BEFORE THE

COMMITTEE ON BUSINESS, CONSUMER,

AND REGULATORY AFFAIRS

OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC OVERSIGHT ROUNDTABLE

ON THE

REVIEW OF THE PEPCO/EXELON MERGER

STATEMENT OF SANDRA MATTAVOUS-FRYE, PEOPLE'S COUNSEL

July 13, 2016

Good afternoon Chairman Orange, members of the committee and members of the public. For the record, I am Sandra Mattavous-Frye, People's Counsel for the District of Columbia. OPC has played a critical role in the Pepco/Exelon merger case, beginning with the initial filing, continuing throughout the protracted legal process and culminating with the Public Service Commission's approval of a revised merger plan. Through all the various phases of this case my singular objective has been to advocate for my constituents, DC consumers to receive tangible and measurable benefits.

The Commission's approval of the revised merger proposal effectively concluded the active litigation phase of the case. We are now at a critical juncture where next steps must be determined. Pursuant to DC law, the merger approval cannot legally be stayed without the consent of Pepco. Not surprisingly, Pepco is moving forward with the acquisition process. The unique circumstances underlying this case require that OPC proceed along two separate tracks to ensure that the interests of consumers are comprehensively represented. The first track will allow OPC to monitor and ensure Pepco's compliance with the merger commitments. Secondly, OPC will evaluate the merits of filing an appeal of the PSC decision in

Order No 18148, before the D.C. Court of Appeals. The due date for filling a Notice of Appeal is August 16, 2016.

OPC takes this course of action quite seriously. We are cognizant of the deference that the DC Court of Appeals affords the PSC in its review of Commission orders. For the record, OPC has successfully challenged two commission orders during my tenure as People's Counsel. Any action we take will be pursued with the same rigor we have taken in the past.

The purpose for my testimony today is to provide the Council with a status update on OPC's direct and indirect post–merger activities. Specifically, I will address the creation of OPC's Merger Compliance Monitoring Section, the Value of Solar Study and how we will approach the recently filed $85 Million Pepco rate increase request (Formal Case 1139).

I. MERGER COMPLIANCE:

The litigation phase of this case was complex and protracted. I am convinced the post-merger phase of the case will be exponentially more complex and will require intensive scrutiny over a long period of time. OPC's Merger Compliance Team consists of an internal group of OPC Staff members who will address the consumer focused commitments. In addition, we have retained legal and technical experts with economic, accounting and engineering expertise who are familiar with the regulatory requirements of the merger. Many of the merger commitments are long-term in nature and will be examined through Commission established proceedings, OPC initiated discovery requests, and further analyzed in upcoming rate cases.

I have directed my Merger Compliance Team to closely scrutinize every commitment contained in the merger agreement and to review Pepco's ongoing adherence to them. While this compliance tracking process will be an arduous task, I believe it is essential to ensure that the tangible benefits promised to DC consumers and to the city become a reality.

For example, in the last two months, OPC has actively engaged in examining Pepco's compliance with a number of the merger commitments, including responding to the various filings and reports mandated by the Commission order. Specifically, (1) OPC questioned Pepco about the implementation of the debt-forgiveness program and inquired about any tax implications it may have on consumers (a total of 617 residential consumers had debts older than two years forgiven, total $438,710.63, no tax implications).

(2) OPC inquired as to how the one-time credit ($54.59) would be applied to residential consumers' bills and is currently

verifying that all of the credits have been applied (started in April 2016).

(3) OPC is participating in the Arrearage Management Program working group established by the PSC. We are independently conducting research on arrearage management best practices and have attended three meetings with Pepco and city stakeholders to develop the Arrearage Management Program required by Order No. 18148 (AMP proposal due in September 2016).

(4) Verified that Pepco has filed a request (June 17) for the Commission to allow the Company to eliminate the $100 Small Generator Interconnection Fee.

