

February 22, 2005

Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: Baltimore Gas and Electric Company and
PEPCO Holdings, Inc. Operating Affiliates
Potomac Electric Power Company,
Delmarva Power & Light Company,
And Atlantic City Electric Company
Docket No. ER05-515-000

Dear Secretary Salas:

Enclosed for electronic filing is the Joint Consumer Advocate's Motion to Intervene, in the above-referenced proceeding.

Sincerely,

/s/ filed electronically

Denise C. Goulet
Tanya J. McCloskey
Senior Assistant Consumer Advocates
Aron Beatty
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Office of the People's Counsel for the
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Enclosure

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY COMMISSION

Baltimore Gas and Electric Company and	:	Docket No. ER05-515-000
PEPCO Holdings, Inc. Operating Affiliates	:	
Potomac Electric Power Company,	:	
Delmarva Power & Light Company,	:	
And Atlantic City Electric Company	:	

JOINT CONSUMER ADVOCATES' MOTION TO INTERVENE

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 214, the Pennsylvania Office of Consumer Advocate ("Pa. OCA"), the Maryland Office of People's Counsel ("MPC"), and the Office of the People's Counsel for the District of Columbia ("DC OPC") (herein designated as "Joint Consumer Advocates"), move to intervene in the above-captioned proceedings. In support of this Motion, Joint Consumer Advocates submit as follows:

1. The Pa. OCA is a state office empowered by state statute to represent the interests of consumers of utility services in the Commonwealth of Pennsylvania in proceedings before the Pennsylvania Public Utility Commission, similar federal agencies and state and federal courts. The name, address, telephone, facsimile and e-mail address of the Pa. OCA's representative authorized to receive service are:

Tanya J. McCloskey, Esq.
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Aron Beatty, Esq.
Assistant Consumer Advocate
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Harrisburg, PA 17101-1923
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2. The Maryland Office of People's Counsel is an independent state agency established to represent the interests of residential consumers in utility cases. Pursuant to Maryland Public Utility Companies Article Section 2-205(b) (2003), the People's Counsel "may appear before any federal or state unit to protect the interests of residential...users [of gas, electricity, telephones, or water and sewage]." The name, address, telephone, facsimile and e-mail address of the MD OPC's designated representative for receipt of service are:

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6 St. Paul Street, Suite 2102
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3. DC OPC is an independent agency of the District of Columbia government and is the statutory representative of District of Columbia consumers in public utility issues in proceedings before the District of Columbia Public Service Commission, federal regulatory agencies and state and federal courts. The name, address, phone number, facsimile number and e-mail address of the D.C. OPC's designated recipient for service are as follows:

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4. On January 31, 2005, several transmission owners in the PJM Interconnection, L.L.C., a Regional Transmission Organization managing the electric transmission systems of electric utilities throughout the Mid-Atlantic and Mid-Western regions of the nation, submitted applications to implement a transmission cost of service formula rate. These Transmission Owners (“TOs”) made this filing pursuant to the settlement agreement filed on May 26, 2004 in Docket No. ER04-156-000, *et al.* These TOs include only the following electric utilities: Baltimore Gas & Electric Company (“BG&E”); and the PHI Operating Companies, *i.e.* Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company (“the PHI Companies”). BG&E and the PHI Companies seek to make the proposed revised tariffs effective June 1, 2005.

5. BG&E and the PHI Companies PJM submitted this filing pursuant to a commitment undertaken as part of the May 26, 2004 Settlement in Docket No. ER04-156-000 *et al.* That Settlement requires them to propose a method of harmonizing the rate treatment of new and existing facilities if the PJM TOs seek rate recovery of their investment in new facilities. *Allegheny Power System Operating Companies, et al.*, 108 FERC ¶ 61,167 (2004). Schedule 12 of the PJM OATT allows PJM TOs to implement a surcharge to recover the costs of investment in new transmission facilities constructed under Schedule 12 in conjunction with PJM’s Regional Transmission Expansion Planning (“RTEP”) process. PJM’s related filing in Docket No. ER05-513-000 sets forth three options for accomplishing this harmonization: a) they could chose to recover the costs of new facilities through existing transmission rates, *i.e.* forego filing for a surcharge recovery mechanism; b) they could choose to implement a surcharge and credit all surcharge revenues except for revenues associated with rate of return on equity incentive adders

against existing transmission rates; or c) they could choose to implement formula rates that would change every year to reflect updated information in each utilities' FERC Form 1 annual report. BG&E and the PHI Companies have elected to restate their rates through the formula rate option.

