

1002-E-86 A₁



Potomac Electric Power Company

701 Ninth Street, N.W.
Suite 1100, 10th Floor
Washington, D.C. 20068

Paul H. Harrington
Associate General Counsel

202 872-2890
202 331-6767 Fax

February 27, 2002

02 FEB 27 PM 4:05
CLERK

Mr. Jesse P. Clay, Jr.
Secretary
Public Service Commission
of the District of Columbia
1333 H Street, N.W.
2nd Floor West Tower
Washington, D.C. 20005

Re: Formal Case No. 1002

Dear Mr. Clay:

Enclosed for filing in the above matter are the original and fifteen (15) copies of a Joint Motion For Approval Of Unanimous Agreement Of Stipulation And Full Settlement (Joint Motion) and Unanimous Agreement Of Stipulation And Full Settlement (Settlement Agreement).

The settling parties are the Potomac Electric Power Company (Pepco), Pepco Holdings, Inc. (formerly New RC, Inc.), the Office of the People's Counsel, AES NewEnergy, Inc., the Apartment and Office Building Association of Metropolitan Washington, the United States General Services Administration (GSA), the International Brotherhood of Electrical Workers, Local 1900, and the Washington Metropolitan Area Transit Authority (WMATA). Undersigned counsel for Pepco is authorized to state that an authorized representative of GSA has stated that GSA joins in the settlement and its counsel will sign the Settlement Agreement when he returns to his office on March 5, 2002. Counsel for WMATA has authorized counsel for Pepco to sign the settlement documents on his behalf.

Jesse P. Clay, Jr.
February 27, 2002
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The District of Columbia Government (DCG) and the Washington Gas Light Company (WGL) are the only other parties in this proceeding. Counsel for DCG and WGL have authorized undersigned counsel for Pepco to state that DCG and WGL take no position on the Settlement Agreement and will not oppose the Settlement Agreement.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul H. Harrington", with a horizontal line extending to the right from the end of the signature.

Paul H. Harrington

PHH/kts

Enclosure

cc: All Parties In Formal Case No. 1002

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

In Re: Joint Application of Pepco)
and New RC, Inc. for Authorization)
and Approval of Merger Transaction)
)

Formal Case No. 1002

REC'D
02 FEB 27 PM 4:59
MAY CLERK

UNANIMOUS AGREEMENT OF STIPULATION
AND FULL SETTLEMENT

In consideration of the matters herein set forth and pursuant to Rule 130.10 of the Rules of Practice and Procedure of the Public Service Commission of the District of Columbia (Commission), 15 DCMR § 130.10 (1998), the undersigned parties to the above-captioned proceeding (collectively, the Settling Parties), hereby agree as follows:

WHEREAS, on May 11, 2001, Potomac Electric Power Company (Pepco or the Company) and New RC, Inc. (New RC, and collectively with Pepco, the Applicants filed with the Public Service Commission of the District of Columbia (Commission) a Joint Application regarding their proposed merger transaction (Merger); and

WHEREAS, pursuant to Order No. 12045, the Commission instituted this proceeding to address the Joint Application and in Order No. 12189 designated fifteen issues for consideration; and

WHEREAS, a substantial amount of discovery has been conducted with respect to the proposed Merger, the parties have filed prepared direct and rebuttal testimony and exhibits, the Commission has held three days of hearings regarding the Merger and the parties have submitted initial and reply briefs; and

WHEREAS, the parties in Formal Case No. 1002 have engaged in comprehensive settlement negotiations regarding the proposed Merger and certain related matters, which negotiations have resulted in this Unanimous Agreement and Stipulation of Full Settlement (Settlement).

NOW, THEREFORE, the Settling Parties agree to the following full settlement and compromise:

Section 1. The Commission should enter an order (a) finding that the proposed Merger, subject to the terms, conditions and understandings set forth in this Settlement, is in the public interest, and (b) approving and granting the Joint Application.

Section 2(a) On or about July 1, 2004, Pepco shall file a class cost of service and revenue requirements study for distribution service and other information sufficient to reset its distribution service rates effective as of February 8, 2005. The procedures specified in Title 34 of the District of Columbia Code and Title 15 of the District of Columbia Municipal Regulations with respect to a base rate proceeding shall be applicable to the Commission's consideration of Pepco's filing.

(b) If, following its consideration and analysis of the filing made by Pepco pursuant to paragraph (a), the Commission determines that an increase or no change in the Company's distribution rates would otherwise be warranted, Pepco's distribution rates (other than for RAD customers) shall be capped during the period February 8, 2005 through August 7, 2007 (Rate Extension Period) at the level in effect as of February 7, 2005 (for RAD customers the Rate Extension Period shall be through August 31, 2009), and no increase or decrease, except

as provided in Section 3, shall be made in the distribution rates applicable to any class of Pepco's customers.

