible.<sup>248</sup>

*xi. Joint Applicants' Response to OPC's Comments and Recommendations*

124. In the Joint Response to OPC's Protests, Pepco and DDOT generally commit to investigate and, where appropriate, incorporate OPC's Recommendations in the next phase of the design process.<sup>249</sup> The Joint Applicants' Joint Response to OPC's

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<sup>246</sup> Joint Applicants' Response to Verizon and DCCA Comments at 11.

<sup>247</sup> Joint Applicants' Response to Verizon and DCCA Comments at 12-13.

<sup>248</sup> Joint Applicants' Response to Verizon and DCCA Comments at 15.

<sup>249</sup> Joint Response to AOBA and OPC Protest at 3; *see also*, Joint Stipulation.

Protest is fully discussed in Commission Order No. 17627, ¶¶ 23-35 and the Joint OPC, Pepco & DDOT Stipulation resolving OPC's Recommendations is fully discussed in this Order Part VI, *infra*.

*xii. Joint Applicants' Response to Community Comments & Concerns*

125. On October 6, 2014, the Joint Applicants filed a statement in response to concerns about the Undergrounding Project expressed by members of the community during the Community Hearings held throughout the District. In the Statement, the Joint Applicants addressed three overarching concerns of the community: (1) community notification; (2) new employment and contracting opportunities for District residents and businesses; and (3) construction impacts and community outreach and communications.

126. Notification. The Joint Applicants recognized that the “manner and timing of notice of construction, outages, and other impacts on daily life due to the DC PLUG initiative were a significant concern at the September 9 Public Hearing.” According to the Joint Applicants, community members expressed concerns regarding the “need for advance notification multiple times before construction begins in a particular neighborhood, notice of planned outages far enough in advance to allow people to make arrangements; notice to elderly and people with health or physical challenges in advance of construction or outages; coordination with local AARP and senior facilities in the affected Wards; notice of loss of street parking and traffic detours; and the manner in which notice will be provided.”<sup>250</sup> The Joint Applicants assert that “[i]n addition to the timeframes outlined in the Education Plan, Pepco and DDOT will follow a *pro forma* timeline that further defines the timeframes in which notifications regarding impending construction will be given to affected residents and businesses.” The Joint Applicants also relate that “with regard to notifications of changing traffic patterns, parking, sidewalk access, altered public transit schedules and Metro Access, Pepco and DDOT will follow the *D.C. Temporary Traffic Control Manual*, as required.”<sup>251</sup> Further, the Joint Applicants indicate that while specific details are still being worked out, they “will be providing notice to the community at multiple times prior to construction through a variety of channels to ensure that the community is informed of the schedule of construction impacts and planned outages.”<sup>252</sup>

127. Employment and Contracting Opportunities. The Joint Applicants assert that the community has shown a great deal of interest in the employment and contracting opportunities that the DC PLUG initiative will create for District residents and businesses, and stated that they are “committed to rigorous outreach to District of Columbia businesses and pre-procurement consultation to help potential contractors

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<sup>250</sup> Joint Statement, at 2-3.

<sup>251</sup> Joint Statement at 3.

<sup>252</sup> Joint Statement at 3-4.



understand the project scope and qualify for civil construction and electric distribution system work for the DC PLUG initiative.” Therefore, consistent with the Act, “DDOT and Pepco will execute open and transparent procurements that include opportunities for District of Columbia-based businesses to participate as the lead, joint venture partner, and/or subcontractor, based on project needs and business teaming strategies.”<sup>253</sup> The Joint Applicants commit to using procurement procedures that “emphasize District of Columbia-based resident hiring as a factor in contract award.”<sup>254</sup> The Joint Applicants assert that “Pepco has already commenced efforts to identify, hire and train District of Columbia-based residents and businesses in advance of the start of DC PLUG-related construction,” including: (1) hosting two Contractor and Supplier Forums, (2) conducting informal vendor meetings with eleven District of Columbia-based businesses; (3) creating four small-scale project opportunities outside the DC PLUG initiative for District of Columbia-based businesses; and (4) working with the District Department of Small and Local Business Development to identify all current Certified Business Enterprises who might be able to perform the work contained in its ‘Capacity- and Capability-Building RFPs.’<sup>255</sup> Furthermore, “Pepco is requiring all bidders on the DC PLUG initiative RFPs to establish and provide a plan by which they will work to accomplish hiring of District of Columbia residents for newly created jobs and award subcontracting opportunities to District of Columbia businesses, where qualified.”<sup>256</sup>

128. Construction Impact & Outreach. Members of the community expressed concerns regarding the impact that the Undergrounding Project will have on access to businesses; impacts on trees and replacement of trees removed; rodent control and mitigation strategy due to excavation; the need for a defined process for resolving disputes or claims; a point of contact for the community when members have a claim; the effect on pedestrian and vehicular traffic; increased noise levels; the effect of construction lighting; re-routing of buses and relocation of bus stops; use of signage; access for trash removal; and access to properties, sidewalks, and streets for persons with health and physical challenges. Further, the Joint Applicants acknowledged community requests for a communications coordination committee, a community advisory group, a community relations coordinator and media planning; as well as the need to place information regarding construction activity in convenient locations, like libraries and a central website. In response to all of these concerns, the Joint Applicants indicate that they “will delineate the coordination processes that will be used between the partners and the overall management of the communications and engagement services in the final document that is prepared after the Commission issues its Triennial Plan order.” However, the Joint Applicants commit to using a mix of media channels to convey messages regarding construction progress including television, social media, earned

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<sup>253</sup> Joint Statement at 4.

<sup>254</sup> Joint Statement at 4.

<sup>255</sup> Joint Statement at 5.

<sup>256</sup> Joint Statement at 5.

media, paid media and targeted print media.<sup>257</sup> The Joint Applicants also stated that they have already begun addressing a number of the concerns expressed; for example, “Pepco and DDOT will work with the D.C. Public Library service to designate a DC PLUG initiative information resource hub” in several libraries in affected Wards, and once the Triennial Plan is approved, the Joint Applicants will implement a designated DC PLUG website, email address and telephone line to allow for the exchange of information with and feedback from the public.” Also, the Joint Applicants state that “prior to the commencement of construction of the first feeder, the public will be given the name and contact information of a specific person whom they can contact regarding [ ] construction-related questions or other DC PLUG initiative-related questions.”<sup>258</sup> Finally, the Joint Applicants state that, for members of the community that are elderly and who have health or physical challenges, they will use processes currently in place - “such as Pepco’s Emergency Medical Equipment Notification Program” - and coordinate with organizations in the community that are focused on these groups to minimize the impact of construction on these individuals as much as possible.<sup>259</sup>

## **VI. OPC, PEPCO & DDOT JOINT STIPULATION**

129. In the Joint Stipulation filed with the Commission on September 15, 2014, OPC, Pepco & DDOT (“Stipulating Parties”) request that the Commission accept the stipulations as agreed to by the parties, asserting that they believe “this Stipulation is entirely consistent with the Commission’s findings in Order No. 17627 and provides a valuable framework and process for evaluating the underground project designs in both the current and future Triennial Plan proceedings [and] the stipulations concerning OPC Recommendations 16-25 provide useful clarification and detail to aspects of the Education Plan.”<sup>260</sup> The Stipulating Parties further assert that the “Stipulation represents a carefully negotiated settlement of all issues raised by OPC and responded to by Pepco, and the resolution of each issue is dependent upon the resolution of all other issues in this Stipulation [and that m]odification of any issue resolved by the Stipulation would upset the careful balance negotiated by OPC and the Joint Applicants.” Therefore, the Stipulating Parties respectfully request that the Commission: (1) accept the Stipulation without modification and “(2) remove OPC’s Recommendations 1-13 and 16-25 from further consideration when the Commission makes its future policy considerations in this proceeding;” including the evidentiary hearing.<sup>261</sup>

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<sup>257</sup> Joint Statement at 6-7.

<sup>258</sup> Joint Statement at 8.

<sup>259</sup> Joint Statement at 8.

<sup>260</sup> *Formal Case No. 1116*, Joint Stipulation of the Office of the People’s Counsel, Potomac Electric Power Company and the District Department of Transportation Resolving Recommendations 1-13 and 16-25 of the Protest of the Office of People’s Counsel in Formal Case No. 1116 (“Joint Stipulation”), filed September 15, 2014.

<sup>261</sup> Joint Stipulation at 10-11.

**A. System Design and Construction Stipulations (OPC Recommendations 1-13)**

130. The Stipulating Parties agree that “in preparing the final design for the feeders to be undergrounded, Pepco and DDOT should continue to consider design and construction alternatives that may reduce cost and minimize disruption to the extent reasonably possible.” The Stipulating Parties have also agreed “to hold semi-annual meetings at which appropriate Pepco and DDOT representatives, including distribution system design engineers and other knowledgeable personnel, as necessary, will meet with OPC staff and consultants and other parties . . . to review Pepco and DDOT progress in considering alternatives, to present design work for upcoming feeders, and to discuss the bases for including or excluding various alternatives in the design and construction plans.” Pepco and DDOT have also stipulated that they will “file with the Commission a report summarizing each semi-annual meeting within thirty (30) days after the meeting is held, and parties would be free to comment on those reports,” with the first meeting to be held “six months after the Commission’s approval of the initial Triennial Plan.”<sup>262</sup> The Joint Applicants also stipulated that “in each annual status report to be filed pursuant to Section 307(b) of the Act” they will “provide specific information regarding the actual inclusion of design and construction alternatives identified by OPC and other parties, such as the number of miles and location of single phase cable . . .”<sup>263</sup> The Joint Applicants will also “include in this report an explanation of the bases for including or excluding various alternatives in the feeders for which final design has been completed such that OPC and other parties will have sufficient information to file comments setting forth their view of the Joint Applicants’ final design for the feeders in question.”<sup>264</sup> The Stipulating Parties note that while, “[w]ith the stipulations below . . . all disputes relating to OPC’s Recommendations 1-13 are resolved,” “nothing contained in this Stipulation shall limit OPC’s statutorily prescribed investigatory authority under D.C. Code § 34-804(d)(4).”<sup>265</sup>

131. **Recommendations 1-8.** OPC Recommendations 1–7 address the use of single phase cable, directional boring, and pad-mounted transformers and OPC Recommendation 8 asks that “the Commission require Pepco: (a) to commit to consideration of alternate designs – such as those described and recommended [in the Protest] – in the final-design phase, and where appropriate, to use a single-phase conductor design, pad-mounted transformers, and direction boring; and (b) to file a semi-

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<sup>262</sup> Joint Stipulation at 3.

<sup>263</sup> Joint Stipulation at 3.

<sup>264</sup> Joint Stipulation at 3.

<sup>265</sup> Joint Stipulation at 3.

annual report documenting where and why it used or rejected those alternate designs and techniques.”<sup>266</sup>

132. The Joint Applicants “agree to consider these alternatives and to meet and report on their use in the way that allows OPC and other interested parties a meaningful opportunity to evaluate Pepco’s and DDOT’s decision-making process and conclusions.”<sup>267</sup> The Joint Applicants also agree to “share information with OPC and its consultants including updated feeder design schematic drawings in advance of the semi-annual meetings . . . and voluntarily to respond to a limited number of informal requests for specific information or analyses that underlie decisions made with respect to their consideration of alternatives.” Therefore, “OPC is not seeking (a) to condition use of submersible transformers on the informational requirements it proposed in OPC Recommendation 6; (b) to establish in advance the guidelines for the use of pad-mounted transformers it proposed in OPC Recommendation 7; or (c) to require a semi-annual report as proposed” in OPC Recommendation 8(b).<sup>268</sup>

133. **Recommendation 9-13.** Regarding OPC Recommendation 9, Pepco agrees to “analyze the need for each proposed feeder tie point . . . and share its findings in the semi-annual meetings and in the annual report.”<sup>269</sup> Pepco and DDOT agree with OPC Recommendation 10 “that the approximately one-mile section of Feeder 14903 along New York Avenue should not be placed underground. Pepco and DDOT will consider other locations on feeders to be placed underground which would not benefit from undergrounding due to the absence of trees, historical performance, and other relevant conditions and will report on those findings in the semi-annual meetings and in the annual report.”<sup>270</sup> In response to OPC Recommendation 11, the Joint Applicants agree, in order to “keep parties informed of any challenges to the completion of the feeder improvements,” to “identify any material schedule delays, change orders, and budget overruns . . . in the semi-annual meetings and in the annual report.” Therefore, “the quarterly progress reports suggested in OPC Recommendation 11(b) should not be required.”<sup>271</sup> The Joint Applicants stipulate, in response to OPC Recommendation 12, to considering “an alternate route for placing feeders 15177” and that they “will provide an update on their decision-making process for this location and other similar situations in the semi-annual meetings and in the annual report.”<sup>272</sup> Regarding OPC Recommendation

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<sup>266</sup> Joint Stipulation at 4 (citing OPC Protest at 8).

<sup>267</sup> Joint Stipulation at 4.

<sup>268</sup> Joint Stipulation at 4-5.

<sup>269</sup> Joint Stipulation at 5.

<sup>270</sup> Joint Stipulation at 5.

<sup>271</sup> Joint Stipulation at 5.

<sup>272</sup> Joint Stipulation at 6.

13, Pepco stipulates that it “will review its joint-use contracts to determine if there is an opportunity to increase fees charged to the communications companies who share Pepco poles . . . [and] provide an update of the status of its review and any action items in the first annual report and in subsequent annual reports as appropriate.”<sup>273</sup>

**B. Communication Education Plan Stipulations (OPC Recommendations 16 -25)**

134. The Stipulating Parties assert that they “are in general agreement regarding the Education Plan and the manner in which to most effectively convey important information regarding the District of Columbia Power Line Undergrounding (“DC PLUG”) initiative and its impact on the affected communities.”<sup>274</sup> The Stipulating Parties agreed to “additional enhancements to the existing Education Plan” and “that all disputes relating to OPC’s Recommendations 16-25 are resolved.”<sup>275</sup>

135. **Recommendations 16-20.** In response to OPC Recommendations 16-18, in which OPC “expressed a general concern regarding the timeline for notifying residents and businesses before work commences,” the Stipulating Parties “agree that notifications to residents and businesses are critical and are necessary at various times prior to the commencement of construction” and “[i]n addition to the timeframes outlined in the Education Plan, Pepco and DDOT agree to provide a *pro forma* timeline that further defines timeframes in which notifications regarding impending construction will be sent to affected residents and businesses.”<sup>276</sup> In response to OPC Recommendation 19, the Stipulating Parties “agree that Pepco and DDOT will work with the D.C. Public Library service to designate a DC PLUG initiative information resource hub (*e.g.*, an Information Kiosk, such as a banner or poster alongside fact sheets and other informational handouts) in a public library in each of Wards 3, 4, 5, 7, and 8.”<sup>277</sup> In Recommendation 20, “OPC expressed concern that the phone line dedicated to the DC PLUG initiative . . . would not provide the necessary level of responsiveness to affected residents’ and businesses’ concerns;” therefore, the “Stipulating Parties agree to update the Education Plan by clarifying that Pepco and DDOT will devise a joint strategy to unify distinct call center policies, systems and practices, as applicable, to establish a responsive phone service.” The Stipulating Parties agree to “work to clearly define ‘timely’ once Pepco and DDOT’s respective call center policies, practices, and the like have been coordinated.”<sup>278</sup>

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<sup>273</sup> Joint Stipulation at 6.