INTERVENTION

6. The Pennsylvania General Assembly passed a statute in December, 1996 opening up the Pennsylvania retail electric supply market to competition beginning January 1, 1999. 66 Pa. C.S. §§ 2801, *et seq.* (1999). By January 1, 2001, all Pennsylvania retail electric consumers, including all of the retail electric consumers served by the Pennsylvania electric utilities operating in PJM, obtained the right to choose their electric generation supplier. As a result of the introduction of retail electric competition in Pennsylvania, retail electric consumers have the opportunity to be served by suppliers who operate within PJM and the Midwest ISO. Electric utilities subject to the Pa. PUC's jurisdiction, as well as alternative suppliers, are load-serving entities in PJM and the Midwest ISO.

7. In January 1999, the Maryland General Assembly passed the Electric Choice and Competition Act of 1999. Maryland Public Utility Companies Code Annotated, Section 7-501, *et seq.* (1999). This act constitutes competition for retail electric service beginning July 1, 2000. The majority of retail customers in Maryland purchase electricity from suppliers that operate in the PJM market.

8. In December 1999, the City Council of the District of Columbia passed the Retail Electric Competition and Consumer Protection Act of 1999. D.C. Code § 34-1501, *et seq.* (2001). The Act provides for implementation of competition for retail electric service in the District of Columbia no later than January 1, 2004, leaving the precise date for implementation

to be set by the Public Service Commission of the District of Columbia. By Order No.11796 the Public Service Commission set January 1, 2001 as the implementation date for retail competition in the District of Columbia. Suppliers operating in the PJM market serve retail customers in the District of Columbia. These suppliers and the electric utilities serving D.C. retail consumers buy and/or sell capacity in PJM's market.

9. The PJM TOs, including BG&E and the PHI Companies, are electric utilities that provide service to retail consumers throughout the states of Pennsylvania, Maryland, New Jersey, Delaware, and the District of Columbia, and through PJM West, in portions of Virginia, West Virginia, Illinois, Michigan, Indiana, Kentucky and Ohio.

10. PJM is a Regional Transmission Organization ("RTO") managing the transmission systems of electric utilities, *i.e.* the PJM TOs, in Pennsylvania, New Jersey, Maryland, Delaware, and the District of Columbia, and through PJM West, portions of Virginia, West Virginia, Illinois, Michigan, Indiana, Kentucky and Ohio.

11. The Joint Consumer Advocates represent the interests of retail consumers in the District of Columbia, Maryland and Pennsylvania who receive their energy from load serving entities within PJM. These load serving entities purchase power from market participants in PJM and transport that power to retail consumers over the transmission systems owned by the PJM TOs and managed by PJM. While neither BG&E nor the PHI Companies provide transmission service directly to retail consumers in Pennsylvania, retail consumers in Pennsylvania may nonetheless be affected by this filing as this filing will establish the elements and components of a formula rate approach that could be utilized by other TOs in the future. Any of the PJM TOs, including those electric utilities serving Pennsylvania retail consumers, may elect this approach at any time under PJM's filing in Docket No. ER05-513-000. Since

PJM's filing in Docket No. ER05-513-000 sets forth a common methodology for all TOs in PJM, it is reasonable to conclude that any action taken by the Commission in this docket to establish formula rates for a few of the PJM TOs could apply to other PJM TOs that may seek authorization for formula rates in the future. Absent participation in this proceeding, the Pa. OCA may not have an opportunity in the future to be meaningfully heard with respect to the elements and components of the formula rate structure, including the important consumer protection additions to the formula rate the Pa. OCA believes are necessary to ensure adequate consumer protection under such a regulatory regime. Consequently, BG&E's and the PHI Companies' filing in this docket has the potential to affect the interests of the retail consumers the Joint Consumer Advocates represent, including those represented by the Pa. OCA.

12. No other party can adequately represent the interests of the Joint Consumer Advocates in this proceeding. The load serving entities such as utilities and alternative suppliers who supply retail service to retail consumers in Pennsylvania and Maryland have a number of interests to protect, including the interests of the private investors who are shareholders in their corporations. The state utility commissions likewise have a number of interests to represent in this proceeding, including the broader public interest. The wide array of interests represented by these other parties can, and sometimes does, conflict with the narrower array of consumer interests represented by the Joint Consumer Advocates.

13. The Commission noticed BG&E's and the PHI Companies' January 31, 2005 filing in this docket on February 3, 2005, requiring that all protests and motions to intervene be filed by February 22, 2005. This Motion is timely filed.

WHEREFORE, Joint Consumer Advocates respectfully request that the Commission grant them intervenor status in this docket

Respectfully submitted,

/s/ filed electronically

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DATE: February 22, 2005

CERTIFICATE OF SERVICE

Baltimore Gas and Electric Company and : Docket No. ER05-515-000
PEPCO Holdings, Inc. Operating Affiliates:
Potomac Electric Power Company; :
Delmarva Power & Light Company, :
And Atlantic City Electric Company :

I hereby certify that I have this date served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-referenced proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Harrisburg, PA this 22nd day of February, 2005.

Respectfully submitted,

/s/ filed electronically

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