(c) If, following its consideration and analysis of the filing made by Pepco pursuant to paragraph (a), the Commission determines that a reduction in the Company's distribution rates is warranted, Pepco's distribution rates, as so reduced, shall be capped for the duration of the Rate Extension Period.

(d) The provisions of this Section do not apply to the rates charged by Pepco for Standard Offer Service in accordance with the Commission-approved settlement reached in the Company's restructuring proceeding, Formal Case No. 945, Phase II, and do not affect or extend the dates specified in such settlement for the expiration of Pepco's obligation to provide Standard Offer Service to any class of customers.

(e) During the Rate Extension Period, Pepco may file for an increase in distribution rates if the Company encounters financial distress caused by significant extraordinary costs incurred or significant revenues lost for reasons beyond Pepco's control, such as significant increases in federal or District of Columbia taxes due to changes in law or regulation, significant increases in federal or District of Columbia tax liabilities, other significant changes in law or regulation, or a natural disaster. The Settling Parties reserve all rights to protest or take any position on any such filing.

Section 3(a) This Section applies during the Rate Extension Period in the event that the Commission in a subsequent order consistent with the requirements of Section 34-1509(c)(4) of the District of Columbia Code directs Pepco to provide Standard Offer Service after January 1, 2005, or there is a subsequent agreement voluntarily entered into by Pepco and

approved by the Commission to extend the provision of Standard Offer Service by the Company beyond January 1, 2005.

(b) In the event Pepco's FERC-approved transmission rates increase (decrease) by 10 percent or less relative to current levels, the Company shall adjust its retail transmission rates accordingly. Pepco then shall reduce (increase) distribution rates by the amount necessary to offset the transmission rate increase (decrease), thereby maintaining the rate caps on overall transmission and distribution rates in effect on February 8, 2005. "Transmission rates" are inclusive of non-generation-related ancillary services charges, and "current levels" refers to retail rates and charges in effect for transmission as of the date of this Settlement, which are identified on Schedule A attached hereto.

(c) In the event Pepco's FERC-approved transmission rates increase (decrease) by more than 10 percent relative to current levels, the Company shall adjust its retail transmission rates accordingly. Pepco then shall reduce (increase) its distribution rates by the amount necessary to offset the first 10 percentage points of the increase (decrease) in transmission rates. This permits the rate caps on overall transmission and distribution rates in effect on February 8, 2005 to increase (decrease) only by the increment over and above the first 10 percentage point increase (decrease) in transmission rates. "Transmission rates" are inclusive of the non-generation-related ancillary services charges, and "current levels" refers to the retail rates and charges in effect for transmission as of the date of this Settlement.

(d) Except as provided herein, Pepco may not file for an increase in retail transmission rates (inclusive of non-generation related ancillary services charges) to become effective prior to the end of the Rate Extension Period, and the transmission rates applicable to

each class of the Company's customers shall not be increased above the level in effect as of February 8, 2005. This Settlement is not intended, nor should it be construed, to preclude any party from seeking a reduction in Pepco's rates at any time during the Rate Extension Period.

Section 4. Except as provided in Sections 2 and 3, Pepco may not file for an increase in distribution rates to become effective prior to the end of the Rate Extension Period, and the distribution rates applicable to each class of the Company's customers shall not be increased above the level in effect as of February 8, 2005. This Settlement is not intended, nor should it be construed, to preclude any other party from seeking a reduction in Pepco's rates at any time during the Rate Extension Period.

Section 5. Pepco shall not seek recovery in rates of the District of Columbia's share of: (a) Merger transaction costs, estimated to be \$46 million, as shown on page 33 of the Merger Form U-1 on file with the U.S. Securities and Exchange Commission; (b) the Merger acquisition premium paid by Pepco; (c) the costs of any "golden parachutes" (i.e., severance payments for executive officers); and (d) Merger transition costs (e.g., severance payments) incurred following the closing of the Merger. Costs incurred two or more years after the closing of the Merger will be presumed not to be Merger transition costs.

Section 6. The Applicants commit to achieve at least a 35 percent common equity ratio at the holding company level within five years following the closing of the Merger.

Section 7. As a part of the Productivity Improvement Plan process, the Productivity Improvement Working Group will consider the development of any appropriate service quality guarantee and reliability programs for Pepco.

