

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

ORDER

April 29, 2014

**FORMAL CASE NO. 1116, IN THE MATTER OF APPLICATIONS FOR
APPROVAL OF TRIENNIAL UNDERGROUND INFRASTRUCTURE
IMPROVEMENT PROJECTS PLAN, Order No. 17473**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) opens a new formal case (“*Formal Case No. 1116*”)¹ to consider applications for approval of Triennial Underground Infrastructure Improvement Projects Plans (“triennial Undergrounding Plan”) filed pursuant to the “Electric Company Infrastructure Improvement Financing Act of 2014” (“ECIIFA”).² The Commission also invites the District of Columbia Department of Transportation (“DDOT”), the Office of the People’s Counsel (“OPC”), the Government of the District of Columbia (“District Government”), the Potomac Electric Power Company (“Pepco”), and other interested persons to jointly file, no later than 21 days from the date of this Order, a proposed discovery schedule in this matter.

II. BACKGROUND

2. On March 3, 2014, the Mayor of the District of Columbia signed the ECIIFA which will become law after a 30-day period of Congressional review, as provided in section 602(c)(1) of the District of Columbia Home Rule Act.³ Section 307(a) of the ECIIFA requires Pepco and DDOT to submit every three years, through September 30, 2022, a joint application for the Commission’s approval of a triennial Undergrounding Plan consisting of DDOT⁴ and Pepco’s⁵ Underground Electric Company

¹ *Formal Case No. 1116, In the Matter of Applications for Approval of Triennial Underground Infrastructure Improvement Projects Plan.*

² D.C. ACT 20-290 (March 3, 2014).

³ District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)). We anticipate the Act to become law on or about May 19, 2014.

⁴ DDOT Underground Electric Company Infrastructure Improvement Activity means the civil engineering for the construction and installation of underground conduits and duct banks for the distribution of electricity within the District, electrical vaults, manholes, transformer pads, and similar facilities, including facilities ancillary to the foregoing, designed by Pepco, constructed or to be constructed, by DDOT and transferred to, owned, and maintained by Pepco after certain inspections and

Infrastructure Improvement Activity. The ECIIFA also authorizes an annually adjusted surcharge to recover costs associated with the Electric Company Infrastructure Improvement Costs (“Underground Project Surcharge”) that must be approved by the Commission.⁶

3. Section 309(d) of the ECIIFA requires the Commission to expedite its consideration of an application to approve a triennial Undergrounding Plan. Accordingly, subsection 309(b)(1) of the ECIIFA requires the Commission to issue an order, within 30 days of the effective date of the ECIIFA, to establish an expedited discovery schedule to be used in all proceedings to consider triennial Undergrounding Plans. The ECIIFA provides that the period of discovery with regard to any proceeding to consider a proposed triennial Undergrounding Plan shall commence on the date that the application is filed with the Commission and shall continue for 60 days thereafter.⁷

4. The ECIIFA also provides guidance regarding the types of materials that may be subject to discovery and the procedures potentially to be used to expedite the discovery process in these circumstances. Specifically, subsection (b)(1) of section 309 states in part:

The discovery process established by the Commission pursuant to this section shall provide for submission of information requests and reasonable periods for responses on shortened timelines consistent with the 60-day discovery period and the use of all reasonable procedures for expediting the discovery process, such as discovery conferences.

In addition, Section 309(b)(2) states:

(2) The discovery process shall:

approvals by Pepco, for its exclusive use in the distribution of electricity within the District. *See* ECIIFA §§ 101(10) and 101(11).

⁵ Electric Company Infrastructure Improvement Activity means the civil and electrical engineering for, and acquisition, construction and installation of, certain underground electrical cable and other equipment, including above-ground pad-mounted transformers, constructed or to be constructed by Pepco for the distribution of electricity in the District, together with the removal of overhead electric distribution facilities no longer used or useful in providing electric distribution service in the District due to the underground construction, when the costs are to be recovered through the DDOT Underground Electric Company Infrastructure Improvement Charges or Underground Project Charges authorized in the ECIIFA. *See* ECIIFA §§ 101(19) and 101(20).

⁶ *See also*, ECIIFA §§ 101 (42), 307(c), and 310(c).

⁷ ECIIFA § 309(b)(1).

- (A) Permit parties to such proceedings to inspect all the relevant data, documents, studies, analyses, and work papers that form the basis of the triennial Underground Infrastructure Improvement Projects Plan and any revenue requirements or charges provided therein; and
- (B) Afford the parties the rights provided under Chapter 1 of Title 15 of the District of Columbia Municipal Regulations.

III. DISCUSSION

5. In order to meet the ECIIFA mandate for expeditious consideration of a triennial Undergrounding Plan, the Commission invites the statutory parties of right under the ECIIFA, Pepco, DDOT, OPC, and the District Government, to submit, within 21 days from the date of this Order, a joint proposed expedited discovery schedule.⁸ The recommended discovery schedule is to afford the parties at a minimum the discovery process prescribed by Section 309(b)(1) and (2) of the ECIIFA. Pepco is directed to submit on behalf of the parties of right any joint expedited discovery schedule that is developed. To the extent consensus may not be reached on particular matters, Pepco's submission shall describe the matters on which consensus is not reached and Pepco's position with respect to each non-consensus issue. If the parties of right are unable to develop a joint submission, each party of right is directed to submit its position on each non-consensus issue. Other interested persons may also file comments with the Commission. The recommended expedited discovery schedule(s) is to be filed with the Commission no later than 21 days from the date of this Order.

6. To facilitate the process of developing an expedited discovery schedule, the Commission directs Commission Staff to convene a meeting in the Commission's Hearing Room of the statutory parties of right under ECIIFA and other interested persons to develop a proposed expedited discovery schedule with the goal of having a joint proposed expedited discovery schedule finalized by the end of the 30-day period of Congressional review of the ECIIFA.

THEREFORE, IT IS ORDERED THAT:

7. *Formal Case No. 1116* is opened to consider all matters governing applications for approval of triennial Underground Infrastructure Improvement Projects Plans filed pursuant to the Electric Company Infrastructure Improvement Financing Act of 2014. All filings in response to this Order shall be filed in *Formal Case No. 1116* docket;

8. Commission Staff is directed to convene a meeting in the Commission Hearing Room of the statutory parties of right under the ECIIFA and any other parties or

⁸ Subsection 309(a)(2) of the ECIIFA state that the District Government, OPC and DDOT shall be parties as a matter of right to the Commission proceedings deciding upon an application for a Commission order approving a triennial Underground Infrastructure Improvement Projects Plan.

interested persons to develop a proposed expedited discovery schedule with the goal of having a joint proposed expedited discovery schedule finalized by the end of the 30-day period of Congressional review of the ECIIFA; and

9. The expedited discovery schedule(s) is to be filed within 21 days from the date of this Order, as described 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**