<sup>274</sup> Joint Stipulation at 6.

<sup>275</sup> Joint Stipulation at 6.

<sup>276</sup> Joint Stipulation at 7.

<sup>277</sup> Joint Stipulation at 7.

<sup>278</sup> Joint Stipulation at 8.

136. **Recommendations 21-22.** In Recommendation 21, OPC recommended that the Education Plan have a crisis communications plan. “The Stipulating Parties agree that both DDOT and Pepco have well-established crisis communications plans for current operations” and that they “will include a briefing specific to the DC PLUG initiative so that Pepco and DDOT crisis communications and on-site field personnel would understand the initiative and be able to incorporate it into normal crisis communications operating procedures . . . and have clear instructions about what to do in case of a crisis or media at the job-site.”<sup>279</sup> The Stipulating Parties also agree that “the public will be informed of the applicability of Pepco’s and DDOT’s current respective crisis communications plans/protocols.”<sup>280</sup> In response to OPC Recommendation 22, the Stipulating Parties agree to always include the tagline “Making your electric system more resilient” with the DC PLUG logo and to include the full name “District of Columbia Power Line Undergrounding.” The Stipulating Parties further agree that “where the logo and tagline were stand-alone components, Pepco and DDOT [will] include the full name of the initiative where space permits.”<sup>281</sup>

137. **Recommendations 23-25.** Pepco and DDOT agree with OPC’s decision to withdraw its Recommendation 23 that “copy and messaging identify OPC and the District as joint owners of the DC PLUG initiative” in light of the fact that “the Act makes clear that Pepco and DDOT are the owners of the initiative.”<sup>282</sup> Regarding OPC Recommendation 24, Pepco and DDOT agree to include in the Education Plan messaging that will address the “impact of construction activity on street parking and rodent activity as well as proactive mitigation/abatement strategies and tactics that Pepco and DDOT will employ.”<sup>283</sup> In its Recommendation 25, OPC “expressed the desire that the Education Plan incorporate a wider range of media channels for conveying information.” The Stipulating Parties “agree that the most effective way to convey information regarding construction progress and other important initiative information is through a mix of media channels;” therefore, “Pepco and DDOT agree to employ the appropriate mix of media channels to convey information regarding the initiative, which may include channels such as social media, earned media, paid media, and targeted print media (including local and neighborhood papers and publications).”<sup>284</sup>

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<sup>279</sup> Joint Stipulation at 8.

<sup>280</sup> Joint Stipulation at 8.

<sup>281</sup> Joint Stipulation at 9.

<sup>282</sup> Joint Stipulation at 9.

<sup>283</sup> Joint Stipulation at 9.

<sup>284</sup> Joint Stipulation at 10.

## VII. DISCUSSION AND FINDING OF FACTS

### A. **The Application's Compliance with the Act**

138. The Commission has reviewed the Application in its entirety and has determined that the Application submitted by the Joint Applicants, supplemented in some instances by additional filings or explanations in data responses and by the Joint Stipulation filed by the Joint Applicants and OPC, contains all of the basic elements required by the Act. In this Section we conduct the review required by Section 34-1313.10(b)(1) which serves as the basis for our findings that on this record the Application satisfies the applicable requirements of Section 34-1313.08 and allows the Commission to affirmatively make each of the other findings required by Section 34-1313.10(b). We begin with a discussion of whether the Application satisfied the applicable requirements of Section 34-1313.08 as required by Sections 34-1313.10(b)(2)-(7). Next we address the most contested issue, *i.e.*, whether the Underground Project Charges are just and reasonable as required Section 34-1313.10(b)(6). Then we address each of the remaining issues raised by Section 34-1313.10(b), as well as several additional issues raised by parties or commenters, before making our Findings and Conclusions in Section VIII.

*i. Whether the Application satisfies the applicable requirements of 34-1313.08 (Section 34-1313.10(b)(1)).*

139. ECIIFA Sections 34-1313.08(a) and (c) set out the contents that must be included in the Application. OPC, AOBA, DCCA and some of the community commenters have each identified certain provisions of Section 34-1313.08 that they believe were not fully satisfied in the Application or were not addressed to their satisfaction. In each instance, the Joint Applicants have provided a response to the identified concern as set out in Section V.H., *supra*. We discuss these issues below after we first discuss how Pepco selected the initial 21 Feeders for undergrounding.

#### 1. Pepco's Feeder Selection

140. Before we can make any determinations regarding the parties' contentions regarding Pepco's Feeder Selection model, we must first describe Pepco's development of its model. Subsection 34-1313.08(a)(2) of the ECIIFA<sup>285</sup> requires that each overhead and combined overhead-underground mainline primary and lateral feeder in the District be ranked in priority for potential undergrounding, based on the most recent three calendar years outage data, employed to derive the three-year [annual] average of the following three metrics, weighted equally: (a) number of outages per feeder; (b) duration of the outages occurring on the feeder; and (c) customer minutes of interruption ("CMI") on the feeder.<sup>286</sup>

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<sup>285</sup> D.C. Code § 34-1313.08(a)(2).

<sup>286</sup> D.C. Code § 34-1313.08(a)(2).

141. According to Pepco, the selection methodology used in the Triennial Plan is the methodology conceived by the members of the Technical Committee of the Task Force and is the same as was recommended in the Task Force's Final Report.<sup>287</sup> Pepco's feeder selection method is discussed in the Application, the Triennial Plan, and in the testimony and sponsored exhibits of Pepco's witness Gausman. In concert with the recommendations contained in the Final Report, Pepco represents that it started the feeder selection process by ranking each of its overhead (and combined overhead/underground) feeders according to SAIFI, SAIDI and CMI/\$. Pepco used three years of historical reliability performance data for each feeder to generate this ranking. These reliability data included Major Service Outages ("MSO"), since one of the main reasons for placing feeders underground is to make the system more resilient during severe weather events.<sup>288</sup>

142. Pepco indicates that the Task Force recommended that Pepco and DDOT rank feeders according to an equal weighting of SAIFI, SAIDI and CMI/\$. In contrast, the Act requires Pepco and DDOT to present a ranking according to an equal weighting of SAIFI, SAIDI and CMI (without consideration of estimated dollars spent to place the feeders underground).<sup>289</sup> Pepco's Triennial Plan presents two Feeder Rankings, in accordance with both the Act and the Final Report for the Commission's review. A ranking of Pepco's overhead (and partial overhead) feeders according to an equal weighting of SAIFI, SAIDI and CMI over a three-year period is presented in Appendix A and a ranking of Pepco's overhead (and partial overhead) feeders according to an equal weighting of SAIFI, SAIDI and CMI/\$ over a three-year period is presented in Appendix B.<sup>290</sup>

143. Pepco acknowledges its third selection criteria (CMI/\$) differs from the Act selection method (which uses CMI), and proposes to substitute CMI/\$ into its feeder selection methodology.<sup>291</sup> Pepco explains that the purpose of using CMI/\$ (Customer Minutes of Interruption per dollar spent to place feeders underground)<sup>292</sup> is to identify the feeders whose placement underground will yield the most cost-effective reliability benefit to District customers, and achieve the highest overall reliability improvement and the

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<sup>287</sup> Triennial Plan at 5.

<sup>288</sup> Triennial Plan at 5-6.

<sup>289</sup> Triennial Plan at 6.

<sup>290</sup> Triennial Plan at 6.

<sup>291</sup> Testimony of Pepco Witness Gausman at 12-13.

<sup>292</sup> Triennial Plan at 5.



greatest reduction in the minutes of interruption for every dollar spent on undergrounding (e.g., a cost-effective reliability benefit to customers).<sup>293</sup>

144. Next, Pepco considered the Secondary Evaluation Criteria, as recommended in the final report. These criteria include the value of service, coordination with other District projects, community impact and customer impact. Finally, Pepco prioritized feeders to be placed underground by evaluating other reliability enhancement programs already being performed (e.g., 13kv conversion and distribution automation projects) evaluating the level of construction being performed in any ward at a time, the equitable distribution of value of service across the wards of the District and other factors as recommended in the Final Report.<sup>294</sup> Pepco states that the Company then identified those feeders that are part of recently activated automatic sectionalizing and reclosing (“ASR”) schemes and removed them from the ranking with the exception of Feeder 15707. Pepco indicated that it expected reliability performance improvements on those feeders in the near future as a result of the ASR schemes and did not include those feeders in the ranking.<sup>295</sup> Pepco and DDOT stated that it spread the planned construction work in the Triennial Plan across five wards in an effort to most equitably enhance reliability and resilience of the electric distribution system across the District.<sup>296</sup> Pepco states as the Company and DDOT developed the Plan, it became clear that Ward 7 was underrepresented over the three years of the Triennial Plan, despite the fact that Ward 7 has a heavy concentration of overhead power lines. Therefore, in the interest of maintaining equity among the wards of the District of Columbia, Pepco and DDOT decided to schedule Feeder 15707 to be placed underground in the third year of the plan. Feeder 15707 ranks as the third worst overhead feeder in Pepco’s District of Columbia service territory. Pepco states that by minimizing outages on Feeder 15707, Pepco and DDOT will maximize the number of customers in each ward who will realize the benefits associated with the DC PLUG initiative during and immediately after the second calendar year of the program.<sup>297</sup> Also by incorporating one feeder (15707) that is part of a distribution automation system (ASR), Pepco will be able to develop new standards and operating procedures for the automation of high voltage underground equipment. Pepco represents that the automation of underground equipment is new to the Pepco system and there are only a limited number of equipment manufacturers that supply automated underground equipment that meets Pepco’s electric system design requirements.<sup>298</sup>

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<sup>293</sup> Testimony of Pepco’s Witness Gausman at 12.

<sup>294</sup> Testimony of Pepco Witness Gausman at 6-7.

<sup>295</sup> Testimony of Pepco Witness Gausman at 14.

<sup>296</sup> Testimony of Pepco Witness Gausman at 14.

<sup>297</sup> Testimony of Pepco Witness Gausman at 15.

<sup>298</sup> Triennial Plan at 9.

145. Next, Pepco identified the worst feeder (according to the feeder ranking, with all but one of the ASR feeders removed) in each of Wards 3, 4, 5, 7, and 8. Pepco and DDOT plan to begin work on those five feeders in the first calendar year of the DC PLUG initiative. Pepco contends that by dispersing construction work over five wards, Pepco and DDOT will minimize disruptions to communities around the work sites. Additionally, by spreading out work among five wards, Pepco and DDOT maximize the number of customers in each ward who will realize the benefits associated with the DC PLUG initiative as a result of the first year of the initiative. Pepco contends that this practice of selecting the worst performing feeder within each ward is consistent with the requirements of the Electric Quality of Service Standards, which require Pepco to take corrective action each year on the worst performing feeder within each ward.<sup>299</sup>

146. After that, Pepco and DDOT prioritized feeders for years two and three according to the same methodology used for year one. After following the methodology described above, Pepco finalized its selection of 21 feeders to be placed underground during the first three years of the DC PLUG initiative. Pepco states that Year 1 of this Triennial Plan (2015) will only include a partial year of construction due to the timing of the issuance of the District bonds and a necessary period of ramping up of construction activity at the start of the DC PLUG initiative. The Feeder Prioritization for Years 1-3 presented in Appendix C of the Triennial Plan and also serves as a list of the feeders that will utilize DDOT Underground Electric Company Infrastructure Improvements in Years 1-3 of the Triennial Plan.<sup>300</sup>

## 2. OPC's Issues

147. With respect to the Section 34-1313.08 concerns raised by the OPC, OPC informs us, and the Joint Applicants confirm, that all of their issues have been resolved by the Joint Stipulation entered into by OPC and the Joint Applicants. We have reviewed the Joint Stipulation that addresses in greater detail the recommendations offered by OPC to address concerns that it had with subsections with regard to Section 34-1313.08 and agreements reached between OPC and the Joint Applicants on how those concerns will be addressed. The stipulations, *inter alia*, describe how Pepco and DDOT will work with OPC and with other interested parties to share information and consider recommendations about various technical, operational, and planning issues related to the Undergrounding Project and sets certain requirements and expectations for the operation of the DC PLUG Education Plan.

148. With respect to the Triennial Plan System Design and Construction, the Stipulating Parties agree that “in preparing the final design for the feeders to be undergrounded, Pepco and DDOT should continue to consider design and construction alternatives that may reduce cost and minimize disruption to the extent reasonably possible.” The Stipulating Parties also agreed to hold semi-annual meetings to review

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<sup>299</sup> Triennial Plan at 8.

<sup>300</sup> Triennial Plan at 8.

Pepco and DDOT progress in considering alternatives, to present design work for upcoming feeders, and to discuss the bases for including or excluding various alternatives in the design and construction plans.” Pepco and DDOT have also stipulated that they will “file with the Commission a report summarizing each semi-annual meeting within thirty (30) days after the meeting is held, and parties would be free to comment on those reports,” with the first meeting to be held “six months after the Commission’s approval of the initial Triennial Plan.”<sup>301</sup> The Joint Applicants further stipulated that “in each annual status report to be filed pursuant to Section 307(b) of the Act” they will “provide specific information regarding the actual inclusion of design and construction alternatives identified by OPC and other parties, such as the number of miles and location of single phase cable . . .”<sup>302</sup> The Joint Applicants will also “include in this report an explanation of the bases for including or excluding various alternatives in the feeders for which final design has been completed to facilitate parties comments on the final design for the feeders in question.”<sup>303</sup>

149. We find the terms of the Stipulation to be a just and reasonable compromise between the parties on the recommendations made by OPC related to Section 34-1313.08 concerns along with other issues. Therefore, the Commission accepts the Joint Stipulation in full without modification to any of the existing terms. Acceptance of the Joint Stipulation means, *inter alia* that we accept the modifications that are made therein to the Application as it was originally presented.

### 3. AOBA’s Issues

150. AOBA raised a series of concerns with respect to the Application’s compliance with Section 34-1313.08, all of which have been responded to by the Joint Applicants. Primarily, AOBA has raised questions about the Application’s compliance with Section 34-1313.08(a) regarding data accuracy and the appropriateness of the Feeder Ranking and Selection conducted by the Joint Applicants and the impact that the ranking and selection has on the reliability performance of the feeders selected for undergrounding.

151. AOBA takes issue with Pepco’s feeder ranking and selection model, based primarily upon concerns regarding the accuracy of Pepco’s data. In particular, AOBA compares Pepco’s initial undergrounding cost estimates utilized by the Feeder Selection Model (based on high-level design) with Pepco’s later itemized cost estimates presented in Appendix I of the Triennial Plan (based on a more detailed design) for the 21 feeders selected for undergrounding and concludes that the variances between the two (ranging between 65% below and 36% above the high-level design costs) are so great they

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<sup>301</sup> Joint Stipulation at 3.