Section 8. Pepco shall contribute \$2,000,000 to support the development and implementation of a small customer smart meter pilot program in the District of Columbia. Pepco shall not seek to recover any of the \$2,000,000 contribution in rates. Similar to the Telecommunications Infrastructure Assistance Fund that the Commission approved as part of the settlement in Formal Case No. 814, Phase IV, a District of Columbia nonprofit corporation will be formed to achieve the goals of the pilot program. The corporation's Board of Directors will be composed of representatives from the Commission, Pepco, the Office of the People's Counsel and the Consumer Utility Board. The Board of Directors will determine the manner in which to accomplish the goals of the small customer smart meter pilot program. At the end of each fiscal year, the corporation will file an annual report with the Commission indicating the funds received and disbursements made during the previous year.

Section 9. Pepco will not seek to raise the argument in judicial or administrative proceedings that, under currently applicable law, the Securities and Exchange Commission preempts the Commission's authority over the allocation of costs for ratemaking purposes in the District of Columbia. In all rate proceedings before the Commission, Pepco will bear the burden of affirmatively proving the reasonableness of all affiliate expenses charged to the Company.

Section 10. The Office of the People's Counsel (OPC) and the Commission Staff will be provided full access to all the books and records of Pepco Holdings, Inc. and of any service company, any other affiliate that provides service to Pepco Holdings, Inc. and any affiliate that shares costs with Pepco Holdings, Inc. through any allocation methodology. In any base rate case or Commission proceeding to analyze affiliate transactions, OPC and Commission

Staff will have full access to all financial statements of both regulated and unregulated subsidiaries of New RC, Inc. In a case where there are data requests, subject to certain confidentiality agreements, and subject to the right for Pepco to argue that particular parties should not have access to competitively sensitive information, Pepco will provide access to the books and records to the other parties to the proceeding.

Section 11. Through August 7, 2007, Pepco will absorb the funding of the Reliable Energy Trust Fund (RETF) established pursuant to Section 34-1514 of the District of Columbia Code in an amount not to exceed \$0.00021 per kilowatt-hour. Pepco may make an application to the Commission pursuant to Section 34-1511 of the District of Columbia Code to recover any charges for the RETF in excess of \$0.00021 per kilowatt-hour.

Section 12. Beginning in January 2003, Pepco will file annually a Cost Allocation Manual (CAM) explaining how the Company will allocate and account for shared services between Pepco and any affiliate. The CAM will include the following: (i) an explanation of the corporation organization; (ii) a description of each corporate entity, including location, list of officers and list of departments within each entity; and (iii) an explanation for the cost allocation factors used for transfers between corporate entities. Annually thereafter, Pepco will file an averment that the Company has complied with its CAM for the previous year. Annually, Pepco agrees to file the following affiliate information: (a) a complete list and description of all transactions between Pepco and its affiliates; (b) a complete list and description of any asset transfers (including transfers subject to PUHCA and the transfers of intangible assets, electric energy and utility assets) with an explanation of how the transfer was priced; (c) all information required on FERC Form No. 1; (d) a copy of any new or changed contracts or

agreements between Pepco and its affiliates; (e) a summary of all employee transfers between Pepco and any core affiliate during the prior year; and (f) a listing of all variances granted from the code of conduct during the prior year. Pepco agrees to make the CAM and the annual report available to the public for inspection and will post on the Company's website the locations at which such materials are available for public inspection. Any person may file at the Commission in response to these materials, and the Commission will review any such response prior to acting upon the filed materials.

Section 13. Prior to the expiration of the Rate Extension Period, Pepco will only seek Commission approval to charge suppliers for the same types of fees that the Company is permitted to charge to suppliers in Maryland. The Settling Parties reserve all rights to object to or take any position on any such filing by the Company to charge fees to suppliers.

Section 14. This Settlement represents a compromise for the purposes of settlement and, unless expressly provided, shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future case. No Settling Party necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this Settlement other than as specified herein, except that the Settling Parties agree that the resolution of the issues herein, taken as a whole, and the disposition of all other matters set forth in the Settlement are in the public interest.

Section 15. The various provisions of this Settlement are not severable. None of the provisions shall become operative unless and until the Commission issues an order approving the Settlement as to all of the terms and conditions set forth herein without modifications or conditions. The Settlement shall be subject to waiver only by the unanimous

written agreement of the Settling Parties. If any portion of this Settlement is modified, conditioned, or rejected by the Commission, it shall be considered null and void. If the Settlement is rendered null and void by operation of this Section, the Settling Parties agree to enter into good faith negotiations to reach a new settlement. Once the Settlement has become operative under the terms of this Section, its terms may be revised or waived only by the unanimous written agreement of the Settling Parties. Notwithstanding anything to the contrary in this Settlement, OPC shall have the right to petition the Commission to reopen its approval of this Settlement for the limited purpose of substituting the terms and conditions of this Settlement relating to rate reductions with the terms and conditions of any settlement entered into in New Jersey in connection with the Merger.

