



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

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Elizabeth A. Noël
People's Counsel

June 25, 2008

VIA ELECTRONIC FILING

Dorothy Wideman
Commission Secretary
Public Service Commission
of the District of Columbia
1333 H Street, N.W.
Second Floor West Tower
Washington, D.C. 20005

**Re: Gas Tariff 08-1, In the Matter of Tariff Application of Washington Gas Light
Company for a Revenue Normalization Adjustment**

Dear Ms. Wideman:

Please find enclosed for filing in the above-referenced proceeding an original and three (3) copies of the "Office of the People's Counsel Motion to Reject or Dismiss Washington Gas Light Company's Tariff Application."

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

Sincerely,

Jennifer L. Weberski
Assistant People's Counsel

Enclosure

cc: Parties of record

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

In the Matter of)	
Tariff Application of Washington Gas)	
Light Company For A Revenue)	Case No. GT08-1
Normalization Adjustment)	

**OFFICE OF THE PEOPLE'S COUNSEL'S
MOTION TO REJECT OR DISMISS
WASHINGTON GAS LIGHT COMPANY'S TARIFF APPLICATION**

Pursuant to Rule 105.8 of the Rules of Practice and Procedure of the District of Columbia Public Service Commission ("Commission"),¹ the Office of the People's Counsel for the District of Columbia ("OPC") respectfully requests the Commission reject or dismiss as premature Washington Gas Light Company's ("WGL") Tariff Application for a Revenue Normalization Adjustment ("RNA") filed on May 30, 2008, in the above-captioned docket. OPC further submits WGL's Tariff Application in this docket violates the Non-Unanimous Agreement of Stipulation and Full Settlement ("Settlement Agreement") filed and approved in WGL's most recent base rate proceeding, Formal Case No. 1054. In support of this motion, OPC states as follows:

1. The Commission issued Order No. 14694 on December 28, 2007 in Formal Case No. 1054² approving the Settlement Agreement filed on December 13, 2007 resolving all issues in WGL's base rate case. That Settlement Agreement provides WGL's application in Formal Case No. 1054 for an RNA is deemed withdrawn and WGL "may seek approval of an RNA through a separate formal proceeding after the Commission has issued its initial decision on the

¹ DCMR § 15-105.8

² *Washington Gas Light Company*, Formal Case No. 1054, Order No. 14694 (December 28, 2007) at ¶ 31.

proposed Bill Stabilization Adjustment in Formal Case No. 1053 and including during the rate freeze period.”³ The Bill Stabilization Adjustment (“BSA”) is a revenue decoupling proposal submitted by the Potomac Electric Power Company (“PEPCO”) in its base rate proceeding, Formal Case No. 1053, to decouple the electric utility’s revenues from the variation in sales per customer from adjusted test year levels so as to guarantee PEPCO will receive the level of revenues authorized in that proceeding.

2. On January 30, 2008, the Commission issued Order No. 14712 in Formal Case No. 1053 granting PEPCO an increase in rates of \$28.3 million annually, but deferring ruling on the BSA proposal. The Commission stated “[w]e agree with the BSA mechanism, in concept. . . . Nevertheless, any statutory or regulatory barrier to implementation is a matter that the Commission must consider before approving the BSA as proposed by PEPCO.”⁴ The Commission expressed concern that the BSA may be inconsistent with the requirements of D.C. Code §§ 34-908, 909(a), 910(a) requiring notice of every rate application or change in condition of service and requiring an opportunity for a formal hearing on any complaints filed against the requested change in rates or condition of service.⁵ Thus, the Commission found it was “unclear how the BSA can be implemented” and deferred “*ruling on the BSA issues until after the legal issues are addressed.*”⁶

3. WGL filed on May 30, 2008, its Tariff Application in the instant proceeding to implement an RNA mechanism to decouple “the Company’s non-gas revenues collection from

³ Non-Unanimous Agreement of Stipulation and Full Settlement filed December 13, 2007 in *Washington Gas Light Company*, Formal Case No. 1054.

⁴ *Potomac Electric Power Co.*, Formal Case No. 1053 (hereinafter “PEPCO”), Order No. 14712 at ¶¶ 350-51 (p. 123).

⁵ *Id.* at ¶¶ 352-54 (p. 124).

⁶ *Id.* at ¶ 354 (p. 124) (Emphasis added)

actual delivered volumes of gas.”⁷ WGL submits the Settlement Agreement permits the Company “to seek approval of a RNA after the Commission issued its initial decision” on PEPCO’s BSA in Formal Case No. 1053.⁸ WGL further submits its Tariff Application is in conformance with the Settlement Agreement because the Commission’s January 30, 2008 Order No. 14712 stated its agreement with the BSA in concept.⁹

