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April 13, 2020

Ms. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 G Street, N.W., Suite 800
Washington, D.C. 20005

Re: Formal Case No. 1156, *In the Matter of the Application of the Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia*

Dear Ms. Westbrook-Sedgwick:

Please find attached, the *Joint Emergency Motion to Suspend Rate Case During the Pendency of the Covid-19 Crisis*, which the Office of the People's Counsel for the District of Columbia ("OPC") is filing on behalf of OPC, the Apartment and Office Building Association of Metropolitan Washington, the District of Columbia Government, and the Laborers' International Union of North America.

If there are any questions regarding this matter, please contact me at 202.727.3071 or apatel@opc-dc.gov.

Sincerely,

/s/ Anjali G. Patel

Anjali G. Patel
Senior Assistant People's Counsel

Enclosure

cc: Parties of Record

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

In the Matter of:)	
)	
The Application of the Potomac)	
Electric Power Company for)	
Authority to Implement a Multiyear)	Formal Case No. 1156
Rate Plan for Electric Distribution)	
Service in the District of Columbia)	

**JOINT EMERGENCY MOTION TO SUSPEND RATE CASE
DURING THE PENDENCY OF THE COVID-19 CRISIS**

Pursuant to Rule 105.8 of the Public Service Commission of the District of Columbia (“PSC” or “Commission”) Rules of Practice and Procedure, 15 DCMR § 105.8, the Office of the People’s Counsel of the District of Columbia (“OPC”), the statutory representative of District of Columbia ratepayers with respect to utility matters,¹ the Apartment and Office Building Association of Metropolitan Washington (“AOBA”), the District of Columbia Government (“DCG” or “the District”), and the Laborers’ International Union of North America (“LIUNA”), collectively “Movants,” respectfully file this emergency motion to temporarily suspend the procedural schedule during the pendency COVID-19 crisis.²

Like many other urban, densely populated, jurisdictions, the District of Columbia has been

¹ D.C. Code § 34-804 (Lexis 2019).

² Due to the emergency nature of this request, Movants request that the Commission exercise its authority to either act without awaiting responses pursuant to 15 DCMR § 105.10, or to expedite the time for filing responses.

hit hard by the global COVID-19 pandemic.³ Since March 11, 2020, when Mayor Bowser declared both a state of emergency and a public health emergency due to the COVID-19 pandemic,⁴ the situation has devolved rapidly, leading to the issuance of further Mayoral orders and directives that have included adjustments to the District Government's operating status,⁵ the closure of schools and non-essential businesses,⁶ and a requirement that individuals stay-at-home.⁷ At this time it is not known when the infection rate will slow or the state of emergency will be lifted. Nevertheless, it is certain that the COVID-19 pandemic, as well as the measures that have been enacted to slow the spread of the virus, will have a lasting impact on financial and labor markets, the economy of the District of Columbia, and the finances of District of Columbia residents and businesses. In March alone, 44,000 D.C. workers applied for unemployment compared to only

³ It has been over 100 years since the District has been impacted by a health epidemic of this scale. See, e.g. Williams, Elliott, *The Forgotten Epidemic: A Century Ago, DC Lost Nearly 3,000 Residents to Influenza*, Washingtonian (October 31, 2018), available at <https://www.washingtonian.com/2018/10/31/the-forgotten-epidemic-a-century-ago-dc-lost-nearly-3000-residents-to-influenza/>. When the Spanish influenza hit the District in 1918, the Commission had only been open for five years and was still establishing its fundamental regulatory precepts. See e.g. Cherkasky, Mara and Phylcia Fauntleroy Bowman, *The Public Service Commission of the District of Columbia: The First 100 Years Protecting the Public Interest, 1913-2013* (2016), <https://dcpsc.org/PSCDC/media/PDFFiles/centennial/FirstHundredYearsProtectingPublicInterestBook.pdf>.

⁴ Mayor's Order 2020-045, Declaration of Public Emergency: Coronavirus (COVID-19), issued March 11, 2020, https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/MO.DeclarationofPublicEmergency03.11.20.pdf; Mayor's Order 2020-046, Declaration of Public Health Emergency: Coronavirus (COVID-19), issued March 11, 2020, https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/MO.DeclarationofPublicHealthEmergency03.11.20.pdf.

⁵ Mayor Bowser Adjusts the District of Columbia Government's Operating Status (March 13, 2020), <https://coronavirus.dc.gov/release/mayor-bowser-adjusts-district-columbia-government%E2%80%99s-operating-status>.

⁶ Mayor's Order 2020-053, Closure of Non-Essential Businesses and Prohibition on Large Gatherings During Public Health Emergency for the 2019 Novel Coronavirus (COVID-19) (March 24, 2020), <https://coronavirus.dc.gov/release/mayor-bowser-orders-closure-non-essential-businesses>.