(5) We are also compiling a list of issues consumers have communicated to us regarding their experiences with Pepco and will provide a set of recommendations as to how the Company can improve its relationship with residential consumers.

Hopefully, OPC's report will assist Pepco in presenting a comprehensive Root Cause Analysis Report due in September 2016 and will facilitate an action plan to improve Pepco's customer-satisfaction scores in the District of Columbia.

(6) OPC has also filed a motion requesting the Commission not spend any of the money in either the Grid of the Future Fund ($21.55 million) or the Energy Efficiency and Energy Conservation Initiatives Fund Subaccount ($11.25 million) until all legal appeals were exhausted. (PSC denied the motion on June 17, Order No. 18243)

(7) OPC has verified that Exelon has provided funds in the amount of $350,000 to the Consumer Advocates of PJM States (CAPS,) of which OPC was a founding member.

(8) Finally, in addition to merger compliance monitoring, OPC is independently educating consumers on the merger.

OPC has categorized the 128 delineated merger commitments into 8 focus areas including: 1) economic benefits to the District of Columbia; 2) economic benefits to individual ratepayers; 3) renewable energy provisions; 4) Pepco's management structure and the structure of the Exelon Board; 5) Employment and workforce development in the District of Columbia; 6) Regulatory oversight, financial structure and related reporting requirements; 7) service reliability and quality; 8) customer service and customer satisfaction.

As we know, many of the commitments in the agreement will take 5-10 years to materialize. Therefore, monitoring the progress of the merger requires a long-term view of how specific commitments delineated in Order 18148 will be formed into functioning programs that meet regulatory standards and ensure compliance with every aspect of the merger.

Today, I will briefly highlight a few of OPC's key focus areas.

ECONOMIC BENEFITS REPORTING:

Pepco is required to submit an annual report for a five-year period to the Commission detailing the economic benefits of the merger for the District. The report will detail the economic benefits and the methodology used to calculate these benefits. This report is significant given that many promises were made about the positive economic impact this merger would bring to the city. My team will evaluate the methodology used to develop the results.

RELIABILITY:

Pepco's ability to deliver reliable electric service has been a key focus for stakeholders in the city for the past 20 years. OPC in particular has rigorously pushed for stronger standards and improved performance. As a result of our efforts public outcry, Commission and Council action, we have seen improvements. In the merger proceeding, reliability was a key point of discussion amongst several parties. In the order approving the merger, there is an extensive set of commitments that requires Pepco to meet enhanced PSC reliability standards without exceeding certain annual reliability-related capital and Operation and Maintenance (O&M) spending levels.

RENEWABLES:

Under the merger, Pepco is required to meet a number of renewable energy commitments. A major concern raised by many consumers during the merger, was the delay in Pepco interconnecting their solar systems. Now, as a part of the merger order, Pepco must meet a number of commitments to enhance the interconnection process. A key commitment for consumers requires Pepco to allow solar array owners to operate their systems within 20 business days after the customer complies with the Commission's rules governing interconnection. Pepco is required to file an annual report detailing its adherence to this commitment. My team will closely monitor this key metric along with other provisions designed to improve the deployment of distributed energy resources.

COMMITMENTS TO ENHANCE CUSTOMER SERVICE:

Pepco has complied with two of the direct benefits for residential customers, the one-time bill credit, and the debt forgiveness program. Additionally, meetings are being held to establish an Arrearage Management Program. OPC believes the AMP program is important because a significant percentage of Pepco's low income customer accounts are in arrearage. A well-designed arrearage management program will provide a fresh start for many of these consumers. A program report for the Commission's review and approval is due September 23rd.

An additional commitment impacting consumers requires Pepco to conduct a root-cause analysis of Pepco's customer-satisfaction scores in the District of Columbia and develop an action plan to improve those scores. OPC staff will be involved in discussions with Pepco about areas where the company can improve its relationship with customers.

