

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

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**Elizabeth A. Noël**  
People's Counsel

December 28, 2007

Ms. Dorothy Wideman  
Commission Secretary  
Public Service Commission of the  
District of Columbia  
1333 H Street, NW, 2d Floor, East Tower  
Washington, DC 20005

**Re: Formal Case No. 945--(Net Energy Metering)**

Dear Ms. Wideman:

Please find enclosed for filing an original and fifteen (15) copies of the "Comments of the Office of the People's Counsel on Proposed Amendments to Chapter 9 Net Energy Metering Rules" in the above-referenced proceeding.

Please contact the undersigned if you have questions, or need additional information.

Sincerely yours,

Barbara L. Burton  
Assistant People's Counsel

cc: All parties of record

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

In the Matter of	)	
The Investigation into	)	Formal Case No. 945
Electric Service Market Competition	)	(Net Energy Metering)
and Regulatory Practices	)	

**COMMENTS OF THE OFFICE OF THE PEOPLE'S COUNSEL  
ON PROPOSED AMENDMENTS TO CHAPTER 9 NET ENERGY METERING  
RULES**

Pursuant to the Notice of Proposed Rulemaking ("NOPR"), issued by the District of Columbia Public Service Commission ("Commission") on November 30, 2007,<sup>1</sup> the Office of the People's Counsel of the District of Columbia ("Office" or "OPC"), the statutory representative of utility customers and ratepayers in the District of Columbia ("District"),<sup>2</sup> submits the following comments regarding the Commission's proposed amendments to its Net Energy Metering rules.

**I. Introduction**

On October 8, 2004, the Commission issued a Notice of Proposed Rulemaking to which were attached proposed rules for Net Energy Metering billing on PEPCO's system within the District of Columbia. Following comments by the Office and other parties, the Commission, in Order No. 13501, approved the rules with revisions to the billing credit provisions.<sup>3</sup> These rules required, *inter alia*, that PEPCO develop a Net Energy Metering

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<sup>1</sup> D.C. Reg., Vol. 54, No. 48, P. 011582 (November 30, 2007).

<sup>2</sup> D.C. Code § 34-804 (2001)

<sup>3</sup> Formal Case No. 945, Order No. 13502, February 10, 2005.

standard contract. In Order No. 14181,<sup>4</sup> the Commission approved the Net Energy Metering standard contract and a tariff rider. Article IV of the standard contract and the tariff rider both provide that the electricity produced by a Net Energy Metering customer's own generation will be billed for Transmission and Distribution charges.<sup>5</sup>

On June 13, 2007, in Formal Case No. 945, Athena K. Angelos filed a Net Energy Metering complaint ("Angelos Complaint") with the Commission, alleging, *inter alia*, that the Net Energy Metering tariff rider was not being properly implemented with regard to transmission and distribution charges. On July 16, 2007, the Solar Energy Industries Association ("SEIA") subsequently filed a separate complaint. In comments filed August 27, 2007,<sup>6</sup> the Office noted that the practice in neighboring jurisdictions is to charge Net Energy Metering customers only non-kilowatt-hour-based distribution charges and recommended that this be the practice in the District as well. In dismissing the Angelos and SEIA complaints,<sup>7</sup> the Commission indicated its intention to consider amending the NEM rules regarding application of transmission and distribution charges to NEM generation.

On November 30, 2007, the Commission issued a Notice of Proposed Rulemaking proposing certain amendments to the Net Energy Metering rules.

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<sup>4</sup> Formal Case No. 945, Order No. 14181, (rel. January 26, 2007).

<sup>5</sup> "For customers taking service under ... Standard Offer Service, all electricity supplied to the customer's load by the Company or the Customer's own generation... will be billed for Transmission and Distribution charges. ... For Customers purchasing only Distribution Service, all electricity supplied to the customer's load by the Company or the Customer's own generation ... will be billed for Distribution charges."

<sup>6</sup> Formal Case No. 945, *Comments of the Office of the People's Counsel Regarding the Answer of the Potomac Electric Power Company to the Complaints of Ms. Athena K. Angelos and the Solar Energy Industries Regarding PEPSCO's Net Metering Policies*, (August 27, 2007).