Section 16. The agreements, undertakings and commitments of the Applicants as set forth in this Settlement are contingent in all respects upon the closing of the Merger. Upon the delivery by the Applicants of a notice in writing to the Commission stating that the Merger will not be consummated, this Settlement shall forthwith become null and void and of no further effect.

WHEREFORE, the Settling Parties respectfully request that the Commission issue an order approving this Settlement at its earliest possible convenience.

Respectfully submitted,

Potomac Electric Power Company

By: 
Kirk J. Emge
Vice President - Legal Services

Pepco Holdings, Inc.

By:

A handwritten signature in cursive script, appearing to read "D. Wraase", written over a horizontal line.

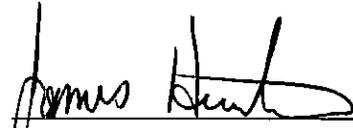
Dennis R. Wraase
President

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

By: Elizabeth A. Nozif
February 25, 2002

International Brotherhood Of
Electrical Workers, Local 1900

By:

A handwritten signature in black ink, appearing to read "James Hunter", written over a horizontal line.

James Hunter
President/Business Manager

General Services Administration

By: _____

Washington Metropolitan Area
Transit Authority

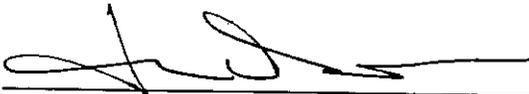
By: Joseph J. Zimmerman, per PAA

Apartment And Office Building
Association Of Metropolitan Washington

By:

Frank J. Francis

AES NewEnergy, Inc.

By: 

Jonathon S. Moore
Vice President

**Pepco
District of Columbia
Transmission Rates
Rates effective 2/8/01**

Schedules R and AE

Minimum Charge (includes 1st 30 kWhrs)	\$ 0.15
Kilowatt-hour Charge	
In excess of 30 kWhrs	\$ 0.00521

Schedule RAD - Standard

Minimum Charge	\$ 0.08
Kilowatt-hour Charge	
Next 370 kWhrs (summer)	\$ 0.00187
Next 370 kWhrs (winter)	\$ 0.00365
In excess of 400 kWhrs	\$ 0.00521

Schedule RAD - AE

Minimum Charge	\$ 0.08
Kilowatt-hour Charge	
Next 370 kWhrs	\$ 0.00202
401-700 kWhrs (summer)	\$ 0.00387
401-700 kWhrs (winter)	\$ 0.00300
In excess of 700 kWhrs	\$ 0.00521

Schedule RTM

Kilowatt-hour Charge	\$ 0.00534
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Schedule RTM-EX

Kilowatt-hour Charge	\$ 0.00509
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Schedules GS LV and T

Kilowatt-hour Charge	\$ 0.00482
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Schedule GS 3A

Kilowatt-hour Charge	\$ 0.00457
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Schedule GT LV

Kilowatt-hour Charge	\$ 0.00219
Kilowatt Charge	
On Peak (summer only)	\$ 0.71
Maximum	\$ 0.59

Schedule GT 3A

Kilowatt-hour Charge	\$ 0.00217
Kilowatt Charge	
On Peak (summer only)	\$ 0.72
Maximum	\$ 0.59

Schedule GT 3B

Kilowatt-hour Charge	\$ 0.00174
Kilowatt Charge	
On Peak (summer only)	\$ 0.59
Maximum	\$ 0.48

Schedule GT LV

Kilowatt-hour Charge	\$ 0.00246
Kilowatt Charge	\$ 0.73

Schedules SL and TS

Kilowatt-hour Charge	\$ 0.00139
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Schedule TN

Kilowatt-hour Charge	\$ 0.00482
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Pepco's FERC-approved transmission rate is presently \$16,654 per megawatt per year. Non-generation related ancillary service charges include portions of Schedule 9 and Schedule 1A to the PJM Tariff. Schedule 9 includes PJM administrative services, and Schedule 1A includes certain Pepco control center costs. The rate for Schedule 9 varies from month to month depending on PJM expenses for the month and the number of active PJM members. Pepco expects 2002 Schedule 9 charges for non-generation related ancillary services to be approximately \$8.8 million. For 2002, Pepco expects to pay PJM approximately \$440,000 for Schedule 1A charges for the standard offer service load.