⁷ Mayor's Order 2020-054, Stay at Home Order (March 30, 2020), <https://coronavirus.dc.gov/release/mayor-bowser-issues-stay-home-order>.

27,000 in all of 2019.⁸ Furthermore, the Mayor recently restricted District government spending and instituted a hiring freeze due to projections that the COVID-19 impacts will lead to the District government incurring a revenue shortfall of at least \$600 million below amounts forecasted in February 2020, resulting in an overall Fiscal Year 2020 budget shortfall of \$362 million.⁹

Due to these extraordinary circumstances, Movants respectfully request that the Commission temporarily suspend the Potomac Electric Power Company's ("Pepco" or "Company") instant rate case until the Mayor lifts the state of emergency and public health emergency. Once the emergency orders are lifted, the PSC should convene a procedural conference with the parties to determine how best to move forward with the remainder of the proceeding.¹⁰ Movants additionally recommend that PSC staff hold regular status calls with the Company and the Parties during the suspension period to discuss any potential changes in circumstances that could affect the suspension period.

The Movants recognize and appreciate the steps that the Company has taken voluntarily to address COVID-19 impacts on its ratepayers, including agreeing to suspend service disconnections, waiving new late payment charges for a certain period, and reconnecting certain

⁸ Nirappil, Fenit and Darran Simon, *Delays in Overhauling D.C. unemployment site add to turmoil of coronavirus layoffs* (April 2, 2020), available at https://www.washingtonpost.com/local/dc-politics/delays-in-overhauling-dc-unemployment-site-fueled-turmoil-in-covid-19-crisis/2020/04/02/ebe7d81e-73ad-11ea-87da-77a8136c1a6d_story.html

⁹ Mayor's Order 2020-057, Fiscal Year 2020 Expenditure Restrictions; Restrictions on Certain Non-Personal Services Expenditures, Restrictions on Certain Personnel Actions, and Freeze on Travel and Training (April 6, 2020), https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/Mayors-Order-2020-057.pdf. see also, <https://www.dcfpi.org/all/dc-councils-second-covid-19-bill-would-expand-important-supports-and-protections-but-falls-short-of-comprehensive-relief/>

¹⁰ Movants recommend that the PSC convene a procedural conference within 30 days of the date the Mayor lifts the state of emergency and public health emergency.

customers who had their service disconnected previously.¹¹ Moreover, the Movants are sensitive to the fact that the PSC and each of the parties have invested considerable resources to date into reviewing, investigating, and responding to Pepco's application. The Movants also recognize that the Company has itself invested resources into submitting and defending its application. As such, Movants do not make this request lightly.

However, the COVID-19 crisis has created exigent circumstances that can be expected to impact every aspect of Pepco's rate application in which the Company seeks a \$160 million rate increase over three years based on forecasted costs. The changes that could result from the COVID-19 crisis include, but are not limited to:

- Changes to the financial markets which can be expected to impact Pepco's rate of return and costs of debt;
- Changes to the financial markets which can be expected to adversely impact Pepco's pension assets and pension expense requirements;
- Changes to the District of Columbia's load profile and load forecasts which will impact the prudence of Pepco's planned construction projects;

¹¹ See e.g. Pepco, *Pepco Taking Steps to Support Customers During Coronavirus Pandemic*, <https://www.pepco.com/SafetyCommunity/Safety/Pages/coronavirus.aspx>, last accessed 4/7/2020. After Pepco voluntarily agreed to suspend disconnections, the Council passed and the Mayor signed into law the "COVID-19 Response Emergency Amendment Act of 2020" ("COVID-19 Response Act") codifying a prohibition against the disconnection of electric service for non-payment of a bill or fees during a public health emergency or for 15 calendar days thereafter, D.C. Act 23-247 at Sec. 305, 67 D.C. Register at 3093, <http://lims.dccouncil.us/Download/44469/B23-0718-SignedAct.pdf>. The COVID-19 Response Act contains similar prohibitions against disconnections for gas and water services. On April 7, 2020, the District of Columbia Council unanimously passed the "COVID-19 Response Supplemental Emergency Amendment Act of 2020" ("COVID-19 Response Amendment Act"), which authorizes the Mayor to extend the current emergency declaration for 90 additional days. The COVID-19 Response Amendment Act also expands the prohibition on service disconnections (as well as suspending or degrading service) to telecommunications, cable, internet, and broadband providers. <http://lims.dccouncil.us/Download/44543/B23-0733-Introduction.pdf>

- Changes to the customer base which are impacting Pepco's expected revenue and the just and reasonableness of the rate design and cost allocation; and
- Potential federal and District legislative changes that could impact the Company's labor force and tax/borrowing rates.