<sup>302</sup> Joint Stipulation at 3.

<sup>303</sup> Joint Stipulation at 3.

essentially eliminate the usefulness of Pepco's CMI/\$ selection criterion.<sup>304</sup> AOBA also claims that the feeder data shown in Appendices A and B to the Plan incorrectly reflect "system" SAIFI, SAIDI and CMI (*i.e.*, interruptions occurring on the overhead and underground portions of the feeder) whereas Pepco's work papers demonstrate the Company's use of only overhead SAIFI, SAIDI and CMI measures (*i.e.*, interruptions occurring only on the overhead portion of the feeder) in developing feeder rankings.<sup>305</sup> According to AOBA, to properly rank feeders, the ranking measures should be premised only on the overhead portions of each feeder.<sup>306</sup> In response to the criticism of its CMI/\$ measure, the Joint Applicants stated that it was reasonable to expect cost estimates to change once Pepco undertook a more detailed level of design, however since all the cost estimates presented in the Feeder Selection Model were based on the same design assumptions, the relative comparison of cost between feeders remains accurate.<sup>307</sup> Pepco also explained that even though Appendices A and B of the Triennial Plan state that they show the system reliability performance measures, that was an editorial error because the actual rankings are based on just overhead reliability performance measures. We accept that explanation.

152. We also accept the Joint Applicants' use of CMI/\$ as opposed to CMI as the third measure used to develop feeder rankings in this first Triennial Plan. Given the overall cost of the Undergrounding Project, it is reasonable and in the public interest for the Joint Applicants to identify the feeders whose placement underground will yield the most cost-effective reliability benefit to District customers and achieve the highest overall reliability improvement and the greatest reduction in minutes of interruption for every dollar spend on undergrounding. The 21 feeders that we are approving use the CMI/\$ ranking criterion. However, while we agree with the Company that cost estimates will vary at different stages of the feeder design process, we also appreciate AOBA's argument that the value of CMI/\$ as a criterion is dependent upon the accuracy of the cost estimates produced by the Company. We will be closely monitoring the costs as compared to the cost estimates during the construction of these projects. If we find that there is a great discrepancy between these figures, we will revisit the use of CMI/\$ as opposed to CMI when we review the next Triennial Plan.

153. Next, AOBA argues that the only outage data to be considered for ranking and selecting feeders for undergrounding should be data derived from outages occurring on overhead feeders and the overhead portions of combined overhead and underground feeders. Pepco states that it included underground outage data in the feeder ranking and selection model in the current Triennial Plan. AOBA does not point to any legislative directive that requires Pepco to include only outage data derived from outages occurring

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<sup>304</sup> AOBA Protest at 48-50.

<sup>305</sup> AOBA Protest at 47.

<sup>306</sup> AOBA Protest at 47.

<sup>307</sup> Joint Applicants' Response to AOBA and OPC's Protest at 35.

on overhead feeders and the overhead portions of combined overhead and underground feeders. In fact Subsection 308(a)(2) of the Act requires that each overhead and combined overhead-underground feeder be ranked.<sup>308</sup> Therefore Pepco's consideration of some underground outage data as a part of the Company's feeder selection process for the reasons stated is not inconsistent with the Act. Absent a legislative prohibition to the contrary, we are not persuaded that the Company's selection process should be confined to only overhead outage or that its methodology is defective because it includes some underground outage data in its feeder selection process.

154. According to AOBA, cross-jurisdictional feeders designated as Maryland feeders include 26 feeders with a total of 6,224 District customers that were not included in Pepco's feeder selection model.<sup>309</sup> AOBA also claims that the three cross-jurisdictional feeders designated as Maryland feeders that were included in Pepco's feeder selection model did so in a manner that assumed that all customers on the feeder (including Maryland customers) are District customers.<sup>310</sup> AOBA also claims that the customer counts on these cross-jurisdictional feeders vary from the as-filed information and the information submitted in response to a Commission Staff data request.

155. In their Post-Discovery Joint Response, Pepco and DDOT state that there are no Maryland cross-jurisdictional feeders included in their feeder selection method.<sup>311</sup> In fact, they state further that five District cross-jurisdictional feeders were excluded from their selection model, but those exclusions were appropriate: Feeder 310 – customers were re-assigned to Feeder 15944 when 4kV service was converted to 13 kV service; Feeders 14352 and 14893 are already underground, as part of Pepco's Low-voltage AC Network; and Feeders 15648 and 15649 are Hi-Voltage and not distribution feeders.<sup>312</sup> Pepco further explained the inconsistency between customer counts as due to the vintage of the information. The as-filed information was from 2012 and the data in the response to the Staff data request is from 2014. Pepco, in response to Staff data Request No. 4, Question 1A, submitted a list of Maryland cross-jurisdictional feeders. The list reflects more than 6,000 District customers currently served by Maryland cross-jurisdictional feeders.

156. The Commission concludes that the explanation given in the Post-Discovery Joint Response is reasonable and fully responsive to AOBA's concerns regarding data accuracy for District of Columbia cross-jurisdictional feeders. In regards to Maryland cross-jurisdictional feeders, the Commission expects the Applicants to

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<sup>308</sup> D.C. Code § 34-1313.08(a)(2) (Emphasis added).

<sup>309</sup> AOBA's Post-Discovery Response at 12.

<sup>310</sup> AOBA'S Post-Discovery Response at 12.

<sup>311</sup> Pepco & DDOT Joint Response to Post-Discovery Pleadings at 3.

<sup>312</sup> Pepco & DDOT Joint Response to Post-Discovery Pleadings at 4.

evaluate all cross-jurisdictional feeders that serve District customers in the next Triennial Plan.

157. AOBA suggests that the data Pepco uses regarding number of customers and demand by feeder is compiled in a manner that does not reliably identify customers, demand, and the usage actually served by individuals. AOBA specifically challenges the Company's numbers showing the annual consumption demand of industrial customers served by feeder 14758. Pepco retorts that it has extensive experiences in designing feeders to account for customer data and that it uses proper measures of customer demand by feeder while correcting a data response to AOBA regarding the annual consumption demand of industrial customers served by feeder 14758. We are not convinced that AOBA's example reveals an overall deficiency in Pepco's customer feeder demand data but the Commission will require Pepco to make improvements and provide more verifiable data in the next Triennial feeder selection model.

158. Finally AOBA contends that Pepco has not properly assessed the numbers of customers and maximum number of customer interruptions by feeder that it uses in its feeder selection model. Specifically, AOBA contends that two measures of number of customers used in Pepco's Feeder Selection Model (*i.e.*, one representing the maximum customers on a feeder and the other, representing the maximum number of customer interruptions) leads to an overstatement of the actual maximum number of outages for Pepco's distribution system. AOBA contends this makes no sense because the number of customer interruptions that occurred during a given time period can be greater than the number of customers served by that feeder. Pepco acknowledges that this can be the case because some feeders may serve more customers outside of normal conditions than it does during normal operating conditions. The Joint Applicants argue, however, that all outages are tracked through Pepco's OMS, which provides a more accurate and complete representation of the impact of an outage than if Pepco were to limit the number of customer interruptions on a feeder to only those natively served by that feeder. However there remains a question whether there is a double counting for customers that are shifted from their native feeder because of an outage and then experience an outage on the shifted feeder. We will address this question as we examine more ways to improve and provide more verifiable data in the next Triennial feeder selection model. Despite these concerns, we are convinced that Pepco's feeder ranking model reasonably ranks and prioritizes feeders to be placed underground for this first Triennial Plan.

159. Pepco responds to AOBA's criticism regarding the Company's use of the U.S. Department of Energy the value-of-service metric as solely illustrative and not utilized as a primary selection criterion but was utilized and as a secondary evaluation to prioritize construction and was the best data available at the time.<sup>313</sup> Pepco's explanation is reasonable and this secondary evaluation criterion is an appropriate tool for the Applicants to use as a relative gauge of any undergrounding benefit in meeting the main objective of the undergrounding initiative to place underground the most unreliable

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<sup>313</sup> Joint Response to AOBA and OPC Protest at 36.

overhead primary feeders on the existing distribution system. The Commission finds that the requirements of ECIIFA § 308(a)(2) have been substantially met and we approve for undergrounding the 21 feeders and 16 parallel feeders selected by Pepco in its Triennial Plan.<sup>314</sup>

#### 4. Issues Raised by Other Commenters

160. Section 34-1313.08(c)(3) concerns were raised by a number of community commenters who requested that mature trees, grass, and other vegetation be either left undisturbed during the construction process, if possible, or replaced immediately upon the completion of construction. Ensuring that the Joint Applicants have a vegetation management plan that balances the community's concerns that trees in the District be preserved with the need to make sure that costs related to such efforts remain reasonable, is of central concern to the Commission. The community comments suggest that issues around vegetation management have the potential of being an obstacle to the timely completion of one or more DC PLUG projects.

161. Section 34-1313.08(c)(3) of the Act requires the Joint Applicants to conduct an "assessment of potential obstacles to the timely completion of a project, including, but not limited to, the need to obtain environmental or other permits or private easements, the existence of historically sensitive sites, required tree removal, and significant disruptions."<sup>315</sup> The Joint Applicants indicated in the Application that the requirements of Section 34-1313.08(c)(3) of the Act are addressed in "[t]he section of the Triennial Plan entitled 'Obstacles to Timely Completion' which provides an assessment of potential obstacles to timely completion for any of the projects in the DC PLUG initiative, as supported by the testimonies of Company Witness Bacon and DDOT Witness Foxx." However, that section of the Triennial Plan as originally submitted did not provide sufficient information, as far as the Commission is concerned, to address potential obstacles related to the preservation and management of vegetation during the course of the project.

162. The Joint Applicants submitted additional detail regarding its vegetation management plan in response to a Data Request filed by OPC. In the response, the Joint Applicants submit that in order to preserve vegetation throughout the implementation of the plan, they will adhere to their standard practice, as detailed in DDOT's Construction Guidelines for Tree Protection which was created in conjunction with the Urban Forestry Administration ("UFA").<sup>316</sup> The Guidelines contain details on how the Joint Applicants will protect trees during construction activity, including: (1) protecting the Critical Root Zone ("CRZ") by erecting fencing which protects the tree and root system; (2) if

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<sup>314</sup> D.C. Code § 34-1313.10(c)(4).

<sup>315</sup> D.C. Code § 34-1313.08(c)(3).

<sup>316</sup> Pepco Response to OPC Data Request No. 1 ("Pepco Response to OPC DR No. 1"), Question No. 10, filed July 15, 2014.

construction cannot be avoided within the CRZ, then the tree will be fenced and the unpaved area covered with a 10” layer of protective wood chips; (3) using mechanical boring a minimum of 30” deep under the CRZ; (4) ensuring that tree pruning is done in accordance with industry standards; and (5) obtaining all required permits for conducting vegetation related work, including special permits for tree removal.<sup>317</sup> The Joint Applicants further assert that UFA has been included in the planning of the DC PLUG initiative and will continue to contribute targeted guidelines for tree protection, maintenance, and removal (to the extent necessary) to support project design for the DC PLUG initiative and that a certified arborist will review final construction plans and recommend protective measures.<sup>318</sup>

163. In light of the additional detail provided by the Joint Applicants regarding the vegetation preservation efforts that will be used during the course of the project, the Commission finds that Section 34-1313.08(c)(3) of the Act has been satisfied. The Commission believes that Joint Applicants should continue to work closely with UFA; providing it with the final construction plans for review, to ensure that, to the extent possible and cost efficient, vegetation in the District is preserved, protected, and/or replaced in a timely fashion.

## 5. Summary

164. Having reviewed the Application, the Triennial Plan, Pepco’s Testimony and Exhibits contained in the Application, Data Responses and the pleadings of the parties, and for all of the reasons discussed above, the Commission finds that the requirements of ECIIFA § 308(a)(2) have been substantially met and we approve for undergrounding the 21 feeders and 16 parallel feeders selected by Pepco in its Triennial Plan.<sup>319</sup>

### *ii. Whether the Application Satisfies Section 34-1313.10(b)(2)-(7) of the Act*

165. We next turn our attention to the matters raised on the record concerning the findings that we need to make under Sections 34-1313.10(b)(2)-(7). As mentioned above, first we will address the most highly contested issue in this proceeding *i.e.*, whether the proposed UPCs will be just and reasonable as required under Section 34-1313.10(b)(6), second we discuss the findings required under Section 34-1313.10(b)(2)-(5) of the Act, then we address the additional matters raised by parties, and finally we conclude with our determination of whether granting the authorizations and approvals

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<sup>317</sup> See DDOT’s Construction Guidelines for Tree Protection, [http://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/guidelines\\_tree\\_protection\\_during\\_construction.pdf](http://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/guidelines_tree_protection_during_construction.pdf).

<sup>318</sup> Pepco Response to OPC DR No. 1.

<sup>319</sup> D.C. Code § 34-1313.08(d).



sought by Pepco and DDOT in the Joint Application is in the public interest as required by Section 34-1313.10(b)(7).

1. Whether the Underground Project Charges will be Just and Reasonable (Section 34-1313.10(b)(6))

a. Pepco's Proposed UPC

166. In describing its Triennial Plan cost recovery proposal Plan, Pepco cites Section 101(42) of the Act which defines the Underground Project Charge as an annually adjusting surcharge paid by certain customers of the electric company for its recovery of the Electric Company Infrastructure Improvement Costs, together with the electric company's rate of return as approved by the Commission.<sup>320</sup> Electric Company Infrastructure Improvement Costs are defined in Section 101(21) as "costs incurred by the Company, including the amortization of regulatory assets and capitalized costs relating to electric plant including depreciation expense and design and engineering work incurred, or expected to be incurred, by the electric company in undertaking Electric Company Infrastructure Improvement Activity, and the unrecovered value of electric company property that is retired, together with any demolition costs or similar cost that exceeds the salvage value of the property." Pepco notes that "the term includes preliminary expenses and investments associated with Electric Company Infrastructure Improvement Activity that are incurred by the electric company prior to receipt of an order applicable to costs incurred with respect to the Electric Company Infrastructure Improvement Activity in addition to expenses that may be incurred for development of annual construction plans, customer communication and other expenses that may develop in support of the Electric Company Infrastructure Improvement Activity."<sup>321</sup>

167. Pepco then states that the revenue requirement and resulting rate included in the UPCs are calculated using Pepco's portion of the projected capital cost data including, but not limited to, the actual costs of engineering; design and construction; the cost of removal; and actual labor, materials, and Allowance for Funds Used During Construction ("AFUDC"). Additionally, the revenue requirement includes a level of O&M expenses. As more fully explained in Section D that follows, the revenue requirement includes a return of investment through depreciation based on the level of Electric Company Infrastructure Improvements placed into service.