4. On June 13, 2008, the Commission issued Order No. 14832 in Formal Case No. 1053 ruling on OPC’s Petition for Reconsideration in that proceeding. OPC sought reconsideration of the Commission’s ruling relating to the BSA without addressing specific sub-issues. The Commission rejected OPC’s Petition with respect to this issue, ruling the Commission “expressly addressed in its Order the issues alleged by OPC to have been ignored, and those not addressed were properly made the subject of the Phase II BSA implementation proceeding.”¹⁰ In transferring the remaining BSA issues to a Phase II proceeding, the Commission reasoned “our determination to consider the BSA issues in a Phase II proceeding is a reasonable exercise of the Commission’s discretion and will afford all interested parties an opportunity to submit evidence and argument to develop a proper record for deciding the relevant issues.”¹¹ As noted in Order No. 14712, those remaining issues include concerns about whether the BSA can be lawfully implemented under the notice and opportunity for hearing provisions of D.C. Code §§ 34-908, 909 and 910.¹²

5. WGL’s Tariff Application in this proceeding is premature and violates the Settlement Agreement in Formal Case No. 1054, because the Commission has not yet issued an

⁷ Tariff Application at 1.

⁸ *Id.* at 1-2.

⁹ *Id.* at 2.

¹⁰ *PEPCO*, Order No. 14832 at ¶ 33 (pp. 12-13) (June 13, 2008).

¹¹ *Id.* at ¶ 34.

¹² *See* n. 4, *supra*.

initial decision on PEPCO's BSA proposal. Indeed, as quoted above, the Commission expressly stated in Order No. 14712 that "*we defer ruling* on the BSA issues until after the legal issues are addressed."¹³ The Commission has yet to rule on the Phase II inquiry into the legality of the BSA mechanism and most importantly, the Commission has not found the BSA is just and reasonable. The Commission also has not addressed the remaining regulatory and implementation issues. Where substantive legal issues remain as to the legality of the BSA mechanism under District law, WGL cannot conclude the Commission has issued an "initial decision" on that proposal.

6. Commission Chair Agnes A. Yates recognized this in her January 30, 2008 testimony before the Council of the District of Columbia's Committee on Public Services and Consumer Affairs relating to Bill 17-492, the "Clean and Affordable Energy Act of 2007." Her testimony occurred the same day the Commission issued Order No. 14712 in the PEPCO proceeding. Although PEPCO Region President Thomas Graham testified before the Council Committee earlier, characterizing Order No. 14712 as an approval of the BSA, Chairperson Yates corrected that statement in responding to an inquiry by Councilmember Mary Cheh clarifying the nature of the Commission's order:

COUNCILMEMBER CHEH: Well, thank you very much. I have to get right to it. Did the PSC approve decoupling for PEPCO?

CHAIRPERSON YATES: No. It did not. Our order . . .

COUNCILMEMBER CHEH: So, we heard wrong information?

CHAIRPERSON YATES: Well, perhaps the parties hadn't had an opportunity to read the 200 page order.¹⁴

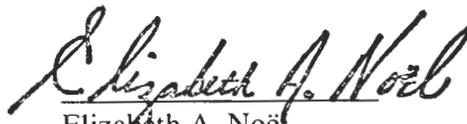
¹³ PEPCO, Order No. 14712 at ¶ 354 (p. 124) (Emphasis added).

¹⁴ Testimony of Agnes A. Yates, Chair, D.C. Public Service Commission before the Council of the District of Columbia's Committee on Public Services and Consumer Affairs, Jan. 30, 2008, *See*, http://www.oct.dc.gov/services/on_demand_video/channel13/January2008/01_30_08_PUBSVRC.aspx

There simply is no Commission order, initial or otherwise, approving or rejecting the BSA proposal in PEPCO's Formal Case No. 1053. Indeed, as both Order Nos. 14712 and 14832 find, substantial legal concerns have prevented the Commission from issuing such an order at this time. WGL's Tariff Application in this proceeding is premature because the Commission has not made a ruling with respect to the legality of implementing the BSA proposal. A ruling on the legal issues, including the overarching legal question of whether the BSA is just and reasonable, must be a prerequisite for an order, initial or final, on the BSA given the Commission's concerns.

WHEREFORE, OPC requests the Commission either reject or dismiss Washington Gas Light Company's Tariff Application for a Revenue Normalization Adjustment in the instant docket because that filing is premature and violates the Settlement Agreement approved by the Commission in Formal Case No. 1054. The Commission has not yet issued an initial decision on the Potomac Electric Power Company's Bill Stabilization Adjustment mechanism as required by the Formal Case No. 1054 Settlement Agreement since the Commission has explicitly deferred ruling on the BSA proposal until it concludes the F.C. 1053 Phase II proceeding inquiring into the legality of the BSA, as well as other concerns.

Respectfully submitted,



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Dated: June 25, 2008

CERTIFICATE OF SERVICE

Gas Tariff 08-1, In the Matter of Tariff Application of Washington Gas Light Company for a Revenue Normalization Adjustment

I hereby certify that on this 25th day of June, 2008, a copy of the "Office of the People's Counsel Motion to Reject or Dismiss Washington Gas Light Company's Tariff Application" was served on the following parties of record by hand delivery, first class mail, postage prepaid, or electronic mail:

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A handwritten signature in black ink, reading "Jennifer L. Weberski". The signature is written in a cursive style with a horizontal line underneath the name.

Jennifer L. Weberski, Esq.
Assistant People's Counsel