OPC will continue to monitor Pepco's compliance with the merger commitments and will call for appropriate steps to be taken by the Commission including, but not limited to, financial fines and providing recommendations for remedial actions should Pepco fall short of these commitments.

II. VALUE OF SOLAR STUDY:

OPC has commissioned two energy consultants to conduct a study focused on solar energy capacity, the valuation of solar and rate design options for distributed solar energy in the District of Columbia. The study will comprehensively analyze current solar value, capacity and policy and make projections for solar deployment in the future. The study will also address emerging alternatives for energy choice for residential customers in the District of Columbia and the integration of those alternatives into Pepco's evolving smart grid.

In addition, the study will examine the access to solar for low-income consumers. This section of the study will:

(1) Develop an Energy Profile of Low-Income District Residents, (2) Develop a housing profile of Low-Income Neighborhoods; (3) Identify specific distributed Energy Resources Options for Low-Income Residents; (4) Identify & Analyze Barriers to Adoption of Solar for Low-Income Residents & neighborhoods; (5) Track

Solar Programs across the nation that have Low-Income participation

The study is currently underway and the projected date of completion is December 2016.

RATE CASE:

OPC is currently in the process of reviewing Pepco's application filed on June 30th, requesting an increase in distribution rates of $85.47 million. This is the first post- merger rate case filed by the new company. It is the largest rate request filed in over two and half decades and will require the integration of the merger commitments approved by the Commission. In addition to evaluating the case based on traditional rate case standards, and advocating for affordable rates and reliable service for all eight wards of the District, OPC will also focus on ensuring that no merger related costs are included in its rate application.

NOTES:

(A.Sears)

Reliability and Quality of Service – Merger Commitments 54-58

Pepco to issue permission to operate to interconnection customer within 20 business days of customer satisfying Commission's interconnection requirements – Merger Commitment 123 (a).

(Jason Cumberbatch)

OPC staff participate through PIWG (review), Pepco Watershed solar test facility (research) and through direct communications with Pepco Green Connect team, (process improvements)

In June 2016, OPC submitted data request to Pepco requesting information regarding the number fo active solar installation and the interconnection process as it relates to all distributed energy resources. OPC will continue to evaluate this type of data going forward to measure the status of solar and other DER installations in the city.

Memo—see attached

Here are some quick responses to the issues being raised by Orange's staff:

- They refer to "Cheh's CREA" but I think they are actually referring to "Cheh's" RPS Expansion Act. They have no empirical evidence that it would hurt low-income people and minorities because neither PEPCO, the Commission nor the Council have EVER studied the costs and benefits of solar energy generation in DC. Orange and Pepco are merely spewing recycled soundbites from national anti-solar special interests. OPC is conducting a comprehensive Value of Solar study where a cost-benefit analysis will be done. Also, on its face, their claim that the new RPS law hurts underserved communities is short-sighted because they law itself carves out funding for low-income solar and mandates that DOEE come up with the PLAN for low-income solar deployment by 2017.

- Now, if they are referring to the CREA amendment that Cheh unilaterally made - via the Budget Support Act -- to the CREF CREDIT RATE - making it the full retail rate for all community solar participants, OPC did not support that. Our input was not requested.

- The notion that a 5% solar carve-out will hurt SOLAR SUPPLIERS seems to be misdirected. The theory is that it will galvanize the marketplace for MORE solar which will only help the solar industry.

- As far as Cheh is concerned, I am sure Sandra has already planned to confirm that OPC will closely monitor Exelon/PHI and its commitments.

- One other important point (and I will forward you the recent email from Synapse clarifying this) but according to the Commission's own documents, energy suppliers HAVE NOT funneled the alternative compliance fee costs to consumers yet. This supports OPC's statement in our testimony that we have no evidence that the ACPs have had more than a de minimis impact on consumers to date. Now, as Synapse and I were discussing, we do not know WHY energy suppliers have not yet imposed the costs on consumers.