168. Pepco states that, pursuant to Section 1313.10(c)(3) of the Act, the revenue requirement includes a return on investment based on a rate of return of

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<sup>320</sup> Triennial Plan at 19.

<sup>321</sup> Triennial Plan at 19. To meet the requirement of Section 1313.08(c)(6)(B) of the Act that requires Pepco to present the proposed accounting treatment for the costs to be recovered through the UPC, the Company represents that the accounting treatment for the DC PLUG initiative will follow traditional regulatory accounting for capital projects and development of revenue requirements.

7.65% and reflects a return on equity of 9.40%, as authorized in Pepco's last base rate case *Formal Case No. 1103*. Additionally, pursuant to Section 1313.10(c)(1) of the Act, the total revenue requirement is allocated to each rate class on the basis of the rate class specific levels of non-customer-related distribution revenue, as approved in Order No. 17424, which is the decisional order in the Company's most recent base distribution rate case.<sup>322</sup> Pepco indicates this is intended to align the revenue derived from the UPC with the level of base distribution revenue derived from each rate class. Customer charge revenues were excluded from the allocation on the basis that the DC PLUG initiative does not include infrastructure such as meters and services that would normally be recovered through a customer charge. As required by the same section of the Act, no allocation of the revenue requirement is made to customers served under the Residential Aid Discount ("RAD") program. Therefore, a volumetric charge is then developed on a per kilowatt-hour ("kWh") basis by dividing the rate-class-specific revenue requirement allocation by the forecasted rate class specific level of sales for the upcoming twelve month period.

169. The Company proposes to make the initial UPC effective January 1, 2015. The charge will be based on forecasted project costs of \$220 million that are placed into service for calendar years 2015-2017. These costs are detailed in the Triennial Plan included as part of the Joint Application. Pepco states that Appendix J provides the development of the annual UPC revenue requirement. Appendix K to the Triennial Plan provides the allocation of the revenue requirement among the Company's rate schedules (excluding RAD) based on the revenue allocation authorized in *Formal Case No. 1103*. Appendix K also provides the final UPC rates, on a per kWh basis, for each rate class based on calendar years 2015-2017 forecasted sales.

170. The UPC includes recovery of the following O&M expenses: costs associated with the Company's portion of the Customer Education Plan; costs associated with leasing space for field offices in the vicinity of construction activities; costs associated with compliance contractor; Public Service Commission (PSC) costs in the first year associated with the Commission's evaluation of the Triennial Plan filing; and OPC costs associated with the retention of engineering and financial consultants to assist in their review of the Triennial Plan filing.<sup>323</sup>

171. Pursuant to Section 315 of the Act, the Company indicates that it will file an update to the UPC on or before April 1 of each year that the charge is in effect. The first update would be made on or before April 1, 2016. The update will include forecasted expenditures that are placed into service for the three calendar years for which the update is filed. In addition, Pepco's annual update will include a true up of the UPC for the prior calendar year.

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<sup>322</sup> Triennial Plan at 20.

<sup>323</sup> Triennial Plan at 21.

172. The true up will be calculated as the difference between the actual revenue requirement for the prior calendar year (based on actual capital expenditures, plant closings, depreciation expense and O&M expense) and actual booked UPC revenue. The true up will be added to the forecasted revenue requirement for the upcoming year.<sup>324</sup>

173. As part of any base distribution rate case filings made during the time frame in which Electric Company Infrastructure Improvement Activity is underway, Pepco proposes any Electric Company Infrastructure Improvement investment that has been closed to plant through the end of the test period will be reflected in the rate base included in the filing. The distribution rate case filing will include a proposed adjustment to the UPC to reflect the incorporation of the rate base into base distribution rates. As part of the distribution rate case filing following completion of all Electric Company Infrastructure Improvement Activity and closing of all Electric Company Infrastructure Improvement investment into electric plant, all investment will be incorporated into distribution rate base and the Company would propose the termination of the UPC coincident with the date that rates associated with the rate case become effective.<sup>325</sup>

174. In Appendix L Pepco submits a proposed tariff rider entitled the “Underground Project Charge Rider - Rider ‘UPC.’” This Rider is generally applicable to all rate schedules with the exception of customers served under the RAD Rider. The UPC will be shown on customer bills as “Underground Charge, Pepco.” Finally, Pepco states that Bill comparisons for the major rate classes are provided in Appendix M. For the typical residential customer using an average of 750 kWhs per month, the monthly bill impact in 2015 is estimated to be \$0.18<sup>326</sup> or 0.18%.<sup>327</sup> We find the estimated charge to be reasonable and consistent with the range of charges that were presented as part of the enactment of the ECIIFA.

b. The Appropriate Revenue Requirement Allocation Methodology

175. To determine whether the proposed UPC is just and reasonable, the Commission must first resolve the dispute between AOBA, GSA and the Joint Applicants regarding the proper methodology to use to determine those charges. The correct methodology has been the subject of numerous filings and a hearing that was held on September 16, 2014. As the matter currently stands, the threshold issue before the

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<sup>324</sup> Triennial Plan at 21.

<sup>325</sup> Triennial Plan at 21.

<sup>326</sup> The updated monthly rate impact for R class based on Table A is \$0.17 for 750 kWh a month.

<sup>327</sup> Triennial Plan at 22. In the Adjustment to Charge paragraph of this proposed tariff, it states: “In addition, it will include a true up of the GPC for the prior calendar year.” GPC appears to be a typo and should be changed to UPC. Pepco is to make a compliance tariff filing including the most recent revenue requirement (as stated in Pepco’s response to Staff Data Request No. 7-1 to calculate Year 2015(Year 1) UPC. The revised tariff to be consistent with Table A is due on December 1, 2014.

Commission is one of statutory construction concerning the proper interpretation and application of Section 1313.10(c)(1) of the ECIIFA which states:

- 1313.10(c) In addition to other terms and conditions considered necessary and appropriate by the Commission, the Commission's order shall include:
- (1) Authorization for the electric company to impose and collect the Underground Project Charges from its distribution service customers in the District **in accordance with the distribution service customer class cost allocations approved by the Commission for the electric company and in the electric company's most recent base rate case**; provided that no such charges shall be assessed against customers served under the electric company's residential aid discount or a succeeding discount program (Emphasis added);<sup>328</sup>

176. AOBA argues that the statute clearly requires Pepco to allocate the Undergrounding Project revenue requirements in a manner consistent with the Class Cost of Service Study ("CCOSS") accepted by the Commission in *Formal Case No. 1103*. AOBA argues further that "[n]owhere in Section 310(c)(1) of the Act is any reference made to the use of "non-customer-related distribution revenue" and that "the distortion of the provisions of Section 310(c)(1) of the Act has a significant impact on the allocation of Undergrounding Project revenue requirements among rate classes".<sup>329</sup> AOBA argues that the use of a revenue based allocation is inconsistent with the plain language of the statute and places a disproportionate amount of the costs on its members.<sup>330</sup> According to AOBA, Pepco's allocation does not adhere to the plain meaning of the statute and therefore should be rejected by the Commission.<sup>331</sup> GSA supports the AOBA position. Pepco, on the other hand, argues that the statute directs it to allocate costs in the same manner as approved by the Commission in its last base rate case. In order to adhere to the statute's "clear direction," Pepco maintains that it "first must determine the cost of the initiative and then allocate the cost in the same manner it allocates its current rates or costs," which is "based on the revenue required from each

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<sup>328</sup> This same statutory language applies to the allocation of the DDOT improvement charge under investigation in *Formal Case No. 1121* as is applicable to the determination of the Underground Project Charges. See ECIIFA § 301(a)(4).

<sup>329</sup> *Formal Case No. 1116*, Direct Testimony of AOBA Witness Bruce R. Oliver in Support of AOBA's Protest and Objection to the Application, Testimony and Triennial Plan of the Joint Applicants filed August 15, 2014, at 15 ("Oliver").

<sup>330</sup> Oliver at 9.

<sup>331</sup> AOBA Protest at 2.

rate class to recover the costs as approved by the Commission” in *Formal Case No. 1103*.<sup>332</sup> Pepco points out that its method results in an UPC that is consistent with the amount of the charge that was discussed during the enactment of the ECIIFA. By contrast, AOBA’s method would result in a charge to residential customers substantially higher than the costs that were discussed during the legislative process. OPC supports Pepco’s interpretation.<sup>333</sup>

177. AOBA relies on the principle that normally, where the plain meaning of the statutory language is unambiguous, no further inquiry is needed.<sup>334</sup> AOBA argues that the statutory language of Section 310(c)(1) that authorizes the electric company “to impose and collect the Underground Project Charges from its distribution service customers in the District in accordance with the distribution service customer class cost allocation approved by the Commission for the electric company and in the electric company’s most recent base rate case” is language that is so clear and unambiguous that there is no need to resort to legislative history or other extrinsic aids to assist in its interpretation. According to AOBA, the language of Section 310(c)(1) compels Pepco to file a charge that is based solely on the costs in the class cost of service study (“CCOSS”) that Pepco presented and the Commission accepted in *Formal Case No. 1103*. AOBA argues that any other interpretation of this language is in error.<sup>335</sup>

178. The Joint Applicants and OPC both argue that in *Formal Case No. 1103*, the Commission did not set rates based solely on the CCOSS, consequently, AOBA’s interpretation could not be correct. Moreover, they argue that if the UPC was set based solely on the CCOSS, the amount of the resulting charges for the residential class would be contrary to the clear legislative intent of the Act. It was these same arguments that caused the Commission, in Order No. 17627, to find that the statutory language was on its face ambiguous; therefore we granted the parties’ request to hold a hearing giving all parties an opportunity to provide the Commission with additional material and arguments to support their opposing positions.

179. As in all rate cases, our cost allocation decision is inseparably tied to our overall determination of the revenue increase awarded. That is, after the revenue requirement of the utility has been determined, the proper allocation of the increase among the customer classes and the appropriate rate design becomes the issue.<sup>336</sup> In

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<sup>332</sup> Pepco & DDOT Joint Response to Post-Discovery Pleadings at 25-26.

<sup>333</sup> OPC Post-Hearing Brief at 11, 13.

<sup>334</sup> See, e.g., *United States v. Young*, 376 A.2d 809, 813 (D.C. 1977) (“If the meaning of a statute is plain on its face, resort to legislative history or other extrinsic aids to assist in its interpretation is not necessary.”).

<sup>335</sup> AOBA Protest, Exhibit AOBA (A) at 8-9.

<sup>336</sup> See Order No. 17424, ¶ 385.

developing the rate structure, we examine the cost of service for each customer class which typically begins with an examination of the utility's class cost of service study, the CCOSS that AOBA argues that should be used exclusively to set the UPC. In *Formal Case No. 1103* while noting that Pepco's CCOSS could use some improvements, we accepted and used that CCOSS to assist us with the class revenue requirement allocations and rate design for the proceeding to set the appropriate distribution rates for Pepco customers.<sup>337</sup> We further indicated that we have wide discretion in setting class revenue requirements and that we not only consider the class cost of service for each class, but also a broad range of other cost and non-cost factors that are not based on allocations produced by the CCOSS. We concluded that Pepco's customer class rates of return need not be equal and should not consider only the results of the class cost of service study.<sup>338</sup> With this in mind we address the parties' contentions.

180. Initially, we do not agree with AOBA's argument that the language is clear on its face. AOBA's argument would have been persuasive if the language in question used the exact terms that are argued by AOBA, *i.e.*, if Section 1313.10(c)(1) actually read that the UPC is to be imposed and collected "as set out in the electric company's class cost of service study." That would have been unambiguous language. But that is not the language used in the statutory phrase at issue. The actual phrase makes no reference to the class cost of service study; instead it calls for a calculation "in accordance with the distribution customer class cost allocation approved by the Commission for the electric company and in the electric company's most recent base rate case." In our opinion, the reference to the "cost allocation approved by the Commission for the electric company and in the electric company's most recent base rate case" raises the question of whether this phrase was intended to refer to the Commission's overall determination of costs and rates in the most recent rate case. Having reviewed the evidence presented in the hearing and having considered the arguments made by the parties, we continue to believe that the language of Section 310(c)(1) on its face is ambiguous. Accordingly, we are called on to apply the governing principles of statutory construction.

181. The District of Columbia Court of Appeals has cautioned not to "make a fetish out of plain meaning" or a "fortress out of the dictionary." *District of Columbia v. Place*, 892 A.2d 1108, 111 (D.C. 2006), especially where understanding technical terms is at issue.<sup>339</sup> At the same time, the Court has recognized that "even where the words of a statute have a 'superficial clarity,' a review of the legislative history or an in-depth

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<sup>337</sup> See Order No. 17424, ¶ 406.

<sup>338</sup> See Order No. 17424, ¶ 434.

<sup>339</sup> See *Barber V. Gonzales*, 373 U.S. 637 (1954) (statutory language should be interpreted according to common usage but some acquire a special technical meaning by process of judicial construction); see also *Intex Recreation Corp. v. Metalast, S.A. Sociedad Unipersonal*, 245 F. Supp. 2d 65, 70 (2003) (testimony from experts in relevant field may be useful in assisting court to understand technical terms and even discerning the ordinary meaning of the claim term).

consideration of alternative constructions that could be ascribed to statutory language may reveal ambiguities that the court must resolve.”<sup>340</sup> Furthermore, under certain circumstances when interpreting a statute, “a court may refuse to adhere strictly to the plain wording of a statute in order ‘to effectuate the legislative purpose,’ as determined by reading the legislative history or by an examination of the statute as a whole.”<sup>341</sup>

182. Our initial task, then, is to determine the legislative intent underlying the phrase at issue to help resolve the ambiguity that we have noted. In that regard, we find it significant to note that, as argued in the post-hearing briefs of both the Joint Applicants and OPC, the legislative history as detailed in the Council’s Committee Report makes it clear that: (1) there was a concern about the financial impact of any UPC on residential consumers; (2) the bill impact in year one, based on the work of the Mayor’s Undergrounding Task Force Report, was expected to be approximately \$1.50 and in year seven was expected to be approximately \$3.25; and (3) the undergrounding project would place a heavier financial burden on the commercial class than on the residential customers.<sup>342</sup>

183. Our next task is to determine whether an alternative construction should be ascribed to the statutory language to help resolve the ambiguity of the phrase. To do that, we have analyzed the methodologies proffered by both parties, as well as the bill impact that would occur had Pepco allocated costs using total distribution revenue.<sup>343</sup> The Commission has determined that the only method that results in a bill impact functionally equivalent to the \$1.50 presented to the legislature based on the work of the Task Force is the Joint Applicants’ methodology. AOBA’s proposed cost allocation methodology results in a year one bill impact of \$0.89 for the UPC and \$2.90 for the DDOT Surcharge (for a combined impact of \$3.79) as compared to the Joint Applicants’ methodology that results in a charge of \$0.18 for the UPC and \$1.12 for the DDOT Surcharge (for a combined impact of \$1.30). AOBA’s year one impact of \$3.79 not only surpasses the contemplated year one impact of \$1.50 it even exceeds the year seven peak

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<sup>340</sup> *Peoples Drug Stores, Inc. v. District of Columbia*, 470 A.2d at 751, 754 (D.C. 1983); *citing Sanker v. United States*, 374 A.2d 304, 307 (D.C. 1977) (emphasis added).