<sup>7</sup> Formal Case No. 945, Order No. 14602, (rel. October 18, 2007).

## II. Comments

The Office has reviewed the amendments proposed in the Notice, and finds that the amendments consist of several non-substantive wording changes<sup>8</sup> and the following five insertions of text:

1. Section 901.2: “A customer that has elected net energy billing may obtain generation service from any Competitive Electricity Supplier that agrees to provide service on a net energy basis. If the customer obtains generation service from the Standard Offer Service (“SOS”) Provider, the SOS Provider shall provide such service on a net energy basis.”
2. Section 902.2: “In no event shall transmission- or distribution-related usage charges be applied to the kilowatt-hours generated by the customer’s net metering facility.”
3. Section 902.3: “If the full credit for excess generation is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.”
4. Section 902.4: “Net energy billing only applies to Kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer’s rate class and recovered through fixed amounts or over units other than kilowatt-hours, including customer, demand and/or minimum charges, as applicable.”
5. Definition: “‘Full Retail Rate’ means the generation, transmission and distribution charges applicable to the net energy billing customer during the billing period.”

The substance of the five insertions implements the policy previously recommended by the Office in its August 2007 comments on the Angelos and SEIA Complaints.

Specifically, OPC recommended the Commission direct PEPCO to remove transmission costs from the NEM Rider and NEM contract, and regarding distribution costs, adopt the

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<sup>8</sup> Sections 902.1, 902.2 and 902.3.

practice of neighboring jurisdictions of not charging usage-based distribution costs for customer-generators who put excess electricity into PEPCO's grid.<sup>9</sup>

The residential tariff distribution rate in the District consists of a fixed minimum monthly charge of \$0.47 and two kilowatt-hour-based charges applicable to, respectively, the first 400 kilowatt-hour usage and the kilowatt-hour usage in excess of 400 kilowatt-hours. Under the proposed amended rules, in a month in which the customer generated excess electricity, the customer would pay distribution charges of \$0.47. In a month in which the customer's generation merely reduced the amount of electricity supplied by the SOS provider or alternative supplier, the customer would pay the minimum charge of \$0.47 plus the kilowatt-hour charges applied only to the electricity supplied by the SOS provider or alternative supplier – not to the customer's generated kilowatt-hours.

The residential tariff transmission rate in the District consists of a single kilowatt-hour charge – there are no fixed charges. In a month in which the customer generated excess electricity, the customer would pay no transmission charges. In a month in which the customer's generation merely reduced the amount of electricity supplied by the SOS provider or alternative supplier, the customer would pay the kilowatt-hour charge applied only to the electricity supplied by the SOS provider or alternative supplier – not to the customer's generated kilowatt-hours.

OPC believes this is the appropriate treatment of customer generation under Net Energy Metering. The customer generation that merely reduces the customer's consumption of electricity supplied by the SOS provider or alternative supplier makes no use of either the distribution or transmission system. Consequently, there is no basis for levying a charge on that generation. The excess customer generation, which is put into

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<sup>9</sup> OPC Comments, p. 2.

the distribution system and thus makes use of it, is electricity that is in turn supplied by the SOS provider or alternative supplier to other customers on the distribution system and imposes kilowatt-hour charges to the customers receiving the excess generation applied to it. Consequently, the distribution company is compensated for the excess generation's use of the distribution system.

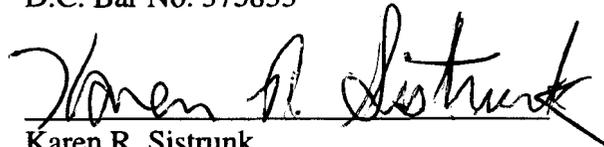
### III. Conclusion

For all the foregoing reasons, the Office recommends the Commission adopt the proposed amendments to the Commission's Net Energy Metering rules.

Respectfully submitted,

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Dated: December 28, 2007

## CERTIFICATE OF SERVICE

### Formal Case No. 945 (Net Energy Metering)

I hereby certify that on this 28th day of December, copies of the "Comments of the Office of the People's Counsel on the Proposed Amendment Changes to Chapter 9 Net Energy Metering Rules" were served on the following parties of record by hand delivery, facsimile, electronic mail, or first-class mail, postage prepaid:

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