District of Columbia ratepayers are already strained under the weight of the financial and personal disruptions caused by the COVID-19 pandemic. Rather than continue down a road that may lead to unjust and unreasonable results, the public interest demands that the rate case be suspended until the immediate crisis is over and the Commission and parties can make informed decisions about the near-term impact of the COVID-19 pandemic on Pepco's rate application. Though longer-term impacts of the COVID-19 pandemic may not be known for months after the emergency lifts, the Movants, at this time, are not requesting an indefinite suspension. Rather, we seek a term-limited suspension that is tied to the lifting of the Mayor's emergency declarations so that the Commission and the parties can reassess, once the emergency has abated, what should be the best path forward. A term-limited suspension would further allow the Parties to limit work on rate case matters during the COVID-19 pandemic, thereby conserving both the Parties and the Commission's own limited resources.

Indeed, Pepco's own multiyear rate plan ("MRP") proposal contained a provision to "re-open" any approved MRP under "extreme unforeseen circumstances."¹² There can be little argument that the COVID-19 pandemic meets every definition of an "extreme unforeseen

¹² Exhibit Pepco (B) (McGowan) at 33:9-10; *see also* Exhibit OPC-S1 (McGowan Deposition Tr.) at 78:13-79:4 (discussing that "[t]he re-opener is a protection for customers and the company to the extent that there's an unforeseen issue that creates an adverse impact for the multi-rate plan on customers of the company," and that the re-opener "ends the multiyear rate plan.")

circumstance.” It would be ill-advised to consider entering into an MRP under the very circumstances in which the proposed MRP contemplates exiting such an arrangement. By its very nature, the MRP is a forecast of the short, medium, and long-term financial needs of the utility. The Commission should not be undertaking this exercise in an environment when the medium and long term impacts of the COVID-19 pandemic are unknown. The only currently known impacts of the COVID-19 pandemic are short term, and they are devastating.

In granting the requested suspension, the Commission will be acting in good company as many of its fellow regulators have also ordered delays in rate increases or postponed rate increase requests in light of the COVID-19 pandemic.¹³ For example:

- In New York, the PSC issued orders delaying previously approved rate increases that were due to go into effect on April 1, 2020 for National Grid (electric and gas) and for the New York American Water Company in order to ease the financial impact on customers during the critical months of the COVID-19 pandemic;¹⁴
- In North Carolina, the Utilities Commission granted Duke Energy Carolinas, LLC request to postpone expert witness hearings and suspend the utility’s electric rate case procedural schedule due to the Governor’s state of emergency declaration and the COVID-19 pandemic;¹⁵ and

¹³ See, e.g. Gheorghiu, Julia, *Utilities move to delay rate case proceedings during pandemic*, UtilityDive, April 8, 2020.

¹⁴ New York Public Service Commission, PSC Chair Approves Orders Suspending Rate Increases in Response to COVID-19, issued March 25, 2020, [http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/EFCBF3CC9E94E9268525853500649D06/\\$File/pr20033.pdf?OpenElement](http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/EFCBF3CC9E94E9268525853500649D06/$File/pr20033.pdf?OpenElement).

¹⁵ State of North Carolina Utilities Commission, Docket No. E-7, Sub 1214, *In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina*, issued March 16, 2020, <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=a34da862-5ffa-4f6b-835f-064841fabe2b>.

- In South Carolina, the Public Service Commission issued a 60-day stay of Palmetto Utilities' pending request to increase rates. The utility had requested the stay in light of the South Carolina Governor's declaration of a state of emergency and the COVID-19 crisis.¹⁶

¹⁶ Public Service Commission of South Carolina, Docket No. 2019-281-S, *Application of Palmetto Utilities, Incorporated for Adjustment (Increase) of Rates and Charges, Terms and Conditions, for Sewer Service Provided to Customers in Its Richland and Kershaw County Service Areas*, and Docket No. 2020-106-A, *Actions in Response to COVID-19*, Order No. 2020-259, <https://dms.psc.sc.gov/Attachments/Matter/9831695e-3bb4-4483-ba72-abb9e171f245>; Palmetto Utilities, Incorporated, Motion for Stay of All Proceedings, filed March 19, 2020, <https://dms.psc.sc.gov/Attachments/Matter/fa550c8c-26d0-4306-bddf-b9e3e7e0ec74>.

CONCLUSION

WHEREFORE, in view of the exigent circumstances resulting from the COVID-19 crisis, Movants respectfully request that the Commission grants this motion and the relief sought as it is in the public interest. Specifically, the Commission should: (1) suspend the Formal Case No. 1156 procedural schedule until the Mayor lifts the state of emergency and public health emergency, (2) hold regular status calls with the Company and the Parties during the suspension period, and (3) convene within 30 days of the emergency declarations being lifted, a procedural conference to decide how to move forward with the case.

Respectfully submitted,

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Date: April 13, 2020

CERTIFICATE OF SERVICE

Formal Case No. 1156, *In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia*

I certify that on April 13, 2020 a copy of the *Joint Emergency Motion to Suspend Rate Case During the Pendency of the Covid-19 Crisis* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

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