<sup>341</sup> *Peoples*, 470 A.2d at 754; *citing Mulky v United States*, 451 A.2d 855, 857 (D.C. 1982).

<sup>342</sup> See Committee on Government Operations Report on Bill 20-387, the “Electric Company Infrastructure Improvement Financing Act of 2013,” (Dec. 16, 2013) at p.6. City Administrator “Lew testified that under this financing arrangement, the residential rate structure starts at \$1.50 (Year 1) and it is at the peak monthly rate of \$3.25 in Year 7, but by Year 15, after the \$375 million is repaid, the rate drops to \$1.41 and continues to decline throughout the remaining finance period.” See also, Attachment C to the Committee Report from the October 2013 Mayor’s Power Line Underground Task Force Final Report. The references in the Task Force Final Report are at pp. 12 and 86: “The impact on customer rates will on average be a 3.22% (\$3.25) increase for residential customers in year seven and between 1% and 9.22% for commercial customers. These increases reflect average usage and for commercial customers the financial impact will vary between customers.”

<sup>343</sup> As OPC correctly pointed out, using Pepco’s September 10 response to Order 17627, Pepco will increase the UPC rate impact from \$0.18 to \$0.33, an 80% increase (OPC Brief at 8).

impact of \$3.25 reflected in the Mayor's Task Force Report. Additionally, AOBA's proposed methodology allocates 47% of the Undergrounding project costs to residential customers and 53% to commercial class customers, as opposed to the Joint Applicants' methodology which allocates 11% of the Undergrounding Project costs to the residential class and 89% to commercial class customers. In the Council hearings that are part of the legislative history of the Act, there is testimony from the Mayor's Task Force as well as from AOBA that clearly contemplates that the bulk of the Undergrounding Project costs (i.e., about 82%) would be borne by the commercial classes and Master Metered Apartment buildings while the remaining 18% would be allocated to the residential classes.<sup>344</sup> Based on the legislative history of the Act, it appears that the Joint Applicants' methodology more reasonably reflects the expressed intentions of the legislature.

184. During the hearing, AOBA witness Oliver was asked whether there was any way to reconcile its interpretation of the statute with the level of anticipated charges that were considered during the legislative process. Oliver indicated that the monthly charge in the Task Force Report was an illustrative calculation.<sup>345</sup> He stated that under his interpretation, the costs to residential ratepayers for the UPC would be in the range of \$8.00.<sup>346</sup> This testimony further persuades us that AOBA's interpretation of the Section 310(c)(1) is incorrect.

185. We are still required to examine to what extent the methodology that the Joint Applicants use aligns with the language of the Act. In particular, AOBA questions the Joint Applicants' decision to exclude customer charges and to use only the non-customer charge revenue allocations. AOBA believes that the customer charge should have been included because Pepco's exclusion of customer charge revenue is a substantial departure from the "distribution service customer class cost allocations" that the Commission approved in *Formal Case No. 1103*.<sup>347</sup>

186. Pepco confirms that customer-related distribution revenue was omitted in this instance but still contends that the total revenue requirement for the underground surcharge was allocated to customer classes on the basis of the rate class specific levels

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<sup>344</sup> See AOBA's Testimony before the Committee on Government Operations under the Committee on Finance and Revenue on Bill 20-387, the "Electric Company Infrastructure Improvement Financing Act of 2013" Presented by W. Shaun Pharr, Frann G. Francis, and Nicola Y. Whiteman, October 21, 2013; see also, PEPCO Exhibit 5.

<sup>345</sup> Evidentiary Hearing Transcript (Tr.) at 184.

<sup>346</sup> See Tr. at 186. We believe the witness made a mathematical error when making his calculation. When asked about the proposed UPC surcharge, Oliver stated it would be \$0.00119 and 750 times that would be over \$8.00. However, based on the Witness' written testimony, the correct calculation would result in a cost of \$.89, not \$8.00; see also, AOBA (A)-2 for the \$0.00119 impact per kWh.

<sup>347</sup> AOBA Protest, Witness Oliver's Testimony at 14-16.



of non-customer-related distribution revenue, as approved in *Formal Case No. 1103*.<sup>348</sup> Pepco explains that removing customer charge revenue is appropriate because costs that are typically recovered through the customer charge, such as billing and metering costs, will not be incurred in connection with the undergrounding costs associated with the Triennial Undergrounding Plan. Additionally, Pepco witness Janocha testified during the evidentiary hearing that Pepco intends to recover costs associated with the undergrounding projects in a manner that will be as close as possible to the way comparable assets are recovered in base distribution rates.<sup>349</sup> Janocha reiterated that customer charges recover costs associated with customer-related assets (*i.e.*, customer meters and service lines) and services, such as billing that the Company characterizes as recurring or ongoing, downstream and associated primarily with the delivery and servicing of the delivery of power at the customer interconnection point.<sup>350</sup> Therefore, Pepco asserts, in *Formal Case No. 1103*, as in any typical rate case proceeding, the Company would not include in rates unrelated charges and, therefore, it was appropriate to remove the customer charges unrelated to the undergrounding project from the cost allocation.

187. The Commission approves Pepco's decision to remove the customer charge from the cost allocation. The language of the statute indicates that the costs should be allocated "in accordance with" the most recent rate base case; synonyms for "in accordance with" include "similarly," "the same way" and "analogously."<sup>351</sup> Moreover, as Pepco correctly notes the final allocation in *Formal Case No. 1103* was based on factors other than just costs. Therefore, in our opinion the customer class cost allocation must be similar enough, but not necessarily identical to, the customer class cost allocation used in the design of Pepco's most recently approved base rates. While the Joint Applicants did not include all revenue in its cost allocation in the same manner as *Formal Case No. 1103*, the Commission does not interpret the language of the statute to be so restrictive that it would necessitate the inclusion of customer charge revenues in the UPC that are wholly unrelated to the undergrounding effort. Pepco's explanation of its decision to remove the customer charge from the cost allocation is a credible one given that the UPC-related costs do not involve what is customarily considered customer charge

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<sup>348</sup> Joint Response to AOBA and OPC Protest at 25.

<sup>349</sup> Joint Application, Pepco (C), Prepared Direct Testimony of Joseph F. Janocha at 5; Tr. at 69:5 – 70:7.

<sup>350</sup> Joint Application, Pepco (C), Prepared Direct Testimony of Joseph F. Janocha at 5; Tr. at 69:5 – 70:7.

<sup>351</sup> "In accordance with" Roget's 21<sup>st</sup> Century Thesaurus, Third Edition, Philip Lief Group (2009). Dictionary definitions are valuable resources to be used in determining ordinary meaning of claim language. See *Texas Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202 (Fed. Cir. 2002).

related costs. Moreover, the Commission can certainly consider and adopt a rate design consistent with setting just and reasonable rates for various customer classes.<sup>352</sup>

188. Even if the language of the statute allows us some flexibility to decide this issue, we are still obligated to determine whether this outcome is consistent with the legislative intent of the statute. In that regard, the legislative history bolstered by the hearing record confirmed that the same costs methodology that formed the basis of the Mayor's Task Force Report recommendations was considered in the Council mark-up of the ECIIFA legislation. As noted earlier, this methodology produces a UPC that is within the range that were considered when the ECIIFA was enacted. Accordingly, the Commission finds that Pepco's allocation methodology based on non-customer charge revenue allocates cost in a manner that is similar to the allocation used in *Formal Case No. 1103* and is consistent with the legislative intent discussed in the Committee Report.<sup>353</sup> A customer cost allocation based solely on the allocations in the CCSS, as AOBA argues, would be, in our opinion, inconsistent with the customer class allocations approved in the last rate case and, would produce a result that is inconsistent with the legislative intent of the ECIIFA as expressed in the legislative history.

189. We recognize AOBA's contention that the adoption of the cost allocation methodology proposed by the Joint Applicants may have a result that is inconsistent with the Commission's expressed policy of addressing the negative rate of return being recovered from the residential class. AOBA is correct that this Commission has in recent base rate cases taken steps to reduce the negative rate of return recovered through base rates from residential customers. However, this is not a base rate proceeding where the Commission has the discretion to modify a proposed rate design to achieve various regulatory goals and objectives. In this instance the Commission is interpreting a statutory provision and the applicability of that provision to the proposed UPC charges that have been presented.<sup>354</sup>

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<sup>352</sup> The Act also discussed the Commission's authority to set just and reasonable rates. See Sections 308(e), 310 (b)(6) and 303(c).

<sup>353</sup> AOBA contends that communication costs are customer charge related costs. However, such costs are recurring on an annual basis and are more appropriately classified as O&M costs by Pepco. See generally, AOBA's Protest and Objection.

<sup>354</sup> At the hearing, AOBA witness Oliver indicated that streetlight service revenue is not accounted for by Pepco and is, thus, inconsistent with *Formal Case No. 1103*. Oliver states that this is not an issue of double-counting customers, as mentioned by Pepco witness Janocha, but is a question of the full recognition of the distribution revenue that the Commission authorized for all classes, excluding RAD customers. Tr. at 144:19-145:7. Witness Oliver explains that "[t]here is approximately \$660,000 of streetlight service revenue that is part of the Company's overall distribution revenue requirement that was not included in those calculations." Tr. at 148. The Commission finds that, although Pepco's rates recover revenue for the servicing of streetlights from overhead ("SSL-OH") or underground ("SSL-UG") lines, for purposes of assessing the surcharge, Pepco's allocation can be based solely on the revenue for streetlighting service ("SL Energy") and Traffic Signals ("TS"), which provides for the delivery of energy. This would be consistent with Pepco's current tariff, as SSL-OH and SSL-UG are not subject to any surcharges or taxes.

- c. Using the appropriate cost allocation methodology, is the proposed charge reasonable (§34-1313.10(b)(6))?

190. AOBA has questioned the reasonableness of the proposed UPC as it applies to MMA customers and has asked that separate UPC charges be applied to those customers. Although the Commission has recognized that there is merit in the argument for a separate MMA class, and, in fact looked at that issue in the most recent Pepco base rate case, it did not approve the separate MMA rate design proposal that was submitted in that case. Instead, it directed the Company to submit an improved MMA rate design in its next rate case.<sup>355</sup> Consequently, in this proceeding, where the Commission is required to use the most recent base rate case findings as a touchstone, there is no basis for the Commission to approve a separate UPC for MMA customers. Therefore, we approve Pepco's inclusion of MMA customers in the residential rate class for purposes of computing the proposed UPC. AOBA has also questioned whether it is reasonable to set the UPC charge based on forecasted sales data that is subject to a true up procedure rather than on the 2012 test year data that was used in *Formal Case No. 1103*. The use of forecasted kWh for surcharge riders is not unprecedented as the Commission has allowed forecasted kWh data in the Bill Stabilization Adjustment ("BSA") and RAD surcharge calculations.<sup>356</sup> Moreover since the UPC is subject to a true up for actual costs, the level of sales used in the development of the rates has no impact on the final amount of revenue recovered in the revenue requirement. Given our prior use of forecasted sales data for other riders, AOBA has not provided any persuasive arguments why the use of forecasted sales data in this instance is unreasonable. Therefore, the Commission approves Pepco's use of forecasted sales rather than the 2012 test year stale data in calculating the UPC. .

191. Accordingly, we conclude that the proposed UPC is just and reasonable, and we authorize Pepco to impose and collect the UPC on all non-RAD customers as a volumetric surcharge. We have attached a table of our decision that sets out the UPC surcharge revenue requirements (Table A). Table A is constructed based on Pepco's updated revenue requirement and surcharge filing made on September 18, 2014, in Pepco's response to Staff Data Request No. 7-1. Pepco is directed to revise its tariff based on Table A and Pepco's compliance tariff<sup>357</sup> filing is due on December 1, 2014.

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<sup>355</sup> Order No. 17424, ¶ 484.

<sup>356</sup> See, e.g., *Formal Case No 1053, 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, Phase II*, Order No. 15556, rel. September 28, 2009.

<sup>357</sup> The Commission notes that the "GPC" referenced in Pepco's tariff filing should be "UPC."

2. Whether the Underground Infrastructure Improvements are Appropriately Designed and Located (Section 34-1313.10(b)(2)).
  - a. Design

192. DCCA raises concerns regarding the appropriateness of the Underground Infrastructure Improvement design. Specifically, DCCA argues that Section 34-1313.08(a)(3)(F) of the Act requires Pepco to include additional content in the Triennial Plan related to “[n]ew distribution automation devices and segmentation capability to be obtained.” In its Comments, DCCA points out that most of the feeders slated for undergrounding will not have distribution automation technology. In fact, the Joint Applicants are not proposing any distribution automation in this Triennial Plan, with the exception of Feeder 15707 sourced from Benning Station in Ward 7. The Joint Applicants further indicated that they do not plan to lay communications fiber optic cable during the undergrounding effort that could facilitate DA functions in the future. In response to DCCA’s comments, as well as an OPC Data Request asking the Joint Applicants to list the Distribution Automation for the underground systems, the Joint Applicants indicated that Pepco currently has no Distribution Automation devices on the underground radial system and that an RFP was to be issued by the end of July to procure such equipment. Pepco issued an Undergrounding Technology Enhancement Project Request for Proposals (RFP #2014-PS-Pepco-18) on September 10, 2014. This project was slated for award by approximately October 17, 2014.

193. The purpose of the undergrounding effort is to increase the reliability of the electric distribution system in the District of Columbia. Therefore, the deployment of equipment to automatically monitor the health of this distribution system and automatically transfer load to a healthy section of a feeder during a sustained outage should take place during the approved construction phase of the project. The Commission is also aware that communicating DA functions over fiber optic cable instead of wirelessly adds a layer of security against an attack and would also help address the issue of limited wireless bandwidth. Furthermore, it is important that as the Triennial Plan is implemented, Pepco and DDOT are considering and where feasible, given cost and product/system reliability, implementing advanced technologies as the Act requires. Therefore, the Commission directs the Joint Applicants to provide information on the inclusion of distribution automation included in the detail design drawing submission required by this Order.<sup>358</sup> The proposed submission timeline described in Attachment A of this Order specifies that distribution automation designs are to be reviewed separately for each of the feeders approved for undergrounding after a specific amount of time after Plan approval to ensure that during the construction phase facilities are to be designed to accommodate this DA equipment that otherwise would require major work to deploy. We assume that the offerors have provided sufficient information to Pepco in response to the RFP to accommodate our directive.

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*See* Paragraph 226, *infra*.

194. With respect to the design of the Underground Infrastructure Improvements, all of the parties acknowledged that the initial Triennial Plan contains only a conceptual presentation of design work that includes one-line construction diagrams with no-detail design work. In recognition of this fact, several of the recommendations of OPC that have been incorporated into the Joint Stipulation address the procedures for reviewing and commenting on the designs and construction plans as they are finalized during the first Triennial period. The Joint Applicants' acquiescence to these procedures has given us the needed assurances that there is an ongoing process by which the final designs for the 21 feeder projects will be reviewed before work is begun.

195. In addition, in the Stipulation Agreement discussed at Part VI, *supra* the Stipulating Parties have agreed to hold semi-annual meetings to review Pepco and DDOT progress in considering alternatives, to present design work for upcoming feeders, and to discuss the bases for including or excluding various alternatives in the design and construction plans. Pepco and DDOT have also stipulated that they will "file with the Commission a report summarizing each semi-annual meeting within thirty (30) days after the meeting is held, and parties would be free to comment on those reports," with the first meeting to be held "six months after the Commission's approval of the initial Triennial Plan."<sup>359</sup> Further, the Joint Applicants have agreed that "in each annual status report to be filed pursuant to Section 307(b) of the Act" they will "provide specific information regarding the actual inclusion of design and construction alternatives identified by OPC and other parties, such as the number of miles and location of single phase cable . . ."<sup>360</sup> The Joint Applicants will also "include in this report an explanation of the bases for including or excluding various alternatives in the feeders for which final design has been completed to facilitate parties comments on the final design for the feeders in question."<sup>361</sup> The Commission will look forward to receiving the various designated reports set out in the Joint Stipulations. This information will allow the Commission to monitor the range of alternatives that have been considered during the planning phase of the project. This process will also allow the Commission and all parties to better carry out the suggestion of DCCA that there be a process by which lessons are learned that will facilitate the planning in the future triennial plans.

196. As a part of the Commission's oversight responsibility, we have decided to participate in the examination and evaluation of final construction drawings in order to ensure the appropriateness of the design of the 21 proposed projects that we are approving by this Order. Therefore, we have set out a preliminary timeline described in Attachment A for the submission and review of the final construction drawings of the 21 undergrounding projects. The Commission finds, despite our concerns regarding the DA for underground systems and our directive, that the Joint Applicants update the

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<sup>359</sup> Joint Stipulation at 3.

<sup>360</sup> Joint Stipulation at 3.

<sup>361</sup> Joint Stipulation at 3.

preliminary drawings with final drawings for our review, the overall design of the Underground Infrastructure Improvement Projects are appropriate.

b. Location

197. With limited exceptions, the parties are in agreement on the appropriate locations of the Underground Infrastructure Improvements. OPC questioned two of the locations for which improvements had been initially designated in the recommendations that have now been addressed in the Joint Stipulation (*i.e.*, certain designated portions of New York Avenue NE and of Martin Luther King, Jr. Ave SE). The Joint Applicants agreed to remove these two locations from the list of improvement in the Joint Stipulation that we have accepted. Therefore, the Commission finds that the Underground Infrastructure Improvement Projects are appropriately located.

3. Whether the Intended Reliability Improvements for Pepco's Customers will Accrue to the Benefit of Pepco's Customers (§ 34-1313.10(b)(3))

198. The Joint Applicants assert that District customers will realize reliability improvements as a result of placing the feeders underground. Based on three years of historical data included in Pepco's feeder model, Pepco asserts that customer interruptions that occurred on the overhead primary mainline and overhead lateral portions of the feeders scheduled to be placed underground in this Triennial Plan will be significantly reduced and the total system SAIFI and SAIDI will be improved. Pepco further contends that once these lines are placed underground 100% of the outages on the overhead primary lines will be eliminated. These outages on average account for over 95% of the interruptions that occur on the overhead system.<sup>362</sup> Although the selected feeders represent only 6% of the total overhead feeders, they account for 31.6% of the customer interruptions and 35.9% of the customer minutes of interruptions associated with the overhead electric system within the District of Columbia.<sup>363</sup> Pepco contends that the Value of Service (VOS) related to this work is over \$42 million per year. This value represents potential reduction in economic impact to the customers on these feeders once they experience fewer incidents of loss of electric power. In addition, the model estimates a 72.7% improvement in SAIFI for this group of feeders once the feeders are placed underground.<sup>364</sup>

199. The model shows that customer minutes of interruption that occurred on the overhead primary mainline and overhead lateral portions of the feeders schedule to be placed underground in this Triennial Plan accounted for 24.5% of the total customer

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<sup>362</sup> Testimony of Pepco Witness Gausman at 9.

<sup>363</sup> These feeders accounted for 18.6% of the total customer interruptions on Pepco's District of Columbia system, on average. Testimony of Pepco Witness Gausman at 9.

<sup>364</sup> Testimony of Pepco Witness Gausman at 9.

minutes of interruption on Pepco's District of Columbia system, on average. Therefore, the model estimates a 24.5% improvement in customer minutes of the interruption for the Pepco D.C. system once the feeders in this Triennial Plan are placed underground. Accordingly, Pepco states that the model suggests an 83% improvement in SAIDI for this group of feeders once the feeders are placed underground.<sup>365</sup>

200. Pepco concludes that the reliability improvements associated with the DC PLUG initiative will accrue to the benefits of Pepco's District customers as required by Section 310(b)(3). Pepco asserts that these benefits will be realized by D.C. citizens since fewer overhead lines will result in less storm damages and associated restoration costs, faster restoration when outages do occur, and lower economic impact to customers from loss of electric power during major storms.<sup>366</sup>

201. AOBA asks the Commission to "reject as meaningless Pepco's attempt to estimate the value of service reliability for the District of Columbia customers based on a DOE study that did not include data for any Mid-Atlantic or Northeastern utilities and is, at best, of questionable relevance to the types of customers and customer characteristics typically found in the District."<sup>367</sup> AOBA witness Oliver testifies that Pepco inappropriately estimated the value of service related to the Underground Projects at \$42 million per year, based on "the methodology for estimating value of service reliability presented by the U.S. Department of Energy in its 2009 publication 'Estimated Value of Service Reliability for Electric Utility Customers in the United States.'"<sup>368</sup> AOBA witness Oliver testified that, according to Pepco, "the value-of-service interruptions are considered in [Pepco's] determination of feeder rankings, and that in fact the Company's estimates of the value of service interruptions are included in the detail of its feeder ranking model."<sup>369</sup> Witness Oliver asserts that the data underlying the U.S. Department of Energy study estimates were provided from utilities in Western, Midwestern and Southern regions of the U.S., but that "[n]one of the data on which the study was performed provide service in Northeast, Mid-Atlantic, or Great Lakes regions."<sup>370</sup> AOBA asserts that this is significant because value of service reliability is not uniform across the United States for customers within each customer classification. AOBA argues that "Pepco's use of data from [the DOE] study applies average data from other regions to the District of Columbia without consideration of factors that may dictate greater sensitivity to region differences in service reliability valuations, such as

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<sup>365</sup> Testimony of Pepco Witness Gausman at 9.

<sup>366</sup> Testimony of Pepco Witness Gausman at 10.

<sup>367</sup> AOBA Protest, AOBA Witness Oliver Testimony at 10.

<sup>368</sup> AOBA Protest, AOBA Witness Oliver Testimony at 50-51.

<sup>369</sup> AOBA Protest, AOBA Witness Oliver Testimony at 50.

<sup>370</sup> AOBA Protest, AOBA Witness Oliver Testimony at 53-54.

differences in economic conditions, weather, the mix of customers by class, and/or differences in customer usage characteristics.”<sup>371</sup>

202. The Joint Applicants argue that AOBA’s assertion that Joint Applicants inappropriately used the DOE sponsored estimates of the value-of-service interruptions by customer class without the reasonable and necessary assessment of the applicability of such data to Pepco’s customers in the District of Columbia is misguided because “the value-of-service metric in the Feeder Ranking model is solely illustrative.”<sup>372</sup> The Joint Applicants assert that “Pepco included the value-of-service metric in the Feeder Ranking Model to show the gross estimated benefit to customers of placing certain feeders underground,” but the “Feeder Ranking Model does not rely on the value-of-service calculation as a primary selection criteria under Section 308(a)” of the Act.<sup>373</sup> The Joint Applicants assert that the value-of-service is only an element “to be considered in determining the construction start date and projected end date” and that the DOE study employed by Pepco for a limited purpose “represents the best available data.”<sup>374</sup> While the Joint Applicants recognize that regionally specific data “may be desirable,” they argue that the “additional data reflecting ‘the unique population density and economic intensity’ of the northeast/mid-Atlantic region, would, if anything, further bolster the conclusions of Pepco’s value-of-service calculation by producing higher benefits of placing power lines underground.”<sup>375</sup>

203. After considering the full record before us, the Commission credits witness Gausman’s testimony regarding the accruing of the intended reliability improvements that will benefit Pepco customers and finds that Pepco’s customers will benefit from the intended reliability improvements. As Joint Applicants witness Gausman states, once these lines are placed underground, 100% of the outages associated with the overhead primary lines will be eliminated. That is a significant system reliability improvement. While it would be preferable to have more precise estimates of the value-of-service interruptions that apply to the District, there is no dispute that there will be reliability improvements associated with the DC PLUG initiative which will accrue to the benefit of Pepco’s District of Columbia customers. That the Joint Applicants provided the DOE sponsored estimates of the value-of-service interruptions by customer class as an illustration and assert that their illustrative nature does not otherwise undermine the significance of these estimates as it relates to the ultimate goal to be achieved by the proposed reliability improvements. The Commission believes that this information is noteworthy and finds that, as Joint Applicants witness Gausman states,

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<sup>371</sup> AOBA Protest, AOBA Witness Oliver Testimony at 54.

<sup>372</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>373</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>374</sup> Joint Response to AOBA and OPC Protest at 36.

<sup>375</sup> Joint Response to AOBA and OPC Protest at 36.



once the feeders are placed underground, Pepco customers and the residents of the District should experience less storm damage and associated restoration costs, faster electric service restoration when outages do occur since fewer lines will be overhead, and lower economic impact to customers from loss of electric power during major storms. Pepco's representation is consistent with the overarching premise accepted by the Mayor's Task Force as well as the Council of the District of Columbia that undergrounding power lines would improve electric system reliability during a wide variety of weather conditions.<sup>376</sup> It is clear to us that this initial Triennial Plan is a comprehensive initiative enhancing reliability improvement that will inure to the benefit of Pepco's customers resulting in a substantial reduction of interruptions to D.C. customers. Accordingly, we find that the Application meets Section 310(b)(3) of the Act.

**B. Whether the Projected Costs of Pepco's Underground Infrastructure Improvements are Prudent (§ 34-1313.10(b)(4))**

204. Pepco's Triennial Plan describes how the Electric Company Underground Infrastructure Improvement costs were calculated.<sup>377</sup> Pepco states that its cost estimates were calculated using the Company's Work Management Information System which, it claims, is consistent with Pepco's standard method for estimating its costs for constructing new distribution facilities.<sup>378</sup> For example, labor cost estimates reflect actual labor costs, as well as corporate overheads, and vehicle and facility costs for each classification of employee that is assigned to the project.<sup>379</sup> Materials costs are based on a moving average price of the material, tracking monthly increases and/or decreases in the commodities market price. The purchase price includes the manufacturer's average base cost, inventory services, warehousing (if needed) and inbound freight costs.<sup>380</sup>

205. Pepco's witness Bacon concludes that the estimated costs to be incurred will be prudent "because they include all costs necessary to perform the projects and work that are included in the Electric Company Infrastructure Improvement Activity, and these costs will be incurred by . . . Pepco in a cost-effective manner to promote an efficient use of customer funds."<sup>381</sup>

206. In its Protest, OPC raised concerns as to whether the Integrated Communications Strategy is just, reasonable and a prudent expenditure of funds because Pepco and DDOT failed to demonstrate that it is properly designed to effectively

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<sup>376</sup> Triennial Plan at 3.

<sup>377</sup> Triennial Plan at 15-17.

<sup>378</sup> Triennial Plan at 15.

<sup>379</sup> Triennial Plan at 15.

<sup>380</sup> Triennial Plan at 16.

<sup>381</sup> Joint Application, Exhibit Pepco (B), Testimony of Caryn L. Bacon, at 3-4, 13-14, 18.

disseminate pertinent, timely and accurate information to those District residents and businesses directly affected by the undergrounding infrastructure improvement projects in the Triennial Plan.<sup>382</sup> Given that the Joint Applicants and OPC have entered into the Joint Stipulation, that has been accepted by the Commission and that there have been no further concerns raised regarding the prudence of these expenditures, the Commission finds the proposed DC PLUG Education Plan Budget set forth in Attachment N of the Triennial Plan to be prudent.

207. “A prudence review must determine whether the utility’s actions, based upon what it knew at the time . . . were reasonable and prudent in light of the circumstances that then existed.”<sup>383</sup> The Commission has examined the line-item descriptions and cost breakdowns for each of the proposed construction projects<sup>384</sup> and the description in the Joint Application of Pepco’s and DDOT’s cost sharing arrangement. The Commission concludes that the various attributions of infrastructure additions to either Pepco or DDOT are consistent with the Company Infrastructure Improvement definitions referenced above and that the cost sharing arrangement between Pepco and DDOT described in the Joint Application is consistent with the funding provisions of the ECIIFA. Accordingly, the Commission finds that Pepco and DDOT have reasonably allocated the estimated overall project costs among the two companies.

208. The Commission concludes that Pepco has provided a prima facie showing that the Electric Company Infrastructure Improvement costs it will incur will be prudent. To the extent that actually incurred costs will deviate from these estimates due to market fluctuations in materials costs, design alterations that result in the installation of less costly equipment, or use of different construction techniques, such as horizontal drilling in place of open trench construction, those cost differentials will be captured at the time the Company makes its annual filings to adjust its UPC surcharge levels so as to avoid any over- or under-recovery of actual costs incurred. Accordingly, the Commission finds that the projected Electric Company Infrastructure Improvement costs are prudent.

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<sup>382</sup> OPC Protest at 5-6.

<sup>383</sup> See *Formal Case No. 920, Re Chesapeake and Potomac Telephone Co.*, Order No. 10276, ¶ 24, issued August 23, 1993. (“However, a prudence review must determine whether the utility’s actions, based on what it knew at the time of construction of plant, were reasonable and prudent in light of the circumstances that existed. Therefore, a determination of prudence based on the facts known at the time of the prudence review are likely to be a better indication of prudence than a hindsight evaluation at the time of a rate case. Consequently, any showing that the prior prudence determination is incorrect would have to be supported by strong evidence.”)

<sup>384</sup> These are found in the confidential workpapers filed with the Joint Application.

**C. Whether the Projected Costs of DDOT's Infrastructure Improvements are Prudent (§ 34-1313.10(b)(5))**

209. Pepco represents that DDOT's Infrastructure Improvements costs include, but are not limited to, such things as civil construction materials, program management, professional engineering and design services, and construction management services.<sup>385</sup> The estimated costs of the DDOT's Underground Infrastructure Improvements are contained in Appendix I. DDOT states that it developed the civil cost estimates in a manner consistent with standard DDOT practices for estimating the civil cost of a DDOT project in the development phase. Accordingly, DDOT used historical bid-based and cost-based methodologies as well as its engineering judgment and experience to develop the cost estimates. DDOT's cost estimates assume that the stage of design is approximately at 10-25%.<sup>386</sup>

210. DDOT states that it employed the historical bid-based methodology because it allowed DDOT to leverage its experience bidding the types of pay items and quantities that will be included in the DC PLUG-related initiative to calculate an accurate estimated cost. DDOT maintains a database of contractor's bid prices in an AASHTOWare software application. DDOT analyzed historical bid prices from the previous 3 years to calculate its cost estimates.

211. DDOT further states that it used the cost-based estimating methodology for specific items that can be calculated using RSMeans Heavy Construction Cost Data (RSMeans), which is also used by DDOT contractors. RSMeans also calculates how many crews will be required to perform the work, based on their estimated daily output. DDOT also used the cost-based estimating methodology to verify the accuracy of the civil cost estimates calculated using historical bid-based cost estimating.<sup>387</sup>

212. Finally, DDOT states it employed its engineering judgment and experience in conjunction with the methods described above. This includes using sound judgment as well as guidelines such as DDOT's Standards and Specifications for Highways and Structures.<sup>388</sup>

213. We have reviewed the itemized Feeder Cost estimate for the 21 feeder projects contained in Appendix I of the Triennial Plan. No party has challenged or otherwise opposed the estimates as inaccurate, unreasonable or imprudent. We find that the cost estimates on their face seem reasonable and prudent, recognizing however, that

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<sup>385</sup> Joint Application, DDOT Witness Foxx Testimony ("Testimony of DDOT Witness Foxx"), at 4.

<sup>386</sup> Testimony of DDOT Witness Foxx at 4.

<sup>387</sup> Testimony of DDOT Witness Foxx at 5.

<sup>388</sup> Testimony of DDOT Witness Foxx at 6.

the estimates are preliminary and are based on the development phase of the undergrounding projects.

214. Verizon has argued that DDOT should pay for any relocation costs Verizon might incur if it has to relocate its infrastructure in order to make room for the DC PLUG infrastructure and that any of “those costs should be the responsibility of DDOT, not Verizon, and charged to the ratepayers through the DDOT surcharge.”<sup>389</sup> The Joint Applicants have responded that Verizon’s position is contrary to the Act and should be rejected because “costs resulting from Verizon’s relocation of its [ ] equipment and facilities, if necessary, cannot qualify as DDOT Underground Electric Company Infrastructure Improvement Activity” under the Act.<sup>390</sup> The Joint Applicants also note that “it is not uncommon for utilities such as Verizon to be required to relocate their facilities at the direction of DDOT.” We agree with the position expressed by the Joint Applicants. The Act speaks to costs “incurred by DDOT,”<sup>391</sup> and it defines “DDOT Underground Electric Company Infrastructure Improvements” as facilities “designed by the electric company, constructed or to be constructed by DDOT, and transferred to, owned, and maintained by the electric company after certain inspections and approvals . . . for exclusive use of the electric company in the distribution of electricity within the District.”<sup>392</sup> Given the language of the Act and the general practice used in the District for the relocation of infrastructure by a utility when DDOT is performing work, we think DDOT was correct not to include relocation costs for Verizon in its cost estimates. Furthermore, the Commission will expect Verizon and other utilities to cooperate with DDOT and expeditiously comply with their obligation to relocate facilities so that the work required to implement the Act will not be delayed.

#### **D. ADDITIONAL MATTERS**

##### *i. Section 34.1313.10(c) Requirements*

215. Section 34.1313.10(c) of the Act requires that the Commission include four (4) additional pieces of information in its order on the Triennial Plan: (1) the authorization for the electric company to impose and collect the UPC; (2) the authorization for the electric company to bill the UPCs to customers as a volumetric surcharge; (3) the approval of the annual revenue requirement which includes the applicable rate of return on equity; and (4) a description of the required project construction reporting. The Commission has addressed the first two issues in its discussion of the UPC at ¶ 191, *supra*. We address the remaining two issues below

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<sup>389</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 3-4.

<sup>390</sup> Joint Applicants’ Response to Verizon and DCCA Comments at 3-4, filed September 29, 2014.

<sup>391</sup> Joint Applicants’ Response to Verizon and DCCA Comments 5 (citing Act, Section 101(14)).

<sup>392</sup> Joint Applicants’ Response to Verizon and DCCA Comments 4 (citing definitions found at Section 101(11) and 101(14) of the Act).

ii. *Approval of Annual Revenue Requirement (§ 34-1313.10(c)(4))*

216. Section 1313.10(c)(4) of the Act requires the Commission to approve the annual revenue requirement, which is to include the rate of return on equity as set by the Commission in the most recently decided base rate case to be used in calculating the UPC.<sup>393</sup> The Joint Applicants proposed the following revenue requirement for three years:

<b>Joint Applicants' Triennial Plan's Revenue Requirement – Filed June 17, 2014</b>			
	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Revenue Requirement</b>	\$4,775,746	\$14,232,773	\$24,531,178

217. The proposed revenue requirement consists of gross plant additions, a return on the plant (using the 7.65% Rate of Return (“ROR”) approved in *Formal Case No. 1103* – the last Pepco rate case), and a depreciation expense (using the depreciation rates approved in *Formal Case No. 1103*). AOBA challenged two elements of the Joint Applicants' Revenues Requirement: (1) the level of removal costs and (2) the level of O&M. We address each of those challenges below

iii. *Duplicative Recovery of Costs of Removal*

218. AOBA argues that Pepco's inclusion of removal cost in the revenue requirement of this project results in a double recovery of removal costs, given that the depreciation rates that the Commission approved in *Formal Case No. 1103* already contains removal costs – a highly contested issue in that proceeding. In response to AOBA's criticism, Pepco submitted a revised proposal under which the removal costs for existing overhead distribution cable and equipment will no longer be recovered through the UPC, and instead would be recovered through the traditional base rate case process.<sup>394</sup> We share AOBA's concern about the potential double recovery of removal costs under the Joint Applicants' initial revenue requirement proposal. Our review of Pepco's revised proposal shows that it has recognized this concern and offered an alternative method of handling removal costs that should significantly reduce any possibility for double recovery of removal costs by suggesting that all removal cost be reviewed in the context of a full rate case. Therefore, we direct Pepco to address any adjustments to undergrounding-related removal costs through a ratemaking adjustment in future rate cases.

219. Upon receiving Pepco's revised proposal, the Commission issued a data request (DR No. 7) requesting that Pepco remove the questioned removal costs and

<sup>393</sup> D.C. Code Section 1313.10(c)(4).

<sup>394</sup> Joint Applicants' Response to AOBA and OPC Protest at 32, filed on August 25, 2014.

provide a revised revenue requirement for its three-year plan. Pepco filed its revised revenue requirement on September 18, 2014,<sup>395</sup> which shows that the three-year plan's revenue requirement has been revised as follows:

<b>Pepco's Revenue Requirement for the Distribution System Undergrounding Project (FC 1116)</b>				
	Year 1 (2015)	Year 2 (2016)	Year 3 (2017)	Total for Three Years
Original Filing (June 17, 2014)	\$4,775,746	\$14,232,773	\$24,531,178	\$43,539,697
Revised Filing (September 18, 2014)	\$4,696,188	\$13,886,919	\$23,889,103	\$42,472,210
Difference	\$79,558	\$345,854	\$642,075	<b>\$1,067,487</b>

220. The Commission finds that Pepco/DDOT's revised revenue requirement for the Triennial Plan is accurate and properly reflects the proposed undergrounding investment costs and return of those investments as provided for in the Act. Furthermore, we find that the revised UPC calculation filing included in Pepco's September 18, 2014, data response to Staff DR No. 7-1, is reasonable.

*iv. Incremental O&M Costs Associated with Placing Lines Underground*

221. AOBA questioned the higher level of O&M expenses in the proposed revenue requirement. According to AOBA, the removal of problematic overhead feeders should result in a reduction of the O&M expenses that are currently included in base rates for the current system and, therefore, the amount of O&M expenses under the Triennial Plan should be reduced.

222. Pepco disagrees with AOBA's assertion that it is attempting to recover O&M expenses that are already being recovered in base rate. Pepco argues that the Application and Triennial Plan do not request recovery of any incremental O&M costs associated with the new underground lines or overhead lines; rather it only includes five categories of incremental O&M costs that would not be incurred but for the D.C. PLUG initiative.<sup>396</sup> These categories are: (1) Customer Communication Education Plan; (2) O&M Office Lease Estimate-Northwest D.C.; (3) Compliance Contractor Costs; (4) PSC

<sup>395</sup> Pepco's response to Commission Data Request No. 7, Question No. 1, filed on September 18, 2014.

<sup>396</sup> Joint Response to AOBA and OPC Protest at 33.

costs; and (5) OPC costs. Pepco proposes that any change in O&M costs associated with both the overhead and underground distribution systems should be considered in Pepco's next base rate case.<sup>397</sup>

223. The Commission notes that AOBA's protest regarding "incremental O&M costs" is the same concept as the "duplicative recovery of depreciation expense" issue. In other words, since rates that were set in *Formal Case No. 1103* continue to be in effect until the next rate case, the higher level of O&M associated with maintaining the overhead lines will remain in rates although the overhead lines will be removed from service.

224. We accept Pepco's explanation of the O&M costs. The only documented O&M costs that have been included in the UPC are the five (5) categories identified in Exhibit Pepco (C)(1), Page 5 of Mr. Janocha's testimony. The Commission also accepts Pepco's assertion that when over time, some overhead facilities are removed and replaced by new underground lines and equipment, it is possible that O&M costs may decrease for the removed overhead facilities, while they increase for the facilities that will be moved underground. The degree to which one is more than the other cannot be easily determined. Pepco appears to recognize that these costs will need to be tracked closely after the work on the Triennial Plan is completed so that the costs will be available for examination in future rate cases. The Commission finds that this approach is reasonable since these costs cannot be easily quantified or thoroughly examined outside of a rate case proceeding. We therefore direct Pepco to address its undergrounding-related O&M expenses and savings (including its costs for the five categories identified above) through a ratemaking adjustment in future rate cases.

v. *Project Construction Update Reports (§ 34-1313.10(c)(4))*

225. Section 34-1313.08(b) of the Act requires that Pepco and DDOT identify estimated start and end dates for each approved project no more than 90 days after approval of the Application and Triennial Plan. In the Application, Pepco and DDOT indicated that they would identify estimated start and end dates within 90 days of approval of the Application and Triennial Plan.<sup>398</sup> Thereafter, Section 34-1313.10(c)(4) requires that the Commission provide a description of the frequency of project construction update reports for both the DDOT Underground Electric Company Infrastructure Improvements funded by DDOT Underground Electric Company Infrastructure Improvement Charges and the Electric Company Infrastructure Improvements as set forth in the Triennial Plan, as approved by the Commission, to be filed by Pepco and DDOT with the Commission and served concurrently on OPC. Pepco and DDOT initially propose that the update reports be filed annually no later than September 30 of each year beginning September 2015. The timing of the update report would be concurrent with the status report required pursuant to § 34-1313.07(b) of the Act,

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<sup>397</sup> Joint Response to AOBA and OPC Protest at 34.

<sup>398</sup> Joint Application at 10.

and the content of the update report and status report would be synchronized, thereby providing the Commission with the desired information in a comprehensive and efficient manner.<sup>399</sup> As we previously noted, we have accepted the Joint Stipulation of OPC, Pepco and DDOT that includes, as one of its provisions, some additional content that the parties have agreed to include in each Project Construction Update Report.

226. We want to make clear, however, that the Commission expects to receive the final construction drawings for each of the 21 undergrounding projects when they are finalized. We do not want to receive them for the first time when the annual construction update reports are filed. We recognize that these drawings were not included in the Triennial Plan as submitted. We are approving the plan based on the preliminary drawings with the understanding that final construction drawings will be submitted as they are finalized. To ensure that those plans are completed and made available to the Commission in a timely fashion, we have proposed a timeline set forth in Attachment A for the submission and review of the final construction drawings of the 21 undergrounding projects. We have also directed the Joint Applicants to file, within 90 days, the start dates and the projected end dates for each of the 21 projects. We will review, and if necessary revise, the timeline for the submission and review of the final construction drawings based on the information that we receive.

vi. *Sufficiency of the DC PLUG Education Plan and Creation of the Undergrounding Project Consumer Education Task Force*

1. Sufficiency of the DC PLUG Education Plan

227. The Commission has reviewed the Joint Applicants' Proposed Integrated Communications Strategy for the DC PLUG Education Plan, submitted as Appendix N to the Triennial Plan, and finds that overall this plan, coupled with the representations made in the Joint Applicants' Statement in response to the Community Comments, and the Joint Stipulation, adequately addresses many of the concerns expressed by parties and members of the community; particularly as they relate to notification, employment opportunities for District residents and businesses, and community outreach efforts (*i.e.*, how the Joint Applicants will handle traffic disruptions by using the *D.C. Temporary Traffic Control Manual* and coordinate with local interest groups, like AARP, to handle issues related to the elderly and disabled).

228. While most of the concerns expressed by the parties and community commenters have been considered and addressed by the Joint Applicants in one form or another, the Commission is concerned with the lack of specificity provided in certain parts of the DC PLUG Education Plan. The Commission is aware that when the plan was submitted, additional details were still being discussed by the Joint Applicants in conjunction with coordinating bodies. However, given the importance of the DC PLUG Education Plan to the overall success of the Undergrounding Project, we find it necessary

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<sup>399</sup> Joint Application at 18.



to require that the final plan include several additional items in addition to the information required by the Joint Stipulations. The Commission believes that establishing these additional guidelines at the outset of the project will help mitigate problems that are likely to arise.

229. To that end, the Commission has determined that the following provisions need to be included in the DC PLUG Education Plan and implemented throughout the duration of the project: (1) the Joint Applicants shall provide at least 30-15-7 days advance notice of impending construction in impacted neighborhoods, with notice to be provided by mailer, door hanger, targeted or automated telephone calls, in addition to email notifications to Pepco customers in recognition of the fact that all District residents do not have Internet access; (2) weekly updates shall be placed on Pepco website and social media accounts<sup>400</sup> (*i.e.*, Facebook and Twitter) including information on construction progress and the following week's project plans (*i.e.*, street locations where construction will take place, planned outages, planned traffic impediments, bus stop relocations, etc.); and (3) absent unavoidable circumstances, and in accordance with District regulations, construction shall only be conducted in residential areas between the hours of 7 a.m. and 7 p.m. Monday- Saturday. The Commission recognizes that these guidelines do not address every concern raised related to the implementation of the Undergrounding project, however, additional guidelines that should to be included in the DC PLUG Education Plan should be considered by the Undergrounding Project Consumer Education Task Force discussed below.

## 2. Creation of the Undergrounding Project Task Force

230. In an effort to keep District residents and interested parties involved in the consumer education aspect of the Undergrounding process, the Commission also directs the Joint Applicants to create an Undergrounding Project Consumer Education Task Force ("UPCE Task Force") comprised of Pepco,<sup>401</sup> DDOT, OPC, AOBA, D.C. Climate Action, ANC Commissioners, Commission staff and residents from the affected wards in the District as well as any other governmental<sup>402</sup> or non-governmental<sup>403</sup> entity representing specific consumer interests that wants to participate. The Commission recommends that the UPCE Task Force be coordinated in, and chaired by, a central agency, preferably the Office of the City Administrator.

231. The purpose of the UPCE Task Force is to monitor the Joint Applicants' performance as it relates to adhering to consumer education and outreach provisions

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<sup>400</sup> The Commission recommends that DDOT place similar updates on their website and social media accounts.

<sup>401</sup> Pepco's Dedicated Community Relations Coordinator should be on the Task Force.

<sup>402</sup> For example, the District of Columbia Department of Aging ("DCOA") and the Department of Disability Services ("DDS").

<sup>403</sup> For example, AARP.

outlined in the DC PLUG Education Plan and the Joint Stipulation.<sup>404</sup> The Joint Applicants should involve the UPCE Task Force in the review of any education and outreach materials by submitting samples of those materials (*i.e.*, door hangers, mailers, bill inserts, notification updates/posts/letters, automated telephone scripts, etc.) and soliciting feedback on ways to improve the language of those documents before distribution to consumers. The UPCE Task Force should consider how community complaints will be handled and develop a Fact Sheet to be used by participating members in order to inform citizens about the Undergrounding effort as well as provide appropriate referral information for the submission of community comments, recommendations, and grievances. The UPCE Task Force should also make recommendations regarding ways to improve the undergrounding process based on consumer feedback and complaints filed with the participating entities.

232. Additionally, the Task Force should consider alternative ways to educate consumers on the implementation of the Undergrounding project throughout the life of the project, including whether the DC PLUG Education Plan budget is being appropriately and efficiently expended by the Joint Applicants. In the event that outreach and notification methods used by the Joint Applicants prove inappropriate, insufficient, and/or ineffective, the UPCE Task Force should recommend improvements, and include such recommendations in the monthly and/or quarterly reports filed with the Commission.

233. UPCE Task Force shall: (1) hold a kick-off meeting within 60 days of the approval of the Triennial Plan, (2) meet every month for the initial six (6) months of the Undergrounding project, and (3) for the first six (6) months the UPCE Task Force shall submit monthly reports with the Commission, detailing any issues, problems, concerns, and/or recommendations made by the group. After the first six (6) months, the UPCE Task Force shall meet at least once every quarter, but may meet more frequently if necessary, and shall file quarterly reports containing any issues and/or improvement recommendations made by the Task Force due April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup> and January 15<sup>th</sup> for the preceding three month period. The reports shall include a copy of the minutes for all meetings held during the quarter.

**E. Whether Approval of the Joint Application is Otherwise in the Public Interest (§ 34-1313.10(b)(7))**

234. Pepco witness Gausman testifies about the general purpose of the Triennial Plan and why its adoption is in the public interest. He notes that:

[t]he purpose of the Triennial Plan is to present a measurement and ranking of the reliability performance of Pepco's overhead feeders, recommend feeders to be placed underground, provide proposed project details and itemized

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<sup>404</sup> This includes monitoring the number of District residents and small businesses that are hired or contracted to do work on the Undergrounding Projects. This data should also be included in the quarterly reports submitted by the UPCE Task Force to the Commission.

cost estimates associated with placing feeders underground, and other information, including a description of the customer and community education and outreach efforts taken to identify District of Columbia residents to be employed by Pepco and DDOT during construction.<sup>405</sup>

Pepco witness Gausman further asserts that approval of the Triennial Plan would be in the public interest because its represent the best, most economical approach to greatly enhance the reliability and resilience of the electric distribution system as well as minimize the impact of more frequent severe weather events on the electric distribution system in the District of Columbia as underscored in the Mayor's Power Line Undergrounding Task Force's Final Report.<sup>406</sup> No party contends otherwise.

235. Dating back to 1999, the Commission has been directing Pepco to undertake measures that would mitigate the impact of severe weather on its system and monitoring Pepco's system outage and restoration efforts during storms, including the impact of storms on Pepco's overhead power lines. Many, including the Mayor's Task Force, have recommended that the undergrounding of power lines be considered as a viable option to improve Pepco's system performance. The ECIIFA lays the foundation for Pepco to address the concerns that many District residents and Pepco customers have had over the years regarding system reliability and resilience. The Joint Application is a monumental step towards addressing those concerns, consistent with the Act. We are hopeful that this undergrounding project will greatly enhance the reliability and resilience of the electric distribution system as well as minimize the impact of more frequent severe weather events on the electric distribution system in the District of Columbia. Accordingly, the Commission finds that granting the authorizations and approvals sought by Pepco and DDOT in their Joint Application is in the public interest.

### **VIII. FINDINGS & CONCLUSIONS**

236. The Commission has conducted an independent review of the Application submitted by the Joint Applicants and recognizes that most of the content of the Application was unchallenged by the parties. Furthermore, as discussed above, no party requests that the Commission reject the Application in its entirety, but instead the parties point to, and request Commission action on, specific areas of the Application that they believe do not fully comply with the requirements of the Act. The Joint Applicants have made a *prima facie* showing that the Application complies with the requirements of the Act; meaning that they have provided a sufficient quantum of evidence to meet their burden of production.<sup>407</sup> In this instance there has been no clear showing by the parties

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<sup>405</sup> Testimony of Pepco Witness Gausman at 5.

<sup>406</sup> Testimony of Pepco Witness Gausman at 6.

<sup>407</sup> *Nader v. de Toledano*, 408 A.2d 31, 48 (D.C. 1979). See also, *In re Sukhbir Singh Bed*, 917 A.2d 659, 665 (D.C. 2007). "A party satisfies his burden of production with respect to an issue material to his case when he has made out a "prima facie" case as to such issue – i.e., a sufficient quantum of evidence

that the requirements of the Act have not been met. The Commission further recognizes that Section 34-1313.10(a) of the Act gives the Commission authority to impose in this Order, and condition our approval of the Application on, “such reasonable terms and conditions” as we determine necessary.<sup>408</sup> Therefore, in accordance with the requirements established in the Act, and after a thorough review of the Application, including the parties’ contentions as discussed above, we make the following findings of fact and conclusions of law:

- a. The Application satisfies Section 34-1313.10(b)(1) in that the ranking of reliability performance of individual feeders was properly conducted and the primary selection criteria utilized substantially complied with the requirements of the Act;
- b. The Application, as modified by the Joint Stipulation and the directives of this Order, satisfies Section 34-1313.10(b)(2) in that the Proposed Underground Infrastructure Improvements are appropriately designed and located;
- c. The Application satisfies Section 34-1313.10(b)(3) in that the Intended Reliability Improvements for Pepco’s Customers will accrue to the benefit of Pepco’s customers;
- d. The Application satisfies Section 34-1313.10(b)(4) in that the projected costs associated with Pepco’s Infrastructure Improvement Activity are prudent;
- e. The Application satisfies Section 34-1313.10(b)(5) in that the projected costs of DDOT’s Infrastructure Improvements Costs funded by DDOT Underground Electric Company Infrastructure Improvement Charges are prudent;
- f. The Application satisfies Section 34-1313.10(b)(6) in that the proposed Underground Project Charges are just and reasonable;
- g. The Application satisfies Section 34-1313.10(b)(7) in that approval of the Joint Application is in the public interest;
- h. In accordance with Section 34-1313.10(c)(1), Pepco is authorized to impose and collect the Underground Project Charges, as approved in this Order, from its distribution service customers in the District, however, no such charges shall be assessed against Pepco RAD customers;

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

<sup>408</sup> D.C. Code Section 34-1313.10(a).

- i. In accordance with Section 34-1313.10(c)(2), Pepco is authorized to bill the Underground Project Charges, as approved in this Order, to non-RAD distribution service customers as a volumetric surcharge;
- j. In accordance with Section 34-1313.10(c)(3), the Commission approves the annual revenue requirement of \$4,696,188 for Year 1 which includes the return on equity of 9.4%;
- k. The Joint Stipulation filed by OPC, Pepco and DDOT is just and reasonable and accepted without modification provided that with respect to the provisions of the DC PLUG Initiative, the Joint Stipulation must be implemented consistent with paragraphs 227-233, *supra*.

**THEREFORE, IT IS ORDERED THAT:**

237. The Joint Application of the Potomac Electric Power Company and District of Columbia Department of Transportation and the Triennial Underground Infrastructure Improvement Projects Plan is **APPROVED**;

238. Potomac Electric Power Company is authorized to file a Underground Project Charge rider that increases electric distribution rates by no more than \$4,696,188 for Year One of the Triennial Plan pursuant to a rate design that shall be consistent with the findings of this Order;

239. The Joint Stipulation filed by the Office of the People's Counsel, the Potomac Electric Power Company and the District of Columbia Department of Transportation is **ACCEPTED**; and

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

241. The motions of the Potomac Electric Power Company and the Office of the People's Counsel to correct the transcripts are **GRANTED**;

242. The Potomac Electric Power Company should file its compliance tariff on December 1, 2014. The Underground Project Charge rider shall become effective January 1, 2015, unless otherwise ordered by the Commission; and

243. The Potomac Electric Power Company and the District Department of Transportation shall comply with all other directives included in this Order in the manner and time periods set forth herein.

**A TRUE COPY:**

**BY DIRECTION OF THE  
COMMISSION:**

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive, flowing style.

**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**

**ATTACHMENT A –  
TIMELINE FOR THE SUBMISSION AND REVIEW  
OF THE FINAL CONSTRUCTION DRAWINGS OF THE 21 FEEDERS**

Review Timeline – Design and Construction Drawings				
When	What	Who	Review Meeting	Commission’s Review Due
105 calendar days from Plan approval	<ul style="list-style-type: none"> <li>▪ Design and Construction Drawings of utility civil and electrical facilities</li> <li>▪ Electrical Load Flow and Short Circuit Analysis</li> <li>▪ Traffic Control Plan Design</li> <li>▪ Bill of Materials with manufacturer specifications and associated costs</li> <li>▪ Project Management and Pepco’s Acceptance of Work Plan</li> <li>▪ Distribution Automation/Fault Location Techniques Design, evaluation of fiber optic communication capabilities</li> </ul>	Feeders <ul style="list-style-type: none"> <li>▪ 308</li> <li>▪ 15001</li> <li>▪ 14093</li> <li>▪ 14261</li> <li>▪ 15177</li> </ul> Parallel Feeders <ul style="list-style-type: none"> <li>▪ 14008 (Remaining portions to be undergrounded during Year 2)</li> <li>▪ 14014 (Remaining portions to be undergrounded during Year 3)</li> <li>▪ 14016</li> <li>▪ 14020</li> <li>▪ 14023</li> <li>▪ 15170</li> <li>▪ 14702</li> <li>▪ 14709</li> <li>▪ 14718</li> </ul>	180 calendar days from Plan approval	195 calendar days from Plan approval
	<ul style="list-style-type: none"> <li>▪ Outside the District Storm Hardening Techniques (Section 308(b)(3))</li> </ul>	<ul style="list-style-type: none"> <li>▪ 308</li> <li>▪ 14014</li> <li>▪ 14016</li> </ul>		
270 calendar days from Plan approval	<ul style="list-style-type: none"> <li>▪ Design and Construction Drawings of utility civil and electrical facilities</li> <li>▪ Electrical Load Flow and Short Circuit Analysis</li> <li>▪ Traffic Control Plan Design</li> <li>▪ Bill of Materials with manufacturer specifications and associated costs</li> <li>▪ Project Management and Pepco’s Acceptance of Work Plan</li> </ul>	Feeders <ul style="list-style-type: none"> <li>▪ 75</li> <li>▪ 394</li> <li>▪ 467</li> <li>▪ 15021</li> <li>▪ 15701</li> <li>▪ 14008</li> <li>▪ 368</li> </ul>	315 calendar days from Plan approval	330 calendar days from Plan approval

Review Timeline – Design and Construction Drawings				
When	What	Who	Review Meeting	Commission’s Review Due
	<ul style="list-style-type: none"> <li>▪ Distribution Automation/Fault Location Techniques Design, evaluation of fiber optic communication capabilities</li> </ul>	<ul style="list-style-type: none"> <li>▪ 15707</li> <li>▪ 14758</li> <li>Parallel Feeders</li> <li>▪ 144</li> <li>▪ 14020</li> <li>▪ 14058</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Outside the District Storm Hardening Techniques (Section 308(b)(3))</li> </ul>	<ul style="list-style-type: none"> <li>▪ 368</li> <li>▪ 14758</li> <li>▪ 14016</li> </ul>		
450 calendar days from Plan approval	<ul style="list-style-type: none"> <li>▪ Design and Construction Drawings of utility civil and electrical facilities</li> <li>▪ Electrical Load Flow and Short Circuit Analysis</li> <li>▪ Traffic Control Plan Design</li> <li>▪ Bill of Materials with manufacturer specifications and associated costs</li> <li>▪ Project Management and Pepco’s Acceptance of Work Plan</li> <li>▪ Distribution Automation/Fault Location Techniques Design, evaluation of fiber optic communication capabilities</li> </ul>	Feeders <ul style="list-style-type: none"> <li>▪ 14136</li> <li>▪ 15944</li> <li>▪ 14766</li> <li>▪ 14014</li> <li>▪ 15013</li> <li>▪ 15130</li> <li>▪ 15166</li> </ul> Parallel Feeders <ul style="list-style-type: none"> <li>▪ 122</li> <li>▪ 294</li> <li>▪ 15168</li> <li>▪ 15169</li> </ul>	495 calendar days from Plan approval	510 calendar days from Plan approval
	<ul style="list-style-type: none"> <li>▪ Outside the District Storm Hardening Techniques (Section 308(b)(3))</li> </ul>	<ul style="list-style-type: none"> <li>▪ 14014</li> <li>▪ 15130</li> </ul>		



**TABLE A –  
UPC SURCHARGE TABLE**

<b>Rate Schedule</b>	<b>January 1, 2015</b>
<b>R</b>	<b>\$0.00023/kWh</b>
<b>AE</b>	<b>\$0.00023/kWh</b>
<b>RTM</b>	<b>\$0.00069/kWh</b>
<b>GS-ND</b>	<b>\$0.00058/kWh</b>
<b>T</b>	<b>\$0.00058/kWh</b>
<b>GS-D-LV</b>	<b>\$0.00088/kWh</b>
<b>GS-3A</b>	<b>\$0.00044/kWh</b>
<b>GT-LV</b>	<b>\$0.00054/kWh</b>
<b>GT-3A</b>	<b>\$0.00030/kWh</b>
<b>GT-3B</b>	<b>\$0.00003/kWh</b>
<b>RT</b>	<b>\$0.00033/kWh</b>
<b>SL/TS</b>	<b>\$0.00012/kWh</b>
<b>TN</b>	<b>\$0.00026/kWh</b>